

**§ 185-15. Land use standards. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]**

All land use activities within the shoreland zone shall conform with the following provisions, if applicable. Site plan review may also be applicable to development in the shoreland zone. Please refer to Chapter 120, Land Use, Article 8, Site Plan Review, of the Town Code.

A. Minimum lot standards.

(1) Requirements. Lots shall meet or exceed the following minimum requirements:

(a) Minimum lot size.

Area (square feet)	Width (feet)	Area Per Residential Dwelling Unit (square feet)	Shore Frontage (feet)
40,000	200	40,000	200
Commercial/industrial 60,000	300		300

(b) Minimum setback.

Waterline or Edge of Wetland (feet)	Side (feet)	Road (feet)	Rear (feet)
See standards in § 185-15B(1) below	15	35	35

- (2) Lot area. 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 lots shall not be included toward calculating minimum lot area.
- (3) Lots separated by roads. 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.
- (4) Minimum width. The minimum width of any portion of any lot within 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 requirements for a lot with the proposed use.
- (5) Multiple structures. 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.

B. Principal and accessory structures.

- (1) Setback. All new principal and accessory structures shall be set back at least 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 75 feet horizontal distance from the

normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland as depicted on the Official Shoreland Land Use Map, except that in the General Development District, the setback from the normal high-water line shall be at least 25 feet, horizontal distance. 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.

- (a) The water body, tributary stream, or wetland setback provisions shall apply neither to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks, retaining walls and dams, nor to other functionally water-dependent uses.
  - (b) On a nonconforming 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 80 square feet in area nor eight feet in height, and shall be located as far from the shoreline or tributary stream or other setbacks as practical and shall meet all other applicable standards, including lot coverage and vegetation-clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.
- (2) Maximum height. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential and Stream Protection Districts, shall not exceed 35 feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
  - (3) Flood elevation. 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 floodplain soils. In those municipalities that participate in the National Flood Insurance Program and have 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 subsection.
  - (4) Lot coverage.
    - (a) With the exception of General Development Districts located adjacent to rivers that do not flow to great ponds, nonvegetated surfaces shall not exceed a total of 20% of the portion of the lot located within the shoreland zone. This limitation does not apply to public boat launching facilities regardless of the district in which the facility is located.
    - (b) In a General Development District located adjacent to rivers that do not flow to great ponds, nonvegetated surfaces shall not exceed a total of 70% of the portion

of the lot located within the shoreland zone.

- (c) For the purposes of calculating lot coverage, nonvegetated surfaces include, but are not limited to, the following: structures, driveways, parking areas, and other areas from which vegetation has been removed. Naturally occurring ledge and rock outcroppings are not counted as nonvegetated surfaces when calculating lot coverage for lots of record on March 24, 1990, and in continuous existence since that date.
- (5) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill, provided all of the following conditions are met:
- (a) The site has been previously altered and an effective vegetated buffer does not exist;
  - (b) The wall(s) is (are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, 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, is no more than 24 inches;
  - (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams 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 floodplain 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:
    - [1] 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;
    - [2] Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
    - [3] Only native species may be used to establish the buffer area;
    - [4] 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;

- [5] A footpath, not to exceed the standards in § 185-15P(2)(a), may traverse the buffer;

NOTE: If the wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a water body or tributary stream a permit pursuant to the Natural Resources Protection Act<sup>1</sup> is required from the Department of Environmental Protection.

- (6) Stairways. 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 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. § 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.
- C. Permanent 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, and shoreline stabilization.
- (1) No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in § 185-15A, a second structure may be allowed and may remain as long as the lot is not further divided.
- (2) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- (3) The location shall not interfere with existing developed or natural beach areas.
- (4) The facility shall be located so as to minimize adverse effects on fisheries.
- (5) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area.
- (6) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending below 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.

NOTE: A structure constructed on a float or floats is prohibited unless it is designed to function as, and is registered with, the Maine Department of Inland Fisheries and Wildlife as a watercraft.

- (7) New permanent piers and docks on nontidal waters shall not be permitted unless it is

---

1. Editor's Note: See 38 M.R.S.A. § 480-A et seq.

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.<sup>2</sup>

- (8) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district, except in the General Development District.
- (9) Except in the General Development District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed 20 feet in height above the pier, wharf, dock or other structure.
- (10) Vegetation may be removed in excess of the standards in § 185-15P of this chapter in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.
  - (a) When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete, the construction equipment accessway must be restored.
  - (b) Revegetation must occur in accordance with § 185-15S.

NOTE: A permit pursuant to the Natural Resources Protection Act<sup>3</sup> is required from the Department of Environmental Protection for Shoreline Stabilization activities.

- (11) A deck over a river may be exempted from the shoreland setback requirements if it is part of a downtown revitalization project that is defined in a project plan approved by the Windham Town Council, and may include the revitalization of structures formerly used as mills that do not meet the structure setback requirements, if the deck meets the following requirements:
  - (a) The total deck area attached to the structure does not exceed 700 square feet;
  - (b) The deck is cantilevered over a segment of a river that is located within the boundaries of the downtown revitalization project;
  - (c) The deck is attached to or accessory to an allowed commercial use in a structure that was constructed prior to 1971 and is located within the downtown revitalization project;
  - (d) The construction of the deck complies with all other applicable standards, except

---

2. Editor's Note: See 38 M.R.S.A. § 480-A et seq.

3. Editor's Note: See 38 M.R.S.A. § 480-A et seq.

the shoreline setback requirements in § 185-15B; and

- (e) The construction of the deck complies with all other state and federal laws.

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

- D. Campgrounds. Campgrounds shall conform to the minimum requirements imposed under state licensing procedures and the following:

- (1) Minimum size. Campgrounds shall contain a minimum of 5,000 square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
- (2) Setback. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of 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 75 feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland as depicted on the Official Town of Windham Land Use Map, and must also meet the required rear setback of 35 feet and side setback of 15 feet from the property boundary lines. **[Amended 10-12-2021]**

- E. Individual private campsites. Individual private campsites not associated with commercial campgrounds are permitted, provided the following conditions are met:

- (1) Area requirements. One campsite per lot existing on the effective date of this chapter, or 30,000 square feet of lot area within the shoreland zone, whichever is less, may be permitted. Clustered, individual, private camp sites are permitted based upon a density of an average 30,000 square feet per camp site.
- (2) Another principal use/structure. When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.
- (3) Setback. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back 100 feet, horizontal distance, from the normal high-water line of a pond, great pond classified GPA or river flowing to a pond or great pond classified GPA, and 75 feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland as depicted on the Official Town of Windham Land Use Map, and must also meet the required rear setback of 35 feet and side setback of 15 feet from the property boundary lines. **[Amended 10-12-2021]**

- (4) Recreational vehicles. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicles 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 vehicles.
  - (5) Clearing. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to 1,000 square feet.
  - (6) Sewage disposal. When a recreational vehicle, tent or similar shelter is placed on-site for more than 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 Waste Water Disposal Rules unless the site is served by public sewage facilities.
- F. Commercial and industrial uses. The following new uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:
- (1) Auto washing facilities.
  - (2) Auto or other vehicle service and/or repair operations, including body shops.
  - (3) Chemical and bacteriological laboratories.
  - (4) Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms.
  - (5) Commercial painting, wood preserving, and furniture stripping.
  - (6) Dry-cleaning establishments.
  - (7) Electronic circuit assembly.
  - (8) Laundromats, unless connected to a sanitary sewer.
  - (9) Metal plating, finishing, or polishing.
  - (10) Petroleum or petroleum products storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas.
  - (11) Photographic processing.
  - (12) Printing.
- G. Parking areas.
- (1) Setback. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that the setback requirements for parking areas serving public boat-launching facilities in districts other than the General Development District shall be no less than 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.

- (2) Runoff. 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 as depicted on the Official Town of Windham Land Use Map and where feasible, to retain all runoff on-site. **[Amended 10-12-2021]**
- (3) Size. In determining the appropriate size of proposed parking facilities, the following shall apply:
  - (a) Typical parking space: Approximately 10 feet wide and 20 feet long, except that parking spaces for a vehicle and boat trailer shall be 40 feet long.
  - (b) Internal travel aisles: Approximately 24 feet wide.
- (4) Minimums. For any uses listed in § 185-14, Table 1 (Land Uses in the Shoreland Zone) that require site plan approval by the Planning Board, the parking areas must meet all applicable requirements set forth in § 120-812(C), and are further subject to the minimum parking requirements set forth in the table below:

Use	Minimum Parking Requirement
Marina	1 parking space per slip
Campground	??
Other?	

**Commented [MB1]:** Please note that Sec. 120-812(C)(1)(h) allows for parallel parking along internal driveways or accessways. Do you want this to be allowed for shoreland uses or specify that the section doesn't apply?

**Commented [SP2]:** Should there be prescribed parking ratios for any other non-residential use?

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

- (1) Setback.
  - (a) Roads and driveways shall be set back at least 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 75 feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland as depicted on the Official Town of Windham Land Use Map, unless no reasonable alternative exists as determined by the Code Enforcement Officer. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than 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. The Code Enforcement Officer may require the applicant to obtain an approved erosion and sediment control plan from the Cumberland County Soil and Water Conservation District prior to issuing any permits. **[Amended 10-12-2021]**
  - (b) New roads and driveways: On slopes of greater than 20%, the road and/or driveway setback shall be increased by 10 feet, horizontal distance, for each 5% increase in slope above 20%.



- (c) Section 185-15H(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures, and facilities located nearer to the 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 § 185-15H(1) except for that portion of the road or driveway necessary for direct access to the structure.
- (2) Existing roads. Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a water body, tributary stream or wetland as depicted on the Official Town of Windham Land Use Map. **[Amended 10-12-2021]**
- (3) New roads. New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District, the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- (4) Road banks. Road and driveway banks shall be no steeper than a slope of two horizontal to one vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in § 185-15T.
- (5) Road grade. Road and driveway grades shall be no greater than 10% except for segments of less than 200 feet.
- (6) Drainage. 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.
- (7) Ditching. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:
  - (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

<b>Grade (%)</b>	<b>Spacing (in feet)</b>
0 to 2	250
3 to 5	200 to 135

	§ 185-15
6 to 10	100 to 80
11 to 15	80 to 60
16 to 20	60 to 45
21+	40

- (b) Drainage dips may be used in place of ditch relief culverts only where the grade is 10% or less.
  - (c) On sections having slopes greater than 10%, ditch relief culverts shall be placed at approximately a thirty-degree angle downslope from a line perpendicular to the center line of the road or driveway.
  - (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
- (8) Maintenance and repair. Ditches, culverts, bridges, dips, water turnouts and other stormwater runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning. When maintenance and/or repair is performed, such performance must be in accordance with best management practice.

I. Signs.

- (1) The use of signs in the General Development District shall be governed by § 120-706 of Chapter 120, Land Use (standards in Commercial Districts.) The use of signs in the Resource Protection and Limited Residential Districts shall be governed by § 120-709 of Chapter 120, Land Use. Signs advertising home occupations should conform to the guidelines stated in § 120-705D, Identification signs, of Chapter 120, Land Use.
- (2) Signs related to trespassing and hunting shall be permitted without restriction as to number, provided that no such sign shall exceed two square feet in area.

J. Stormwater runoff.

- (1) Construction. All construction and development shall minimize stormwater runoff from the site in excess of the natural pre-development conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
- (2) Maintenance. Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

NOTE: The Stormwater Management Law (38 M.R.S.A. § 420-D) requires a full permit to be obtained from the DEP prior to construction of a project consisting of 20,000 square feet or more of impervious area or five acres or more of a developed area in an urban impaired stream watershed or most-at-risk lake watershed or a project with one acre or more of developed area in any other stream or wetland watershed. A permit-by-rule is necessary for a project with one acre or more of disturbed area but less than one acre impervious area (20,000 square feet for most-at-risk lakes and urban impaired streams) and less than five acres of developed area. Furthermore, a Maine

construction general permit is required if the construction will result in one acre or more of disturbed area.

(3) Plan required. When required by the Code Enforcement Officer or the Planning Board, stormwater management plans shall be designed utilizing the most recent approved version of the Cumberland County Soil and Water Conservation District's "MaineErosion and Sediment Control Handbook for Best Management Practices." Completed plans, when required above, may be reviewed by the Cumberland County Soil and Water Conservation District or other qualified group. Prior to the issuance of a building permit, the Code Enforcement Officer or Planning Board may require the applicant to obtain plan approval from the Cumberland County Soil and Water Conservation District.

(4) General. All activities within the shoreland zone are expected to employ appropriate stormwater management practices regardless of the zone or district they are located in.

K. Septic waste disposal. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Waste Water Disposal Rules, and the following:

(1) Clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions shall not extend closer than 75 feet, horizontal distance, to the normal high-water line of a water body or the upland edge of a wetland; and

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

NOTE: The Maine Subsurface Waste Water Disposal Rules require new systems, excluding fill extensions, to be constructed no less than 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.

L. Essential services.

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

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

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

M. Mineral exploration and extraction. Mineral 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 of less than 100 square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety. Mineral extraction may be permitted under the following conditions:

- (1) Reclamation plan. A reclamation plan shall be filed with, and approved by, the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of § 185-15M(3) below.
- (2) Setbacks. No part of any extraction operation, including drainage and runoff control features, shall be permitted within 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 100 feet horizontal distance of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within 100 feet horizontal distance of any property line without written permission of the owner of such adjacent property.
- (3) Closure. Within 12 months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than 100 cubic yards of materials are removed in any consecutive twelve-month period, ground levels and grades shall be established in accordance with the following:
  - (a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site. The State of Maine Solid Waste Laws, 38 M.R.S.A. § 1310 et seq., and the solid waste management rules of the Department of Environmental Protection, 06-096 CMR Chs. 400 through 419, may contain other applicable provisions regarding disposal of such materials.
  - (b) The final graded slope shall be two to one slope or flatter.
  - (c) Topsoil or loam shall be retained to cover all disturbed land areas which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- (4) Public hearing. In keeping with the purposes of this chapter, the Planning Board shall not permit the removal of stone, sand and gravel from banks or quarries and the processing of said materials until a public hearing is held thereon and a finding that such removal and processing will be performed subject to the conditions and safeguards set forth in Article 6, Mineral Extraction, of Chapter 120, Land Use.

N. Agriculture.

- (1) Manure spreading. All spreading of manure shall be accomplished in conformance with the latest revision of 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. §§ 4201 through 4209).
- (2) Manure storing. Manure shall not be stored or stockpiled within 100 feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within 75 feet, horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater.

- (3) Areas greater than 40,000 square feet. Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area, or the spreading, disposal or storage of manure within the shoreland zone shall require a soil and water conservation plan number to be filed with the Planning Board. Nonconformance with the provisions of said plan shall be considered to be a violation of this chapter.
  - (4) Setback. There shall be no new tilling of soil within 100 feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within 75 feet, horizontal distance, from other water bodies: nor within 25 feet, horizontal distance, of tributary streams, and wetlands. Operations in existence on the effective date of this chapter and not in conformance with this provision may be maintained.
  - (5) New grazing areas. Newly established livestock grazing areas shall not be permitted within 100 feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within 75 feet, horizontal distance, of other water bodies; nor within 25 feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities and which is not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a conservation plan that has been filed with the Planning Board.
- O. (Repealed). Note relating to timber harvesting standards: In accordance with 38 M.R.S.A. § 438-B, the State of Maine Department of Agriculture, Conservation and Forestry's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone.
- P. Clearing or removal of vegetation for activities other than timber harvesting.
- (1) RP Zone.
    - (a) Within a shoreland area zoned for Resource Protection 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 hazard trees as described in Subsection Q.
    - (b) Elsewhere, in any Resource Protection District the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.
  - (2) Buffer strip. Except in areas as described in Subsection P(1), above, within a strip of land extending 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, or within a strip extending 75 feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
    - (a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a single footpath not to exceed six feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline, provided that a cleared line of sight to the water through the buffer strip is not created.

- (b) Selective cutting of trees within the buffer strip is allowed, provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of this subsection, 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 twenty-five-foot by fifty-foot rectangular (1,250 square feet) area as determined by the following rating system:

Diameter of Tree at 4 1/2 feet Above Ground Level (inches)	Points
2 to less than 4	1
4 to less than 8	2
8 to less than 12	4
12 or greater	8

- [1] 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 twenty-five-foot by fifty-foot rectangular area.

NOTE: As an example, adjacent to a great pond, if a 25-foot plot contains four trees between two inches and four inches in diameter, two trees between four inches and eight inches in diameter, three trees between eight inches and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

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

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

- [2] The following shall govern in applying this point system:
- [a] The twenty-five-foot by fifty-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 chapter;
  - [d] Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this chapter;
  - [e] Where conditions permit, no more than 50% of the points on any twenty-

five-foot by fifty-foot rectangular area may consist of trees greater than 12 inches in diameter.

- [3] For the purposes of § 185-15P(2)(b), "other natural vegetation" is defined as retaining existing vegetation under three feet in height and other ground cover and retaining at least five saplings less than two inches in diameter at 4 1/2 feet above ground level for each twenty-five-foot by fifty-foot rectangle area. If five saplings do not exist, no woody stems less than two inches in diameter can be removed until five saplings have been recruited into the plot.
- [4] Notwithstanding the above provisions, no more than 40% of the total volume of trees four inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten-year period.
- (c) In order to protect water quality and wildlife habitat, existing vegetation under three 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 § 185-15P(2) and (2)(a) above.
- (d) Pruning of trees branches, on the bottom 1/3 of the tree is allowed.
- (e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Subsection S, below, unless existing new tree growth is present.
- (f) In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of § 185-15P(2). Section 185-15P(2) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.
- (3) Distances greater than 100 feet.
- (a) At distances greater than 100 feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and 75 feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten-year period, selective cutting of not more than 40% of the volume of trees four 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 40% calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area.
- (b) 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 10,000 square feet, whichever is greater, including land previously cleared. This provision applies to the portion of a lot within the shoreland zone, including the buffer area,

but shall not apply to the General Development District.

- (4) Existing openings. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this chapter.
- (5) Reverted fields. Fields and other cleared openings which have reverted to primary shrubs, trees, or other woody vegetation shall be regulated under the provisions of § 185-15P.

Q. Hazard trees, storm-damaged trees, and dead tree removal.

- (1) Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
  - (a) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than 250 square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two inches in diameter, measured at 4.5 feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four feet in height, and be no less than two inches in diameter. Stumps may not be removed.
  - (b) Outside of the shoreline buffer, when the removal of hazard trees exceeds 40% of the volume of trees four inches or more in diameter, measured at 4.5 feet above ground level in any ten-year period, and/or results in cleared openings exceeding 25% of the lot area within the shoreland zone, or 10,000 square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two inches in diameter, measured at 4.5 feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two inches in diameter, measured at 4.5 feet above the ground level.
  - (c) The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision, "dead trees" are those trees that contain no foliage during the growing season.
  - (d) The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.
  - (e) The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight inches in diameter measured at 4.5 feet above the ground level.
- (2) Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:



- (a) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than 250 square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
- [1] The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
  - [2] Stumps from the storm-damaged trees may not be removed;
  - [3] Limbs damaged from a storm event may be pruned even if they extend beyond the bottom 1/3 of the tree; and
  - [4] If, after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every 80 square feet of lost canopy.
- (b) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four inches or more in diameter, measured at 4.5 feet above the ground level in any ten-year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or 10,000 square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

R. Exemptions to clearing and vegetation removal requirements. The following activities are exempt from the clearing and vegetation removal standards set forth in § 185-15P, provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

- (1) The removal of vegetation that occurs at least once every two years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two years, reverts back to primarily woody vegetation, the requirements of § 185-15P apply;
- (2) The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of § 185-15B are not applicable;
- (3) The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
- (4) The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of § 185-15N are complied with;
- (5) The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects, provided that the removal of vegetation is necessary for remediation activities to clean up contamination on a site in a General Development

District that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A § 343-E, and that is located along a river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A § 465-A;

- (6) The removal of nonnative invasive vegetation species, provided the following minimum requirements are met:
  - (a) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least 25 feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
  - (b) Removal of vegetation within 25 feet, horizontal distance, from the shoreline occurs via hand tools; and
  - (c) If applicable clearing and vegetation removal standards are exceeded due to the removal of nonnative invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

NOTE: An updated list of nonnative invasive vegetation is maintained by the Department of Agriculture, Conservation and Forestry's Natural Areas Program: [http://www.maine.gov/dacf/mnap/features/invasive\\_plants/invasives.htm](http://www.maine.gov/dacf/mnap/features/invasive_plants/invasives.htm).

- (7) The removal of vegetation associated with emergency response activities conducted by the Maine Department of Environmental Protection, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.
- S. Revegetation requirements. When revegetation is required in response to violations of the vegetation standards set forth in § 185-15P, to address the removal of nonnative invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements:
- (1) The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed; where existing vegetation is to remain; and where vegetation is to be planted, including a list of all vegetation to be planted.
  - (2) Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the preexisting vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the preexisting vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed.
  - (3) If part of a permitted activity, revegetation shall occur before the expiration of the

permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.

- (4) Revegetation activities must meet the following requirements for trees and saplings:
  - (a) All trees and saplings removed must be replaced with native noninvasive species;
  - (b) Replacement vegetation must at a minimum consist of saplings;
  - (c) If more than three trees or saplings are planted, then at least three different species shall be used;
  - (d) No one species shall make up 50% or more of the number of trees and saplings planted;
  - (e) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
  - (f) A survival rate of at least 80% of planted trees or saplings is required for a minimum five-year period.
- (5) Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three feet in height:
  - (a) All woody vegetation and vegetation under three feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three feet in height as applicable;
  - (b) Woody vegetation and vegetation under three feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
  - (c) If more than three woody vegetation plants are to be planted, then at least three different species shall be planted;
  - (d) No one species shall make up 50% or more of the number of planted woody vegetation plants; and
  - (e) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five years.
- (6) Revegetation activities must meet the following requirements for ground vegetation and ground cover:
  - (a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

- (b) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four-inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
- (c) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five years.

T. Erosion and sedimentation control.

- (1) Plan required. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan.
  - (a) The plan shall be submitted to the permitting authority 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 riprap.
  - (b) Activities which require site plans or approval from the Planning Board are to be prepared in accordance with prevailing best management practices as referenced in the current issue of Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices. The Code Enforcement Officer may also require the applicant to obtain approval from the Soil and Water Conservation District prior to a permit being issued.
- (2) Development. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- (3) Duration of plan. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- (4) Exposed ground area. Any exposed ground area shall be temporarily or permanently stabilized within one week from the time the work was started, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases, permanent stabilization shall occur within nine months of the initial date of exposure. In addition:
  - (a) Where mulch is used, it shall be applied at a rate of at least one bale per 500 square feet and shall be maintained until a catch of vegetation is established.
  - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

- (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) Drainageways. Natural and man-made drainageways 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-year storm or greater, and shall be stabilized with vegetation or lined with riprap.
- (6) Soil and erosion control methods. All best management practices must be installed at the minimum principal and accessory setback as specified in § 185-15B, or to the greatest practical extent as determined by the Code Enforcement Officer.
- U. Soils. All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine certified soil scientists, Maine licensed 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 analyses of the characteristics of the soil and surrounding land and water areas, maximum groundwater 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. Soil conditions that are inappropriate or uncorrectable in an environmentally acceptable manner shall be sufficient grounds for denial, even though the proposed use is otherwise permitted in that zone.
- V. Water quality. No activity shall deposit on or into the ground or discharge to the waters of the state any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.
- W. Archaeological sites. Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment at least 20 days prior to action being taken by the permitting authority. The CEO shall consider comments received from the Commission prior to rendering a decision on the application.
- X. Home occupations.
  - (1) Where allowed. The home occupation shall be carried on wholly within the dwelling or accessory structure.
  - (2) Number of employees. The home occupation shall be carried on primarily by a member or members of the family residing in the dwelling unit. Not more than two persons who are not family members residing in the dwelling unit shall be employed.

- (3) Signs. There shall be no exterior display, no exterior sign other than those permitted in § 120-705, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.
  - (4) Objectionable conditions. Objectionable conditions, such as noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or activity at unreasonable hours, shall not be permitted.
  - (5) Parking. 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 each employee and the vehicles of the maximum number of users the home occupation may attract during peak operating hours.
  - (6) Allowable area. The home occupation shall not utilize more than 20% of the total floor area of the dwelling unit. The basement floor area shall be excluded in the calculation of the 20%.
- Y. Animals in a shoreland zone. Nothing shall prohibit the keeping of household pets such as cats and dogs. The keeping of horses, ponies and other large pets or the raising of more than two of each species of such animals six months old requires compliance as follows:
- (1) Within 100 feet of the normal high-water line of a water body as depicted on the Official Town of Windham Land Use Map, there shall be no feed lots, fenced runs, pens and similar intensively used facility for animal raising and care. Additionally, no footpath larger than six feet in width may be used for watering, and is only to be used for passage to and from the water and not as pasture or feed lot. Any in existence prior to 2006 shall be grandfathered. **[Amended 10-12-2021]**