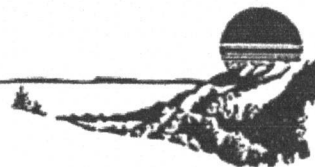


**3 Roque Bluffs Road
Roque Bluffs, ME 04654**



TOWN OF ROQUE BLUFFS COMPREHENSIVE ZONING ORDINANCE

**Passed by vote of annual Town Meeting - August 16, 1999
Effective Date - DEP Letter of approval dated September 30, 1999**

**Amended by vote of annual Town Meeting - August 21, 2000
Effective Date - DEP Letter of approval dated September 13, 2000
Effective Date - SPO Letter of approval dated October 12, 2000**

**Amended by vote of annual Town Meeting - August 19, 2002
Effective Date - DEP Letter of Approval dated September 19, 2002**

**Amended by vote of annual Town Meeting - August 18, 2003
Effective Date - August 18, 2003 (DEP Approval not required)**

**Amended by vote of annual Town Meeting - August 20, 2007
Applicability Date – Inland – June 28, 2007
Effective Date - Shoreland - DEP Letter of approval dated August 30, 2007
Effective Date - Floodplain – SPO Letter of approval dated October 22, 2007**

History of Zoning Ordinances in Roque Bluffs

- **Prior to June 1, 1974:** Roque Bluffs did not have a zoning ordinance
- **June 1, 1974:** The 1st Zoning Ordinance took effect, covering Inland and Shoreland Areas
 - Established Shoreland Area defined as 250 feet measured horizontally from Mean High Tide.
 - Minimum Inland Lot: 20,000 ft²
 - Minimums: Shorefront Lot: 20,000 ft² / Shore Frontage: 100 Ft / Setback: 75 Feet from Mean High Water.
 - Lots deeded before June 1, 1974 grandfathered as to lot size and shore frontage: must meet 75 foot setback and have a septic system which meets Maine Standards to build.
- **June 18, 1975:** Voters approved Flood Hazard Building Permit Ordinance.
- **November 19, 1981:** State imposed Shoreland Ordinance replaced Shoreland portion of the 1974 Ordinance.
 - Established Resource Protection (RP), Limited Residential (LR) and General Development (GD) Districts in the Shoreland Area (Defined as 250 feet from Normal High Tide Line, measured horizontally.)
 - Shoreland Zone minimums unchanged from 1974 Ordinance.
- **July 9, 1990:** Voters approved Floodplain Management Ordinance replacing 1975 version.
- **June 12, 1992:** Voters approved a Shoreland Zoning Ordinance superceding the 1981 Ordinance.
 - Established Commercial Fishing & Marine Activities (CFMA) & Stream Protection (SP) Shoreland Districts.
 - Established definition of wetlands as 10 or more acres.
 - Established "30% Rule" for expansion of non-conforming Structures.
 - Established "40%" Rule for tree clearing in the Shoreland Area.
 - Minimums: Shorefront Lot: 30,000 ft² / Shore Frontage: 150 Ft / Setback: 100 Feet from Mean High Water.
 - Lots deeded before June 12, 1992 grandfathered as to lot size and shore frontage: must meet 100 foot setback and have a septic system which meets Maine Standards.
- **August 16, 1999:** Voters approved Comprehensive Zoning Ordinance superceding the 1974 Ordinance (For Inland Area), 1992 Ordinance (For Shoreland Area) and 1990 Floodplain Ordinance.
 - Established new Districts: (RD) in the Inland Area & Stream Fresh Water Protection (SFWP) to replace SP District.
 - Mapped Wetlands accurately using data from State of Maine of wetlands as 10 or more acres.
 - All minimum lot parameters remained unchanged.
- **August 21, 2000:** Voters approved amendments to 1999 Comprehensive Zoning Ordinance.
 - Added controls on building communications towers.
 - Replaced Floodplain language in 1999 Comprehensive Zoning Ordinance.
- **August 19, 2002:** Voters approved amendments to 1999 Comprehensive Zoning Ordinance.
 - Inland RD District replaced with Village Residential (VR, Growth Residential (GR) and Rural Residential (RR) Districts as called for in the Comprehensive Plan passed by Voters in 2001.
 - Clarified definition of Normal High Tide for establishing setbacks.
- **August 18, 2003:** Voters approved amendment to 1999 Comprehensive Zoning Ordinance.
 - Minimum lot size in the Rural Residential (RR) District increased to 42,000 ft².
 - Lots recorded in the County Deeds office prior to August 18, 2003 with less than 42,000 ft² can be built upon
- **August 20, 2007:** Voters approved amendments to 1999 Comprehensive Zoning Ordinance.
 - Maine DEP Guidelines, revised May 1, 2006 incorporated into the Ordinance, including:
 - = Enforcement of timber harvesting in Shoreland Zone to revert to State when trigger date is met.
 - = Shorefront setbacks from eroding bluffs identified by the state to BE measured from top of bluffs.
 - New language in addition to DEP Shoreland Guidelines
 - = No permit required for small structures (less than 100 ft²) not on permanent foundations
 - = Guidelines for LP Gas tanks, use of Recreational Vehicles as dwellings,
 - = Automobile Graveyard / Junkyard updated to include new legislation
 - = Measurable definitions of Village Residential (VR) and Growth Residential (GR) districts
 - = Islands designated Limited Residential (LR)

TOWN OF ROQUE BLUFFS

COMPREHENSIVE ZONING ORDINANCE

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TOWN OF ROQUE BLUFFS - COMPREHENSIVE ZONING ORDINANCE

SECTION 1. INTENT AND PURPOSE

A. Intent

The intent of this ordinance is to ensure that the use and development of land within the Town of Roque Bluffs shall be controlled and guided by the residents of the Town, consistent with the laws of the State of Maine and the Town of Roque Bluffs Comprehensive Plan passed at the Annual Town Meeting held August 20, 2001, to preserve and enhance their economic and social welfare. To this end, decisions concerning the use of development of land shall be made only after due consideration of the proposed use or development in relation to its probable demand on Town services and the cost thereof; any economic benefits expected to accrue to the Town; and the expected impact of the proposal on the environment.

B. Purposes

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

SECTION 2. AUTHORITY

This Ordinance has been prepared in accordance with the provisions of the Maine Revised Statutes Annotated (M.R.S.A.) as amended or superseded and any other applicable laws of the State of Maine as follows:

A. **Mandatory Shoreland Zoning:** Title 38, Sections 435-449

B. **Zoning and Subdivision:** Title 30-A, Sections 2605-3006; 4201-4216; 4351-4355; 4401-4407

C. **Others:** Others as cited in the Ordinance

SECTION 3. APPLICABILITY

This Ordinance establishes two Zoning Areas:

A. Area One - Shoreland

Area One includes all land areas within 250 feet, horizontal distance, of the

- normal high-water line of any great pond or river, or
- upland edge of coastal wetland including all areas affected by tidal action, or
- upland edge of a freshwater wetland of ten (10) or more acres designated Resource Protection (RP)

and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream or of a freshwater wetland of ten (10) or more acres designated Stream/Freshwater Wetland Protection (SFWP), including all outlet streams of those wetlands.

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

B. Area Two - Inland

Area Two includes all land areas within the town which are not in Area One.

SECTION 4. EFFECTIVE DATE, APPLICABLE DATE, REPEAL OF FORMERLY ADOPTED ORDINANCES

A. Purpose and Repeal

This amended Roque Bluffs Comprehensive Zoning Ordinance replaces the Roque Bluffs Comprehensive Zoning Ordinance adopted by the Roque Bluffs Town Meeting on August 16, 1999 and later amendments thereto, the relevant provisions of which Ordinance shall stand repealed as of the respective effective dates set forth below.

B. Effective Date

1. **Area One** The provisions of this Ordinance applicable only to areas designated as Area One, the Shoreland Area, shall become effective upon approval of those provisions by the Commissioner of the Department of Environmental Protection (DEP) of the State of Maine or upon the failure of the Commissioner to act on this Ordinance within forty-five (45) days of his/her receipt of this Ordinance. A certified copy of the Ordinance, attested and signed by the Town Clerk, shall be forwarded to the Commissioner of DEP for approval.

2. **Area Two** The provisions of this Ordinance of general applicability, or applicable only to areas designated as Area Two, the Inland Area, shall become effective on the date of adoption of this Ordinance at a Town Meeting.

C. Applicability Date.

1. **Area One** The provisions of this Ordinance applicable only to areas designated as Area One, the Shoreland Area, shall be applicable to any application for a permit or approval submitted to the Town within the forty-five (45) day review period of the Commissioner of DEP as set forth above, if the Ordinance becomes effective.

2. **Area Two** The provisions of this Ordinance of general applicability, or applicable only to areas designated as Area Two, the Inland Area, shall be applicable to all proceedings, applications, petitions, and proposals pending, commenced, or reviewed on or after June 28, 2007.

D. Effect of Repeal on Non-Conformance

This Ordinance replaces the following previously adopted Ordinances. For the purpose of determining non-conformance, the dates of adoption of the predecessor ordinances in which setbacks were established or modified shall be used.

- Zoning Ordinance	Passed July 22, 1974
- Flood Hazard Permit System and Review Procedure	Passed July 9, 1990 & Section 17 of the Comprehensive Zoning Ordinance Passed August 16, 1999.
- Shoreland Zoning Ordinance	Passed May 13, 1992, amended February 17, 1997
- Comprehensive Zoning Ordinance	Passed August 16, 1999, amended August 18, 2003

E. Repeal of Municipal Timber Harvesting Regulation The regulation of timber harvesting activities by the Town of Roque Bluffs is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in Area 1, the Shoreland Zone. On the date established under 38 M.R.S.A. section 435-A(5), the following provisions are repealed:

- **Section 14**, Table of Land Uses, **Row 3** (Forest Management Activities except for timber harvesting) and **Row 4** (Timber Harvesting) in the LR RP and SP Districts;
- **Section 15-II-B.** in its entirety; and
- **Section 19.** Definitions, the definition of "forest management activities" and "residual basal area".

SECTION 5. AVAILABILITY

A certified copy of this Ordinance, including the Zoning Map, shall be filed with the Town Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at a reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

SECTION 6. SEVERABILITY

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

SECTION 7. CONFLICTS WITH OTHER ORDINANCES

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

SECTION 8. AMENDMENTS

A. Amendments

This Ordinance may be amended by majority vote at a Town Meeting, and only under the following conditions:

1. **Public Hearing** The Planning Board shall have held a Public Hearing on the proposed changes, after fourteen (14) days' notice in a local newspaper.

2. **Planning Board Opinion** The Planning Board shall have reported in writing to the Selectmen its opinion as to the desirability of the proposed change. If the Planning Board has not submitted its report within thirty (30) days following the Public Hearing, its concurrence in the proposed change shall be assumed.

3. **Notification** As required by M.R.S.A. Title 38 Section 438A, should the proposed amendment include redesignation of a property to be included in a Resource Protection District, the town shall provide written notification to landowners whose property is being considered for such redesignation. Notification must be made by first-class mail, at least fourteen (14) days prior to any public hearing on such amendment to this Ordinance, to the last known address of the persons against whom property tax on each parcel is assessed. The municipal officers shall prepare and file with the Town Clerk a sworn notarized certificate indicating those persons to whom notice was mailed and at what address, and when, by whom and from what location notice was mailed.

B. Review by Department of Environmental Protection and State Planning Office

Following adoption by the Town Meeting, copies of amendments, attested and signed by the Town Clerk, shall be submitted to:

1. **For Shoreland Zoning Provisions** The Commissioner of the Department of Environmental Protection (DEP) and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act upon 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 Town for an activity in Area One within the forty-five (45) day period shall be governed by the terms of the amendment if such amendment is approved by the Commissioner.

2. **For Floodplain Management Provisions** The State Floodplain Management Program, State Planning Office for review for compliance with National Flood Insurance Program (NFIP) regulations.

SECTION 9. ROQUE BLUFFS ZONING MAP

A. Official Zoning Map The areas to which this Ordinance is applicable are hereby divided into the following Areas and Districts as shown on the Official Zoning Map which is made part of this Ordinance:

1. Area One - Shoreland

- | | |
|--|---|
| a. Resource Protection (RP) District | d. Commercial Fisheries / Maritime Activities (CFMA) District |
| b. Limited Residential (LR) District | e. Stream / Freshwater Wetland Protection (SFWP) District |
| c. General Development (GD) Districts I and II | |

2. Area Two - Inland

- a. Growth Village Residential (VR) District
- b. Growth Residential (GR) District
- c. Rural Residential (RR) District

B. Scale of Map

The Official Zoning Map is drawn to a scale of not less than 1 inch = 2,000 feet. Area and District boundaries are clearly delineated and a legend indicating the symbols for each Area and District is placed on the map.

C. Certification of Official Zoning Map

The Official Zoning Map is certified by the attested signature of the Town Clerk and is located in the Town Hall. A second copy is in custody of the Town Clerk.

D. Changes to the Official Zoning Map

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

SECTION 10. INTERPRETATION OF AREA AND DISTRICT BOUNDARIES

Unless otherwise set forth on the Official Zoning Map, Area and District boundary lines are property lines, the centerline of streets, roads and rights of way, and the boundaries of the Shoreland Area is as defined in **SECTION 3-A** herein. When uncertainty exists as to the exact location of Area or District boundary lines, the Code Enforcement Officer (CEO) shall make a determination. The CEO's determination may be appealed to the Board of Appeals which shall be the final authority as to location.

SECTION 11. LAND USE REQUIREMENTS

A. Use

Except as hereinafter specified, no building, structure, wireless communication facility or land shall hereinafter be used or occupied, and no building or structure or part thereof shall 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 Area or District in which it is located, unless a permit or variance is granted.

B. Existing Use

1. **Conforming Use** Any existing building or premise in the Town devoted to a use lawful prior to the time of adoption of this or predecessor ordinances and lawful under this Ordinance may continue in such use.

2. **Non Conforming Use** Any existing building or premise in the Town devoted to a use lawful prior to the adoption of this Ordinance and not lawful under this Ordinance may continue in such use, non conforming under this ordinance, as covered in **Section 12 D**.

C. Change in Use

No person or persons shall engage in any land use other than residential or ones allowed under this ordinance without first obtaining a permit for change in use as provided in **Section 16 H-5**.

D. Water Dependent Use

Under Maine State Law, 38 MSRA, Section 436A-6, structures for storage of recreational boats or other water craft are not water dependent uses and must meet the same shoreline setback standard as other structures.

SECTION 12. NON-CONFORMANCE

A. Purpose

It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance as defined in **Section 4** and, for lot size, frontage and setbacks, summarized in **Section 12 C** below shall be allowed to continue, subject to the requirements set forth in this section. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

B. General

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

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

C. Determining Non-Conformance

1. **Properties recorded by deed Prior to June 1, 1974** Lots which did not meet the following minimum dimensional standards became non-conforming upon adoption of the Zoning Ordinance adopted by the Town of Roque Bluffs on June 1, 1974:

	Area One (Shoreland)	Area Two (Inland)
Lot size:	20,000 Square Feet	20,000 Square Feet
Shore frontage	100 Feet	Not Applicable
Setback from water bodies:	75 Feet	Not Applicable

2. **Properties recorded by deed Prior to June 12, 1992** Lots were conforming under the 1974 ordinance but which did not meet the following minimum dimensional standards became non-conforming upon adoption by the Town of Roque Bluffs and certification by the Commissioner of the DEP on June 12, 1992:

	Area One (Shoreland)	Area Two (Inland)
Lot size:	30,000 Square Feet	20,000 Square Feet
Shore frontage	150 Feet	Not Applicable
Setback from water bodies:	100 Feet	Not Applicable

3. **Properties in Area Two recorded by deed Prior to August 18, 2003** Lots in Rural Residential District of Area TWO which did not have at least 42,000 square feet became non-conforming upon adoption of the increase in lot size by the Town of Roque Bluffs on August 18, 2003.

D. Non-Conforming Structures

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

In the paragraphs below, increase in nonconformity of structures is defined as 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, wetland, side lot or road setback distance, increase in lot coverage, increase in height of structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconfor-

mance 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, tributary streams or wetlands 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 fill in irregularly shaped structures.

1. **Expansions** A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in conformity with paragraphs 1-a and 1-b below in Area One and 1-b below in Area Two.

a. Expansion - Area One

- i. After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body, tributary stream or upland edge of a wetland, that portion of the structure shall not be expanded as measured in floor area or volume by 30% (Thirty Percent) or more, during the lifetime of the structure. Floor area is defined as the sum of square footage of all floors plus any porch and deck areas. Total volume is defined as the cubic footage of all space included within the exterior walls and roof of a structure.
- ii. If a replacement structure conforms with the requirements of **Section 12-D-3**, 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 or volume since that date.
- iii. Any construction initiated after January 1, 1989 on a structure located less than the then existing shoreland setback of 75 feet, or after June 12, 1992, located less than the shoreland setback of 100 feet which became effective on that date, shall be applied to the 30% mandate.

b. Expansion - Areas One and Two

i. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure:

(a) The structure and the new foundation must be placed such that the setback requirements are met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in **Section 12-D-2** below:

(b) If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with **Section 12-D-1-a** above; and

(c) 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.

2. **Relocation**

a. Relocation - Areas One and Two

i. 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 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.

ii. In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and, in Area One, the type and amount of vegetation to be removed to accomplish the relocation.

b. Relocation - Area One

i. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate the structure, the Planning Board shall require planting 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:

ii. 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.

iii. 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 of at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be re-established 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.

iv. Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees or a combination thereof.

3. Reconstruction or Replacement Any non-conforming structure which is located less than the required setback from a street, sidelot line or, in Area One, the normal high-water line of a water body, tributary stream, outlet stream, stream or wetland and which is removed, or damaged or destroyed, regardless of 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 requirements to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to **Section 12-D-1** above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with **Section 12-D-2-b** above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, wetland, sidelot line or road 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 provided a permit is obtained within one year of such damage destruction or removal.

In determining whether the building reconstruction or replacement meets the setbacks to the greatest practical extent the Planning Board or its designee shall consider in addition to the criteria in **Section 12-D-2** above, the physical condition and type of foundation present, if any.

If an applicant can demonstrate extenuating circumstances as given in **Section 16-H-4-d** the Planning Board may grant an extension of one (1) additional year to secure a permit for reconstruction.

4. Change of Use of a Non-conforming Structure The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the subject property or adjacent properties and resources than the existing use or, in Area One, on the water body or wetland. Such change in use shall be granted only in accordance with the provisions of **Section 16-H-5**.

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, natural beauty, floodplain management, archaeological and historic resources. Further, for any property in Area One, the impact on visual and actual points of public access to waters commercial fishing and maritime activities, and other functionally water-dependent uses.

E. Non-Conforming Uses

A non-conforming use is defined as "a use of buildings, structures, premises, land or parts thereof which is not allowed in the Area or District in which it is situated, but which is allowed to remain solely because it was lawful at the time this Ordinance or subsequent amendments took effect."

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

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

3. Change of Use An existing a 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, including water dependent uses in CFMA Districts in Area One, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to the criteria listed in **Section 12-D-4** above. Such change in use shall be granted only in accordance with the provisions of **Section 16-H-5**.

F. Non-Conforming Lots

A non-conforming lot is defined as "a single lot of record at the effective date of adoption or amendment of this Ordinance which does not meet the area, frontage, or width requirements of the Area and District in which it is located."

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

Lots meeting the requirements of paragraph **F-4** or **F-5** of this section shall not be considered non-conforming lots and shall be limited to have only one principal structure, either existing or permitted to be built.

2. **Contiguous Built Lots** If two or more lots or parcels are in single or joint ownership of record as of June 12, 1992 and if all or part of the lots do not meet the dimensional requirements of this Ordinance and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.S.R.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 June 12, 1992, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

3. **Contiguous Lots - Vacant or Partially Built:** If two or more contiguous lots or parcels are in single or joint ownership of record on June 12, 1992, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

4. **Exemptions - Area One (Shoreland Area)** This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons whose boundaries were recorded with the Washington County Office of the Registrar of Deeds as of June 12, 1992 if the lot can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

a. Each lot contains at least 100 feet of shore frontage; and at least 20,000 square feet of lot area; or

b. Any lots that do not meet the frontage and lot size requirements of **Section 12-F-4-a** are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of area.

Structures built on such non-conforming lots must meet all setback requirements.

5. **Exemptions - Area Two (Inland Area)** Lots of record within Area Two, whose boundaries were recorded with the Washington County Office of the Registrar of Deeds on or before the dates shown below may be used for single family residence purposes regardless of lot size provided that the use is such that Plumbing and Building Permits may be granted in accordance with the provisions of this Ordinance.

a. Village Residential (VR) or Growth Residential (GR) Districts, June 13, 1974.

b. Rural Residential (RR) District, on or before August 18, 2003

SECTION 13. ESTABLISHMENT OF DISTRICTS

A. Area One

The following districts are established within Area One (Shoreland). Actual zone and district boundaries are shown on the Official Zoning Map. Criteria are given for each District, followed by designation of districts within Area One. Uses may be allowed as shown **Section 14, Table 1** or allowed under **Section 11-B** or provided a change in use permit is obtained as provided in **SECTION 16 H-5**.

1. Resource Protection District (RP)

a. **Criteria** The Resource Protection designation 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 / Freshwater Wetland Protection district, except that areas which are currently developed and areas which meet the criteria for Limited Commercial, General Development I, or Commercial Fisheries/Maritime Activities Districts need not be included within the Resource Protection District.

i. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value 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 DIF&W or the DEP 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 to a great pond or river, and have surface elevation at or below the great pond or river during the period of normal high water. "Wetlands associated with great ponds and rivers" are considered to be part of that great pond or river.

ii. Floodplains along rivers, defined by the 100 year flood plain 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. This district shall also include 100 year flood plains adjacent to tidal waters as shown on FEMA Flood Insurance Rate maps or Flood Hazard Boundary Maps.

iii. Areas of two or more contiguous acres with sustained slopes of 20% or greater.

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

v. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

b. Designation Areas designated as part of the Resource Protection District are shown on the official Zoning Map. Specifically included are

i. All land within 250 feet of the upland edge of salt marshes and salt meadows, and wetlands associated with that part of Englishman's River extending upstream from a line running due North West from the intersection of the easterly property boundary of the residential lot on the point of land known as Birch Point identified on the assessor's map as Tax Map 5 Lot 95 and extending to the limit of tidal action upriver.

ii. All areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of Simpson's Pond.

iii. The beaver pond impoundment located to the North of Johnson Cove Road.

iv. The salt marsh at the intersection of Johnson Cove and Cow Point Roads.

2. Limited Residential District (LR)

a. Criteria The Limited Residential designation includes those areas suitable for residential and recreational development including, but not limited to, home occupations and agricultural uses including but not limited to, livestock grazing areas. It includes shoreland areas other than those in the Resource Protection District, or Stream / Freshwater Wetland Protection District, and areas which are used less intensively than those in the General Development Districts, or the Commercial Fisheries/Maritime Activities District. Industrial uses are prohibited as are high intensity commercial uses.

b. Designation Areas designated as part of the Limited Residential District are shown on the official Zoning Map. All Islands in Roque Bluffs Are designated LR.

3. General Development I District (GD I)

a. Criteria The General I Development designation is given to the following types of existing, intensively developed areas:

i. Areas of two or more contiguous acres devoted to commercial, or intensive recreational activities, or a mix of such activities, including but not limited to the following:

(a) Areas devoted to manufacturing, fabricating, or other industrial activities;

(b) Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities;

(c) Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, race tracks and fair grounds.

ii Areas otherwise discernible as having patterns of intensive commercial or recreational uses.

b. **Designation** No areas in the Town are designated as General Development I District.

4. General Development II District (GD II)

a. **Criteria** The General Development II District includes the same types of areas as those listed for the General Development I District. The General Development II District, however, shall be applied to newly established General Development Districts where the pattern of development at the time of adoption is undeveloped or not as intensively developed as that of the General Development I District.

Portions of the General Development I or GD II District may also include residential development. However, no area shall be designated as a General Development I or II District based solely on residential use.

b. **Designation** No areas in the Town are designated as General Development II District.

5. Commercial Fisheries/Maritime Activities District (CFMA)

a. **Criteria** The Commercial Fisheries/Maritime Activities designation includes areas where the existing predominant pattern of development is consistent with the allowed use for this district as indicated in the Table of Land Uses, **SECTION 14**, and other areas which are suitable for functionally water dependent uses, taking into consideration such factors as:

i. Shelter from prevailing wind and waves;

ii. Slope of the land within 250 feet, horizontal distance, of the normal high-water line;

iii. Depth of the water within 150 feet, horizontal distance, of the shoreline;

iv. Available support facilities including utilities and transportation facilities; and

v. Compatibility with adjacent upland areas.

b. **Designation** Areas designated as part of the Commercial Fisheries/Maritime Activities District are shown on the official Zoning Map.

6. Stream/Freshwater Wetland Protection District (SFWP)

a. **Criteria** The Stream/Freshwater Wetland Protection designation includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a tributary stream, outlet stream, or stream, or of a freshwater wetland not rated moderate or high value by the Maine Department of Inland Fisheries and Wildlife, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river or within two-hundred and fifty(250) feet, horizontal distance, of the upland edge of a coastal wetland.

Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

b. Designation Areas designated as part of the Stream/Freshwater Wetland Protection District are shown on the Zoning map. Specifically included are:

- i. All outlet streams from freshwater wetlands regardless of the designation of the wetland.
- ii. All tributary streams to the Englishman River

B. Area Two

All of Area Two is residential and shall be used for single family residences. Other uses may be allowed as shown **Section 14, Table 1** or allowed under **Section 11-B** or provided a change in use permit is obtained as provided in **SECTION 16 H-5**.

The following districts are established within Area Two (Inland)

1. Growth / Village Residential District (VR)

a. Criteria The Growth / Village Residential designation includes those areas suitable for residential, recreational and low intensity business and commercial development including, but not limited to, home occupations including professional offices, small business, commercial, retail and public services. Industrial uses are prohibited as are high intensity commercial uses.

b. Designation The area designated as the Village Residential (VR) District lies on both sides of Roque Bluffs road as follows: on the east side of the road, commencing at and including the Roque Bluffs Town Hall, Tax Map 5, Lot 82, to and including the property identified as Tax Map 5, Lot 73 and, on the west side of the road, from and including the Roque Bluffs Community Chapel, Tax Map 5, Lot 68 and extending to the Southerly edge of the 75 (seventy Five) foot setback around the wetland designated Fresh Water Stream Protection District. Further, the VR District extends 500 feet from the centerline of Roque Bluffs Road: the portion of any property extending outside the 500 foot band is designated Rural Residential.

2. Growth Residential District (GR)

a. Criteria The Growth Residential designation includes those areas suitable for residential, recreational and low intensity business and commercial development including, but not limited to, home occupations and agricultural uses including but not limited to, livestock grazing areas. Industrial uses are prohibited as are high intensity commercial uses.

b.) Designation The area designated as the Growth Residential (GR) District lies on both sides of Roque Bluffs road as follows: on the east side of the road, commencing with the property identified as Tax Map 5, Lot 73 to the Machias Town Line and, on the west side of the road, from Northerly edge of the 75 (seventy Five) foot setback around the wetland designated Fresh Water Stream Protection District and extending to the Machias Town Line. Further, the GR District extends 500 feet from the centerline of Roque Bluffs Road: the portion of any property extending outside the 500 foot band is designated Rural Residential.

3. Rural Residential District (RR)

a. Criteria The Rural Residential designation includes those areas suitable for residential, recreational and low intensity business and commercial development including, but not limited to, home occupations and agricultural uses including but not limited to, livestock grazing areas. It includes areas which are lightly populated in which the Town wants to retain open spaces. Industrial uses are prohibited as are high intensity commercial uses.

b. Designation Areas designated as part of the Rural Residential District are shown on the official Zoning Map. Specifically included are:

- i. All parts of Area Two which are not designated Growth/Village Residential (VR) or Growth Residential (GR) Districts.

SECTION 14. TABLE OF LAND USES WITHIN AREAS ONE AND TWO

All land use activities, as indicated in TABLE 1, Land Uses, shall conform with all of the applicable land use standards in SECTION 15. The Area and District designation for a particular site shall be determined from the Official Roque Bluffs Zoning Map.

KEY TO TABLE 1

- YES** Allowed No permit required but must comply with all applicable land use standards)
- NO** PROHIBITED
- PB** Allowed with permit issued by the Planning Board
- CEO** Allowed with permit issued by the Code Enforcement Officer
- LPI** Allowed with permit issued by the Local Plumbing Inspector
- NA** Not applicable

ABBREVIATIONS FOR DISTRICTS

Area One (Shoreland)		Area Two (Inland)	
RP	Resource Protection	VR	Growth/Village Residential
LR	Limited Residential	GR	Growth Residential
GD	General Development I and II	RR	Rural Residential
CFMA	Commercial Fisheries/Maritime Activities	VR	Growth/Village Residential
SFWP	Stream/Freshwater Wetland Protection		

TABLE 1 - LAND USES IN ROQUE BLUFFS

USES	AREA →		ONE - Shoreland				TWO - Inland		
	DISTRICT →	RP	LR	CFMA	VR	GR	RR		
								SFWP	LR
1. Permitted as a Matter of Right for the individual landowner without permit		YES ¹	YES ¹	YES ¹	YES ¹	YES ¹	YES ¹	YES ¹	YES ¹
a. Non-intensive recreational use not requiring structures. Example: hunting, fishing, hiking		YES ^{1,2}	YES ^{1,2}	YES ¹	YES ¹	YES ¹	YES ¹	YES ¹	YES ¹
b. Home gardening and/or small commercial farming including livestock and poultry raising for home use or limited sale		NO	NO	YES ¹	YES ¹	YES ¹	YES ¹	YES ¹	YES ¹
c. Renting rooms in private dwelling &/or furnishing board, for compensation, to not more than 5 people.		NO	NO	YES	YES	YES	YES	YES	YES
d. Retail and/or professional services conducted in a private dwelling: e accounting, wreath making, dressmaking, etc.		YES	YES	YES	YES	YES	YES	YES	YES
e. Harvesting Wild Crops		YES	YES	YES	YES	YES	YES	YES	YES
f. Motorized vehicular traffic on existing roads and trails		YES	YES	YES	YES	YES	YES	YES	YES
2. Commercial and/or industrial uses prohibited or subject to permit Planning Board Approval		NO	NO	NO	NO	NO	NO	NO	NO
a. Auto Washing facilities, Dry cleaning establishments, laundromats		NO	NO	NO	NO	NO	NO	NO	NO
b. Auto or other vehicle service and/or repair operations, including body shops		NO	NO	NO	NO	NO	NO	NO	NO
c. Chemical and / or biological laboratories		NO	NO	NO	NO	NO	NO	NO	NO
d. Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual household or farm use		NO	NO	NO	NO	NO	NO	NO	NO
e. Commercial painting, wood preserving, and furniture stripping		NO	NO	NO	NO	NO	NO	NO	NO
f. Commercial wet / chemical photographic processing or printing		NO	NO	NO	NO	NO	NO	NO	NO
g. Electronic circuit assembly, metal plating, finishing or polishing		NO	NO	NO	NO	NO	NO	NO	NO
h. Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marine use in CFMA (See Note 4)		NO	NO	NO	NO	NO	NO	NO	NO
i. Junkyard, Automobile Graveyard or Automobile Recycling Business		NO	NO	NO	NO	NO	NO	NO	NO
j. Any activity which produces hazardous waste		NO	NO	NO	NO	NO	NO	NO	NO
3. Forest management activities except for timber harvesting		YES	YES	YES	YES	YES	YES	YES	YES
4. Timber harvesting		YES ^{1,6}	YES ^{1,5,6,7}	YES ^{1,5,6}	YES ^{1,5,6}	YES ^{1,5}	YES ^{1,5}	YES ^{1,5}	YES ^{1,5}
5. Clearing or removal of vegetation for activities other than timber harvesting		CEO ⁸	CEO ^{7,8}	YES ⁸	YES ⁸	YES ⁸	YES ⁸	YES ⁸	YES ⁸
6. Fire prevention activities		YES	YES	YES	YES	YES	YES	YES	YES
7. Wildlife management practices		YES	YES	YES	YES	YES	YES	YES	YES
8. Soil and water conservation practices		YES	YES	YES	YES	YES	YES	YES	YES
9. Mineral exploration		NO	YES ⁹	YES ⁹	YES ⁹	YES ⁹	YES ⁹	YES ⁹	YES ⁹
10. Mineral extraction including sand and gravel extraction		NO	PB ^{1,3,10}	PB ^{1,3}	PB ^{1,3}	PB ^{1,3}	PB ^{1,3}	PB ^{1,3}	PB ^{1,3}
11. Surveying and resource analysis		YES	YES	YES	YES	YES	YES	YES	YES
12. Emergency operations		YES	YES	YES	YES	YES	YES	YES	YES
13. Agriculture		YES ^{2,3}	PB ^{2,3}	YES ^{2,3}	YES ^{2,3}	YES ^{2,3}	YES ^{2,3}	YES ^{2,3}	YES ^{2,3}
14. Aquaculture		PB ^{1,3}	PB ^{1,3}	PB ^{1,3}	PB ^{1,3}	PB ^{1,3}	PB ^{1,3}	PB ^{1,3}	PB ^{1,3}
15. Principal structures and uses		PB ¹¹	PB ¹⁹	PB	PB	PB	PB	PB	PB
a. One and two family residential, including driveways		NO	NO	PB	PB	PB	PB	PB	PB
b. Multi-unit residential		NO	NO	NO	NO	NO	NO	NO	NO
c. Commercial		NO	NO	NO	NO	NO	NO	NO	NO
d. Industrial		NO	NO	NO	NO	NO	NO	NO	NO
e. Governmental and institutional		NO	NO	PB	PB	PB	PB	PB	PB
f. Small non-residential facilities for educational, scientific, or nature interpretation purposes		PB ¹¹	PB	PB	PB	PB	PB	PB	PB
16. Structures accessory to allowed uses		PB ¹¹	PB	PB	PB	PB	PB	PB	PB
17. Piers, docks, wharves, bridges and other structures and uses extending over or below the extreme High-water line of a tidal water body or within a wetland		PB ¹¹	PB	PB	PB	PB	PB	PB	PB
a. Temporary		CEO ²¹	CEO ²¹	CEO ²¹	CEO ²¹	CEO ²¹	CEO ²¹	CEO ²¹	N/A
b. Permanent		PB	PB	PB ¹²	PB ¹²	PB ¹²	PB ¹²	PB ¹²	N/A

USES	DISTRICT →	SFWP	RP	LR	CFMA	VR	GR	RR
18. Conversions of seasonal residences to year-round use residence		PB ³	NO	PB ³	PB	PB	PB	PB
19. Home occupations other than listed in lines 1, a-d of this table		PB ³	NO	PB ³	YES ³	YES ³	YES ³	YES ³
20. Private sewage disposal systems for allowed uses		LPI	NO	LPI	LPI	LPI	LPI	LPI
21. Essential Services		PB ¹³	PB ¹³	PB ¹³	PB ¹³	PB ¹³	PB ¹³	PB ¹³
a. Roadside distribution lines (34.5 KV and below)		CEO ¹³	CEO ¹³	YES ²²	YES ²²	N/A	N/A	N/A
b. Non-roadside or cross-country distribution lines involving ten poles or less in Area One		PB ¹³	PB ¹³	CEO ¹³	CEO ¹³	N/A	N/A	N/A
c. Non-roadside or cross-country distribution lines involving eleven or more poles in Area One		PB ¹³	PB ¹³	PB ¹³	PB ¹³	PB ¹³	PB ¹³	PB ¹³
d. Other essential services		YES	YES	YES	YES	YES	YES	YES
22. Service drops, as defined, to allowed uses		PB ^{1,3}	PB ^{1,3}	PB ^{1,3}	CEO ¹²	PB ^{1,3}	PB ^{1,3}	PB ^{1,3}
23. Public and private recreational uses involving minimal structural development		CEO	CEO	CEO	CEO	CEO	CEO	CEO
24. Individual Private campsites		NO	NO	PB ³	NO	PB ^{1,3}	PB ^{1,3}	PB ^{1,3}
25. Campgrounds		PB ¹⁵	NO ^{10,15}	PB ¹⁵	PB ^{12,15}	PB ¹⁵	PB ¹⁵	PB ¹⁵
26. Road and driveway construction		NO	NO ^{14,16}	PB ¹⁶	PB ¹⁶	PB ¹⁶	PB ¹⁶	PB ¹⁶
27. Parking facilities		PB ^{1,3}	NO	PB ^{1,3}	PB ^{1,3}	NA	NA	NA
28. Marinas		CEO	CEO	YES	YES	N/A	N/A	N/A
29. Filling and earth moving - less than 10 cubic yards		PB	CEO	CEO	YES	N/A	N/A	N/A
30. Filling and earth moving - more than 10 cubic yards		PB	CEO	CEO	CEO	N/A	N/A	N/A
31. Signs - Subject to the requirements of Section 15 Paragraph I-K (Signs)		YES	YES	YES	YES	YES	YES	YES
32. Uses similar to allowed uses		PB	PB	PB	PB	PB	PB	PB
33. Uses similar to uses requiring a CEO permit		CEO	CEO	CEO	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a PB permit		PB	PB	PB	PB	PB	PB	PB
35. Stair access to shore		CEO	CEO	CEO ²³	CEO ²³	N/A	N/A	N/A
36. Wireless Communication Facilities								
a. Non-Exempt Wireless Communications Facilities								
b. Exempt Wireless Communications Facilities - Amateur Radio								
c. Exempt Wireless Communications Facilities - Business Communication & Municipal Services								

NOTES TO TABLE 1

- Subject to all Maine State regulations and/or licensing requirements
- Subject to the requirements of Section 15 Paragraph II-A (Agriculture)
- Uses other than residential require Change of Use Permit: see Section 16 H-5
- Section 15 and Table One shall not prevent the normal & routine functions in a commercial boat building facility or by private individuals, of boat building, maintenance or repair within fifty (50) feet from the right of way limits
- Wood harvesting practices within fifty (50) feet from the right of way limits of any public way or road are regulated under MSRA Title 12, Sec 8867-69,
- Subject to the requirements of Section 15 Paragraph II-B (Timber Harvesting)
- Not permitted within 75 feet of the high water line in RP district or Simpson's Pond, except to remove safety hazards
- Subject to the requirements of Section 15 Paragraph II-C (Clearing Vegetation)
- CEO permit required if more than 100 ft² of surface area, in total, is disturbed
- In RP District, not permitted in areas so designated because of wildlife value
- Provided that a variance from the setback requirements is obtained from the BOA
- Functionally water-dependent uses and uses accessory to such dependent uses only
- Subject to further restrictions of Section 15 Paragraph I N (Essential Services)
- Except when district is zoned Resource Protection due to the floodplain criteria in which case a permit is required from the Planning Board
- Subject to the requirements of Section 15 Paragraph I J (Roads and Driveways)
- Subject to the requirements of Section 15 Paragraph I I (Parking Areas)
- Subject to the requirements of Section 15 Paragraph I S (Junkyards etc.)
- Subject to the requirements of Section 18 (Wireless Communications Facilities)
- Single family dwellings may be allowed by special exception: see Section 16 H-2
- Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district
- Excluding bridges & other crossings not involving earthwork, for which no permit is required
- A permit is not required but must file a written "Notice of intent to construct" with CEO
- Subject to the requirements of Section 15 I D-5 (Shore Access): requires NRPA Permit.

NOTE: A person performing any of the following activities shall require a permit from the DEP, pursuant to 38 M.S.R.A. section 480-C if the activity occurs in or adjacent to any freshwater or coastal wetland, river, stream or brook and operates in such a manner that material or soil may be washed into them: A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials; B. Draining or otherwise dewatering; C. Filling, including adding sand or other material to a sand dune; or D. Any construction or alteration of any permanent structure.

SECTION 15. LAND USE STANDARDS - PART I - AREAS ONE AND TWO

All land use activities within Areas One and Two shall conform with the following provisions, if applicable. The provisions shall be followed by the Planning Board in making any decision affecting land use. They are to be regarded as minimum standards, intended to supplement the policies, and regulations set forth elsewhere in this Ordinance.

A. Land Suitability

All land uses shall be located on soils in or upon which the proposed use 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 use, shall require a soils report by State-certified professionals. Certified persons may include Engineers, 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 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.

B. Water Quality Protection

No activity shall locate, store 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, or any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that will impair designated uses or the water classification of the water body, tributary stream or wetland 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.

C. Lot Size and Minimum Lot Standards

- Minimum Lot Size Tables 2A (Area 1) and 2B (Area 2) show minimums.

TABLE 2A MINIMUM LOT SIZES AND SHORE FRONTAGE (Area One)

Use	Minimum Lot Area (Square Feet)	Minimum Shore Frontage (Feet)
Residential Lots		
- Adjacent to Tidal Waters	30,000	150
- Adjacent to Non-Tidal Waters	40,000	200
- Non-waterfront	As above if in the Shoreland Zone	NA
Governmental, Institutional, Commercial		
- Adjacent to Tidal Waters Except CFMA	40,000	200
- Adjacent to Tidal Waters - CFMA	None	None
- Adjacent to Non-Tidal Waters	60,000	300
Public and Private Recreational Facilities		
- Adjacent to Tidal and Non-Tidal Waters	40,000	200

TABLE 2B MINIMUM LOT SIZES (Area Two)

Village Residential (VR)		Growth Residential (GR)		Rural Residential (RR)	
Lot Size		Lot Size		Lot Size	
20,000 Square Ft.		20,000 Square Ft.		42,000 Square Ft.	

- a. Within Area One, land below the normal high-water line of a water body or upland edge of a wetland shall not be included toward calculating minimum lot area.
- b. 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 the 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 the upland edge of a freshwater 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.

2. **Dividing Lots** No existing lot with buildings thereon shall be divided so that any building(s) are situated on a lot which does not meet the minimum lot size requirement.

3. **Residential Lots** Except as provided in Paragraph 15-I-C-4 below, Each residential lot shall be used for one residential dwelling unit occupied by only one family. Accessory buildings such as garage, workshop, storage building or barn shall be considered part of the dwelling unit. See definitions of Residential Dwelling Unit and Family in **SECTION 19 - Definitions**.

Any trailer, building, mobile home or other vehicle used for human habitation shall be considered a residential dwelling unit and shall conform to all regulations governing such. Recreational vehicles are not residential dwelling units except as provided in **Section 15-I-F**.

4. **Multiple Uses** Subject to permit to change use of a lot, a lot or lots may be used for multiple (two or more family) or clustered housing units, commercial or industrial uses. These or any other land use which would cause disposal of wastes in excess of the waste disposal requirements of normal single family residential use, must have a minimum lot size which is greater than the requirements stated for single family use, in the same proportion as the actual waste disposal requirements are greater than that of single family residential use.

Further, all dimensional requirements shall be met for each additional dwelling unit or principal structure.

For the purpose of this ordinance, motels, condominiums, overnight rental cabins and apartment houses will be considered to be multiple or clustered housing units.

5. **Subdivisions** Land subdivision, defined as the division of a parcel of land into three(3) or more house lots, shall be governed by M.R.S.A., Title 30 Sections 4401 et. Seq., as amended or superseded and any other applicable laws of the State of Maine.

a. **Permits:** Subdivision requires a permit granted by the Planning Board. Maine's "Model Subdivision Regulations" are followed in administering applications for permits for subdivision: see **Section 16-H-3**.

b. **Public Hearing:** No permit for a subdivision shall be granted except after a public hearing by the Planning Board. Notice of hearings shall be given by publication of the time and place thereof in a local newspaper not less than fourteen (14) days before said hearing. The Planning Board shall send notice of such hearing by mail (Return Receipt Requested) to all abutting property owners, and to others who, in the Board's opinion, might be directly affected by the proposed change in use. The expenses involved in the above to be borne by the applicant.

D. Setbacks, Lot Coverage and Structure Height

1. **Setbacks, Lot Coverage and Structure Height** Table 3 shows minimum setbacks and heights for structures in each district. All new principal and accessory structures shall be set back as shown in Table 3. Waterfront Setback is measured horizontally from the normal high water line. Normal High Water is defined differently for freshwater and tidal saltwater: see definitions in Section 19.

TABLE 3 - SETBACKS AND HEIGHTS FOR STRUCTURES

AREAS	MINIMUM SETBACKS			MAXIMUM HEIGHTS				
	Water-front	Sideline	Street Note 2	Build-ings	WCF Towers			
					Ama-teur	Busi-ness	Muni-cipal	Nonex-empt
AREA ONE (Shoreland)								
Resource Protection District (RP) (Note 1)	250 feet	15 feet	20 feet	35 feet	None	None	None	None
Limited Residential (LR) District (Includes Englishman's River from its outlet to the ocean to and including the point of land known as Birch Point)	100 feet	15 feet	20 feet	35 feet	75 ft	None	None	None
Stream/Freshwater Wetland Protection District (SFWP) (Includes land adjacent to all streams, outlet streams from freshwater wetlands and upland edge of freshwater wetlands designated SFWP)	75 feet	15 feet	20 feet	35 feet	NA	None	None	None
Commercial Fisheries/Maritime Activities District (CFMA) (Adjacent to Tidal Waters in CFMA district)				NA	75 ft	None	None	None
• Non-residential units & accessory structures	0 feet	15 feet	15 feet	NA	NA	NA	NA	NA
• Residential Units & Accessory structures	100 feet	15 feet	20 feet	NA	NA	NA	NA	NA
AREA TWO (Inland) – All Districts								
• Tributary streams, Streams, Freshwater Wetlands	75 feet							
• New Structures and/or Expansions of Structures	NA	15 feet	20 feet	35 feet	NA	NA	NA	NA
• Non-exempt Wireless Communications Support Structures	NA	Height of Tower		NA	75 feet	75 feet	100 feet	175 feet

Note 1 Except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements above shall apply.

a. In Area One, 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 use. Structures for the storage of recreational boats are not considered water dependent and must observe setbacks.

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

Note 2 Setback from street shall be measured from the centerline of the road as follows:

- If the width of the right-of-way is documented, one-half of the width plus 20 feet.
- If the width of the right-of-way is unknown, one-half of 33 feet plus 20 feet.

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

d. In Area One, on a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the Planning Board 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 side lot and road setbacks, 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. **Structure Heights** Principal and accessory structures and expansions of existing structures shall not exceed thirty-five (35) feet in height. This provision shall not apply to chimneys, flagpoles or household antennas, nor to transmission towers, windmills, and similar structures having not floor area. Height is measured from the lowest mean original grade adjacent to the structure on the downhill side. Height of commercial antennas is covered in **Section 18**.

3. **First Floor Elevations in Area One** 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. Also, as Roque Bluffs participates in the National Flood Insurance Program and, with the adoption of this Comprehensive Ordinance, is fully compliant with the April, 2005 version of the Floodplain Management Ordinance (See **Section 17**), accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.

4. **Lot Coverage in Area One** On a lot wholly or partly within Area One the total footprint area of all structures, parking lots and other non-vegetated surfaces, including land area previously developed, shall not exceed the following limits:

a. All Districts except General Development and CFMA: Twenty (20) percent of that part of the lot area which is within Area One.

b. CFMA And General Development Districts: In General Development Districts adjacent to tidal waters and rivers that do not flow into great ponds classified GPA, and in the Commercial Fisheries/Maritime Activities District, the developed area shall not exceed seventy (70) percent of that portion of the lot which is in Area One.

5. **Shoreline Access in Area One** Notwithstanding the requirements stated above, stairways or similar structures may be allowed, with a permit from the Code Enforcement Officer and an NRPA Permit, to provide shoreline access in areas of steep slopes or unstable soils provided; that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (Unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-C); that the applicant demonstrates that no reasonable access alternative exists on the property; and the design and construction methods used will result in minimum impact on soil and vegetation.

E. Septic Waste Disposal

All subsurface sewage disposal systems, whether new or replacements of existing systems, shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules and the following:

1. Setbacks in Area One

a. Clearing or removal of woody vegetation necessary to site a new system and any portion of a septic system, except for the associated fill extensions, shall not extend closer than (100) feet, horizontal distance, from the normal high-water line of a great pond, tidal waters and tidal wetlands.

b. 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 fresh water wetland designated SFWP.

c. The minimum setbacks for a new subsurface disposal system as given in paragraphs 1-a and 1-b above may not be reduced by variance.

2. **Holding Tanks in Area One** A holding tank is not allowed for a first-time residential use in the Shoreland Zone.

F. Use of Recreational Vehicles for Dwellings

Recreational vehicles (See definition in Section 19) can be utilized as dwellings on properties other than Campgrounds or Private Camp Sites as defined in Sections 15 G and 15 H below, subject to the following conditions.

1. **Storage of Unoccupied Recreational Vehicles** Recreational vehicles may be stored indefinitely on the owner's property provided that they are not being occupied as dwellings.

2. **Occupied Recreational Vehicles** Recreational Vehicles can be occupied for up to 120 days provided:

a. **Permit:** A permit approved by the Planning Board must be obtained prior to the start of occupancy. The permit application must indicate the method of sewage disposal including gray water. The recreational vehicle must meet all setback requirements for the Area and district in which it will be located.

b. **Licensed and on wheels:** The vehicle is on its wheels, not on blocks or a foundation, and is currently registered with the State Division of Motor Vehicles.

c. **Sewage Disposal:** A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required. The plan shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or landowner where disposal will be done is required.

3. **Occupancy beyond 120 days:** Recreational Vehicles which are occupied for greater than 120 days will be considered to be dwellings, whether or not they are registered and on their wheels, subject to the following:

a. **Permit:** A permit approved by the Planning Board must be obtained for occupancy beyond 120 days.

b. **Multiple Dwellings:** If the Recreational vehicle is placed on a property which already has a dwelling or dwellings on it, a change in use permit must be obtained as required in Section 15-D above. The property must meet the minimum requirements for lot size for each dwelling.

c. **Shared Sewage Disposal:** The recreational vehicle may share an existing subsurface septic disposal system with a second dwelling, provided the system is designed for the capacity required by the total number of bedrooms for both dwellings.

d. **Sewage Disposal:** If sharing an existing system is not allowed, a written sewage disposal plan describing the proposed method and location of sewage disposal shall be required. Use of 'Porta-Potties' is not an acceptable disposal method. The plan shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or landowner where disposal will be done is required.

G. Campgrounds

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

1. Size 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 the area per site.

2. Campground Setback in Area One Within Area One 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 tidal waters and tidal wetlands and seventy-five (75) feet, horizontal distance, from the normal high water line of a great pond, an outlet stream, tributary streams, or the upland edge of a fresh water wetland designated SFWP.

H. Individual Private Campsites

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

1. Size One campsite per lot, as follows:

a. Area One: lesser of thirty thousand (30,000) square feet or, for lots existing on the effective date of this Ordinance, actual lot size.

b. Area Two: lesser of twenty thousand (20,000) square feet or, in the Rural Residential District, forty thousand (42,000) square feet except, for lots existing on the effective date of this Ordinance, actual lot size.

2. Campsite Setback in Area One Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one-hundred (100) feet from the normal high-water line of, tidal waters and tidal wetlands and seventy-five (75) feet from the normal high water line of streams, outlet streams or tributary streams, or the upland edge of a fresh water wetland designated SFWP.

3. Permanent Foundations and vehicle occupancy in Campsites Only one recreational vehicle shall be allowed on a campsite. Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies may be attached to the recreational vehicle.

4. Clearing for Campsites The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District in Area One shall be limited to one thousand (1,000) square feet.

5. Sewage Disposal at a Campsite 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 landowner where disposal will be done is required.

6. Maximum Stay in Campsites 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.

I. Parking Areas

1. **Setbacks** Parking areas shall meet the setback requirements for structures in the Area and District in which such parking areas are located except that in a CFMA District parking areas shall be set back at least twenty-five (25) feet, Horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities, in districts other than GDI, GDII and CFMA Districts 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.

2. **Stormwater 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, and where feasible, to retain all runoff on-site.

3. **Size** In determining the appropriate size of proposed parking facilities, the following shall apply:

a. Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long

b. Internal travel aisles: Approximately twenty (20) feet wide.

J. 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. Area One

a. Roads and driveways shall be setback at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond, tidal waters and tidal wetlands and seventy-five (75) feet, horizontal distance, from the normal high-water line of streams, outlet streams, and tributary streams, or the upland edge of a fresh water 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.

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

Section 15 I J-1-a 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 structures within the setback area shall comply fully with the requirements of **Section 15 I J-1** 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.

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 setback as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

d. In order to prevent road surface drainage from directly entering water bodies and, streams, outlet streams, tributary streams or wetlands, roads shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two times the average slope, in width between the out-flow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upper 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.

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

i. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road at intervals no greater than shown in TABLE 4:

TABLE 4 - Ditch Culvert Relief

Road Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200 - 135
6-10	100 - 80
11-25	80 - 60
16-20	60 - 45
21+	40

ii. Drainage dips may be used in place of ditch relief culverts only when the road grade is ten (10) percent or less.

iii. On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed across the road at approximately thirty (30) degree angles down slope from a line perpendicular to the centerline of the road or driveway.

iv. 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.

f. Ditches, culverts, bridges, drainage 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.

2. Areas One and Two

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

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

c. When new a driveway is constructed which enters onto a Town Road or State road, the owner shall be responsible for the installation of a drainage culvert paralleling the Road. The culvert will be galvanized steel, not less than 12 inches in diameter. After initial installation by the property owner, maintenance of the culvert shall be the responsibility of the town, if on a town road or the State, if on a State road.

d. Applications for Permits for construction of new roads driveways which enter upon a State Road or a State Aid Road must be accompanied by a Driveway/Entrance Permit obtained from and approved by the Maine Department of Transportation.

K. Signs

The following provisions shall govern the use of signs.

1. Signs Signs and billboards 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. Billboards and signs related to goods or services not sold or rendered on the premises shall be prohibited.

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

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

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

5. Public Safety Signs Signs relating to public safety shall be allowed without restriction.

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

7. Sign Illumination Signs may be illuminated only by shielded, non-flashing lights.

L. Storm Water Runoff

1. Design 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 storm waters.

2. Maintenance Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

M. Essential Services

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

2. Area One - RP and SFWP Districts The installation of essential services, other than road-side distribution lines, is not allowed in Resource Protection or Stream / Freshwater Wetland Protection Districts, 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 adverse impacts on surrounding uses and resources, including visual impacts.

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

N. Mineral Exploration and Extraction

1. **Mineral exploration** Mineral exploration to determine the nature and extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one-hundred (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, so as to restore disturbed areas and to protect the public health and safety.

2. **Mineral extraction** Mineral extraction may be permitted under the following conditions:

a. 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 **paragraph c.** below.

b. No part of any extraction operation, including drainage and runoff features, shall be permitted within one-hundred (100) feet, horizontal distance, of the normal high-water line of a tidal water body, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any stream, outlet stream, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet horizontal distance, of any property line without written permission of the owner of such adjacent property.

c. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one-hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period; ground levels and grades shall be established in accordance with the following:

i. 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.

ii. The final graded slope shall be two and one-half to one (2 1/2:1) or flatter.

iii. Top soil 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.

d. In keeping with the purpose of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

O. Erosion and Sedimentation Control

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

a. Mulching and revegetation of disturbed soil.

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

c. Permanent stabilization structures such as retaining walls or riprap.

2. **Natural Contours** 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. **Reduce Erosion Potential** 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. **Stabilization** Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

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

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

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

P. Archaeological Sites

Any proposed land use activity involving structural or 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.

Q. Swimming Pools

Swimming pools must be fenced as required in M.R.S.A. Title 22, section 1631 and 1632.

R. Junkyards, Automobile Graveyards and Automobile Recycling Businesses

No junkyard, automobile graveyard or automobile recycling business shall be established, operated or maintained, or allowed by the owner of any property without first having obtained a non-transferable license from the selectman. Such license will be issued under the laws of the state as contained in M.R.S.A. Title 30 Sections 3751 - 3760. Further such junkyard or automobile graveyard must comply with the state DEP under M.R.S.A. Title 38 section 481 et seq.

1. **Junkyard** . "Junkyard" means a yard, field or other outside area used to store, dismantle or otherwise handle:

a. Discarded, worn-out or junked plumbing, heating supplies, electronic or industrial equipment, household appliances, or furniture;

b. Discarded scrap and junked lumber; and

c. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material.

2. Automobile Graveyard "Automobile graveyard" means a yard, field or other outdoor area used to store 3 or more unregistered or uninspected motor vehicles, as defined in Title 29-A, section 101, subsection 42, or parts of the vehicles. "Automobile graveyard" includes an area used for automobile dismantling, salvage and recycling operations. "Automobile graveyard" does not include:

a. An area used for temporary storage of vehicles or vehicle parts by an establishment or place of business that is primarily engaged in doing vehicle repair work to make repairs to render a motor vehicle serviceable. In order for a vehicle's storage to be considered temporary, it must be removed from the site within 180 calendar days of its receipt;

b. An area used by an automobile hobbyist to store, organize, restore or display antique autos, antique motorcycles, classic vehicles, horseless carriages, reconstructed vehicles, street rods or parts of these vehicles as these vehicles are defined in Title 29-A, section 101 as long as the hobbyist's activities comply with all applicable federal and state statutes and rules and municipal ordinances, other than ordinances that are more restrictive than this subsection regarding the storage of vehicles or vehicle parts that are collected by a hobbyist, except that a municipal ordinance may require areas used by an automobile hobbyist to comply with the screening requirements in section 3754-A, subsection 1, paragraph A and the standards in section 3754-A, subsection 5, paragraph A, paragraph B, subparagraph (1) and paragraph C. For the purposes of this subparagraph, an automobile hobbyist is a person who is not primarily engaged in the business of selling any of those vehicles or parts from those vehicles;

c. An area used for the parking or storage of vehicles, vehicle parts or equipment intended for use by a municipality, quasi-municipal entity or state or federal agency;

d. An area used for the storage of operational farm tractors and related farm equipment, log skidders, logging tractors or other vehicles exempted from registration under Title 29-A, chapter 5;

e. An area used for the parking or storage of vehicles or equipment being offered for sale by a dealer, equipment dealer, trailer dealer or vehicle auction business as defined in Title 29-A, section 851;

f. An area used for the storage of vehicles by an establishment or place of business that is primarily engaged in business as a new vehicle dealer as defined in Title 29-A, section 851;

g. An area used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business; or

h. An area used for the parking or storage of operational commercial motor vehicles, special equipment or special mobile equipment as defined in Title 29-A, section 101 that is temporarily out of service but is expected to be used by the vehicle or equipment owner or by an operator designated by the owner. This subsection does not exempt an area used for the parking or storage of equipment or vehicles that are not operational while stored or parked in the area.

3. Automobile recycling business. "Automobile recycling business" means the business premises of a dealer or a recycler licensed under Title 29-A, sections 851 to 1112 who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, as long as 80% of the business premises specified in the site plan in section 3755-A, subsection 1, paragraph C is used for automobile recycling operations. "Automobile recycling business" does not include:

- a. Financial institutions as defined in Title 9-B, section 131, subsections 17 and 17-A;
- b. Insurance companies licensed to do business in the State;
- c. New vehicle dealers, as defined in Title 29-A, section 851, licensed to do business in the State; or
- d. That portion of the business premises that is used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business

4. Change of Use In addition to a license, any property on which a junkyard, automobile graveyard or automobile recycling business is operated must have been granted a change in use permit under **Section 16 H-5** of this Ordinance.

S. Fuel Storage

1. Regulation Liquid or gaseous fuels must be stored in accordance with applicable state and federal regulations.

2. LP Gas Tanks Above ground Liquid Propane (LP) gas tanks must be situated on a property in compliance with National Fire Protection Association (NFPA) regulations as given in NFPA 58, Appendix 1.

a. No building permit will be required for above ground LP gas tanks of up to five-hundred (500) gallon storage capacity.

b. Tanks of one-hundred and twenty-five (125) gallon capacity or less may be placed immediately adjacent to a structure provided that the tank is not less than five (5) feet from a window opening and that the tank outlet valve is not less than ten (10) feet from a vent or ignition source. The latter include air conditioning units, emergency generators, exhaust outlets from furnaces or hot water heaters.

c. Tanks of more than 125 and less than 500 gallon capacity must follow the same setback line and road setbacks as required for structures.

d. Building permits are required for LP gas tanks of greater than 500 gallon capacity or for underground LP tanks of any size.

e. No LP gas tank, regardless of size can be placed less than one-hundred (100) feet, horizontal distance, from the normal high-water line of tidal waters and tidal wetlands or less than seventy-five (75) feet, horizontal distance, of the normal high-water line of any tributary stream, or the upland edge of a wetland.

SECTION 15. LAND USE STANDARDS - PART II - AREA ONE ONLY

A. Agriculture in Area One

1. **Manure** 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.

2. **Manure Storage** Manure shall not be stored or stockpiled within seventy-five (75) feet, horizontal distance, of water bodies, tributary streams, or wetlands. All manure storage areas within Area One must be constructed or modified such that the facility produces no discharge or effluent or contaminated storm water.

3. **Tillage** Agricultural activities involving tillage of soil greater than forty-thousand (40,000) square feet in surface, or the spreading, disposal or storage of manure within Area One shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered a violation of this Ordinance.

4. **New Tilling** There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of Simpson's Pond; nor within seventy-five (75) feet, horizontal distance of other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the original effective date of the 1992 Roque Bluffs Shoreland Zoning Ordinance (May 13, 1992) and not in conformance with this provision may be maintained.

5. **Livestock Grazing** After the on the original effective date of this Ordinance, newly established livestock grazing areas shall not be permitted within one-hundred (100) feet, horizontal distance, of Simpson's Pond; nor within seventy-five (75) feet, horizontal distance, of other water bodies; nor within twenty-five (25) 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.

B. Timber Harvesting in Area One

1. **RP District Screen Strips** Within the strip of land extending 75 feet inland from the normal high-water line in shoreland district zoned for Resource Protection, there shall be no timber harvesting, except to remove safety hazards.

2. **All Districts** Except in areas as described in **Section 15 II-B-1** above, timber harvesting shall conform with the following provisions:

a. 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:

i. Within seventy-five (75) horizontal feet of water bodies, streams, outlet streams, tributary streams, or the upland edge of a wetland, there shall be no clear cut openings and a well-distributed stand of trees and other vegetation, including ground cover, shall be maintained.

ii. At distances greater than seventy-five (75) horizontal feet of water bodies, streams, outlet streams, tributary streams, or the upland edge of a wetland, harvesting operations shall not create single clear cut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5,000) square feet they shall be at least one-hundred (100) feet apart. Such clear cut openings shall be included in the calculation of total volume removal. For the purposes of these standards volume may be considered equal to basal area.

b. Timber harvesting operations exceeding the 40% limitation in **Section 15 II-B-2-a** above, may be allowed by the Planning Board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management, and will be carried out in accordance with the purposes of this Ordinance. The Planning Board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed within 14 days of the Planning Board's decision.

c. No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body shall be removed.

d. Timber harvesting equipment shall not use stream channels as travel routes except when:

- i. Surface waters are frozen; and
- ii. The activity will not result in any disturbance.

e. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.

f. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

g. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provision of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet from the normal high-water line of a water body or upland edge of a wetland.

C. Clearing or Removal of Vegetation for Activities other than Timber Harvesting in Area One

1. **RP District Screen Strips** Within a shoreland district zoned for Resource Protection there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, from the normal high-water line, except to remove safety hazards.

Elsewhere, in any district zoned for Resource Protection, the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

2. **Buffer Strips** Except in areas as described in **Paragraph C-1** above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance, of tidal waters and seventy-five (75) 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 as measured from the outer limits of the tree crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks is permitted 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 permitted provided that a well-distributed stand of trees and other vegetation is maintained. For purposes of this section a "well-distributed stand of trees", adjacent to water bodies, tributary stream, and the upland edge of wetlands, is defined as maintaining a rating score of 12 per each 25 foot by 25 foot area as determined by the following rating system:

TABLE 5 - Tree Rating System

Diameter of Tree at 4 ½ feet Above Ground Level (Inches)	Points
2 - <4 inches	1
4 - 12 inches	2
> 12 inches	4

For the purposes of Section 15 II-2-b above, "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least three (3) saplings less than two (2) inches in diameter at four and one-half (4^{1/2}) feet above ground level for each 25 by 25 foot rectangular area. If three (3) saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 3 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) or more inches in diameter, measured 4 ½ feet above ground level may be removed in any ten (10) year period.

c. In order to protect water quality and wildlife habitat, when vegetation under three (3) feet in height and other ground cover is removed, it shall be replaced with vegetation which is equally effective in retarding erosion and sedimentation.

d. Pruning of tree branches on the bottom 1/3 of the tree is allowed.

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

The provisions contained in Paragraph C-2 above shall not apply to those portions of public recreation facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.

3. Selective Cutting At distances greater seventy-five (75) feet horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) or more inches in diameter, measured 4½ 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 development, including but not limited to, principal and accessory structures, driveways, and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the Shoreland Zone or ten-thousand (10,000) square feet, which ever is greater, including land previously cleared. This provision shall not apply to the districts designated Commercial fisheries / Maritime Activities.

4. Legal Cleared Openings Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as allowed by this Ordinance.

5. Fields Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under provisions of this section.

D. 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

1. Soils Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

2. Beach Areas The location shall not interfere with existing developed or natural beach areas.

3. Fisheries The facility shall be located so as to minimize adverse effects on fisheries.

4. Size The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six (6) feet for non-commercial uses.

5. Structures

a. 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 body of water or within a wetland: unless the structure requires direct access to the water as an operational necessity.

b. New permanent piers and docks on non-tidal waters 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 (NRPA).

c. No existing structures built on, over or abutting a pier, dock wharf or other structure extending beyond the normal high-water line or within a wetland shall be converted to residential units in any district.

d. Except in the Commercial Fisheries / Maritime Activities District, structures built on, over or abutting a pier, dock wharf or other structure extending beyond the normal high-water line or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

E. Soil Disturbance in the Shoreland Zone Setback area

a. Soil disturbance in the Shoreland Zone extending seventy-five (75) feet from the normal high-water line of a water body or upland edge of a wetland shall be governed by the Maine Natural Resources Protection Act (NRPA) in addition to the requirements of this Ordinance. Fill associated with a septic disposal system shall not extend into the 75 foot setback.

b. Soil disturbance in the Shoreland Zone extending from seventy-five (75) feet from the normal high-water line of a water body to the one-hundred (100) foot setback for structures shall be allowed only as required for construction or modification of a permitted structure. The structure and, if needed, its associated septic system must be wholly outside the 100 foot setback except that any fill associated with the disposal system may extend into the band between the 75 foot and 100 foot setbacks. Tree removal between the two setbacks shall be kept to a minimum and, to the greatest extent possible, comply with **Section 15 II-C-2** of this ordinance.

SECTION 16. ADMINISTRATION

A. Administering Bodies and Agents

1. **Planning Board** A Planning Board (PB) shall be established as provided in Article VIII, point 2, Sec. I of the Maine Constitution and M.R.S.A., Sec. 3001.

2. **Board of Appeals** A Board of Appeals (BOA) shall be created in accordance with the provisions of M.R.S.A., Title 30-A, Section 2691.

3. **Code Enforcement Officer** A Code Enforcement Officer (CEO) qualified in accordance with the provisions of M.R.S.A., Title 30-A, Section 4451 shall be appointed by the Selectmen.

4. **Local Plumbing Inspector** A Local Plumbing Inspector (LPI) qualified in accordance with the requirements of the State of Maine Department of Human Services shall be appointed by the Selectmen.

B. Planning Board

1. Appointment

a. Planning Board Members shall be appointed by the Selectmen and sworn by the Town Clerk.

b. The Planning Board shall consist of five (5) members and two (2) alternate members. Members must be US citizens and residents of the town.

c. The term of each member and alternate member shall be three (3) years commencing on July 1. Planning Board Terms are to be staggered.

d. When a permanent vacancy occurs, the Selectmen shall, within sixty (60) days of its occurrence, appoint a person to serve for the unexpired term. A vacancy shall occur upon the resignation or death of any member or when a member ceases to be a legal resident of the town, or when a member fails to attend at least seventy-five (75) percent of all meetings during a twelve (12) month period. When a vacancy occurs the chairperson shall immediately so inform the Selectmen in writing. The Board may recommend to the selectmen that the attendance provision be waived for cause, in which case no vacancy will then exist until the Selectmen disapprove the recommendation.

e. The Selectmen may remove board members by unanimous vote, for cause, after notice and hearing.

f. Municipal officers and their spouses may not be members or alternate members.

2. Organization

a. Planning Board Members shall elect a chairperson, a vice-chairperson and a secretary from its members. The term of each officer shall be one (1) year with eligibility for re-election.

b. When a member is unable to act due to conflict of interest, physical incapacity, absence or any other reason, the chairperson shall designate an alternate member to sit in that member's stead.

c. An alternate member may attend meetings of the board and participate in its proceedings but may vote only when designated by the chairperson to act for a member.

- d. The question of disqualifying a member from voting on a particular matter shall be decided by a majority vote of the members not including the member being challenged.
- e. No meeting of the board shall be held without a quorum of three (3) members or associate members who have been authorized to vote.
- f. The board shall act by a majority vote of the members, not the number present and voting.
- g. The board shall adopt and make public rules for transaction of its business.
- h. The Board shall devise application forms and other materials as needed in the conduct of its business.
- i. The secretary shall keep a record of all correspondence, board meetings, deliberations and determinations and set forth as fully as practicable its reasons for granting or denying permits. All records shall be deemed public and may be inspected at reasonable times.
- j. Annually the board shall submit a written report of its activities to the selectmen for inclusion in the Town Report.

C. Board of Appeals

1. Appointment

- a. Board of Appeals Members shall be appointed by the Selectmen and sworn by the Town Clerk.
- b. The Board of Appeals shall consist of three (3) members. Members must be US citizens and residents of the town.
- c. The term of each member and alternate member shall be three (3) years commencing on July 1. Terms are to be staggered.
- d. When a permanent vacancy occurs, the Selectmen shall within sixty (60) days of its occurrence appoint a person to serve for the unexpired term. A vacancy shall occur upon the resignation or death of any member or when a member ceases to be a legal resident of the town.
- e. The Selectmen may remove board members by unanimous vote, for cause, after notice and hearing.
- f. Members and alternate members of the Planning Board, Municipal officers and their spouses may not be members.

2. Organization

- a. Board of Appeals members shall elect a chairperson and a secretary from its members. The term of each officer shall be one (1) year with eligibility for re-election.
- b. The question of disqualifying a member from voting on a particular matter shall be decided by a majority vote of the members not including the member being challenged.
- c. The board shall act by a majority vote of the members, not the number present and voting. Every decision of the board shall be in writing.
- d. The secretary shall maintain a permanent record of all board meetings, correspondence and decisions. All records shall be deemed public and may be inspected at reasonable times.

3. Powers and Duties of the Board of Appeals The Board of Appeals shall have the following powers:

a. Administrative Appeals To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by the Planning Board in the administration of this Ordinance, except for decisions of the planning Board relative to a subdivision application, which shall be appealable directly to Superior Court; and to hear and decide administrative appeals on a *de novo* basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by the CEO in his or her review of and action on a permit application under this ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

b. Variance Appeals To authorize variances on appeal within the limitations set forth in this Ordinance.

4. Variance Appeals - General Variances from the requirements of this Ordinance may be granted only under the following conditions:

a. Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, percent of lot coverage, setback requirements.

b. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.

c. The Board of Appeals shall not grant a variance unless it finds that:

i. The proposed structure or use would meet the provisions of **SECTIONS 14 and 15** except for the specific provision which has created the non-conformity and from which relief is sought; and

ii. Except as provided in **Paragraphs C-5, C-6** below, a variance may be granted only where the strict application of the ordinance to the applicant and applicant's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

(1) That the land in question cannot yield a reasonable return unless a variance is granted; and

(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; and

(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 prior owner.

5. Variance Appeals - Disability Access Notwithstanding **Section 16 C-4-c-ii** above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance including limiting variance to the duration of the disability or time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

6. Variance Appeals - Setback of a Single Family Dwelling The Board of Appeals may grant a variance for setback of a single family dwelling provided it finds that:

a. The proposed structure would meet the provisions of **SECTIONS 14 and 15** except for setbacks.

b. The proposed structure is the primary year-round residence of the petitioner.

c. The strict application of the terms of this Ordinance would result in undue hardship. For the purpose of a variance from the setback requirements of this Ordinance the term "undue hardship" shall mean:

- i. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- ii. That the granting of a variance will not alter the essential character of the locality;
- iii. That the hardship is not the result of action taken by the applicant or prior owner;
- iv. That the granting of the variance will not substantially reduce or impair the use of abutting property; and
- v. That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

d. A variance under this section may not exceed 20% of the set-back requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage.

7. **Variance Appeals - Dimensional Standards - Area Two** The Board of Appeals may grant a variance for lot area, lot coverage, frontage and setback requirements of this Ordinance when strict application of the Ordinance would cause a practical difficulty when all of the following conditions exist:

- a. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- b. That 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. That the hardship is not the result of action taken by the applicant or prior owner;
- d. No other feasible alternative to a variance is available to the petitioner;
- e. The granting of a variance will not unreasonably adversely affect the natural environment;
- f. The property is not located in whole or in part within Area One as described in this Ordinance.

For the purposes of this section, practical difficulty means that strict application of this Ordinance to the property precludes the ability of the petitioner to pursue a use allowed in Area Two and results in significant economic injury to the petitioner.

8. **Variance Appeals - Floodplain Areas** The Board of Appeals may hear appeals from rulings made under the Provisions of SECTION 17 FLOODPLAIN MANAGEMENT as provided in SECTION 17-I.

9. **Limits and Conditions** The Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

10. **Review by Department of Environmental Protection - Area One Only** 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.

11. Review of Decisions made by the Code Enforcement Officer When the Board of Appeals reviews a decision by the CEO the BOA shall hold a de novo hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity, the BOA shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

12. Review of Decisions made by the Planning Board When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The BOA may only review the record of the proceedings before the Planning Board. The BOA shall not receive and consider any evidence which was not presented to the Planning Board. If the BOA determines that the records of the Planning Board's proceedings are inadequate, the BOA may remand the matter to the Planning Board for additional fact finding.

13. Recording If the board grants a variance, it is the responsibility of the owner to have the variance, including any conditions on the variance, recorded in the Registry of Deeds within ninety (90) days of the final written approval of the variance. The owner shall provide the board with written notice that the recording has been made.

14. Appeal Procedure

a. Making an Appeal

i. 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, except for enforcement-related matters as described in **Section 16 3-a above**. Such appeal shall be taken within thirty (30) days of the date of the written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

ii. Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:

(1) A concise written statement indicating what relief is requested and why the appeal or variance should be granted.

(2) 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.

iii. Upon receiving an application for an administrative appeal or a variance, 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.

iv. The Board of Appeals shall hold a public hearing on an administrative appeal or request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

b. Decision of the Board of Appeals

i. A majority of the full voting membership of the board shall constitute a quorum for the purpose of deciding an appeal.

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

iii. 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.

iv. The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board.

The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the BOA shall be given to the Planning Board, CEO, and the municipal officers.

12. Appeal to Superior Court Except as provided by 30-A M.R.S.A. section 2691(3)F) 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.

13. Reconsideration In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider its 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. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification of the landowner, petitioner, Planning Board, CEO, and other parties of interest, including abutters and those who testified at the original hearing(s). The board may conduct additional hearings and receive additional evidence and testimony.

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

D. Enforcement

1. Enforcement This ordinance will be enforced as called for in Title 30A, MSRA Section 4452. Any violation of this Ordinance shall be deemed a nuisance.

2. Code Enforcement Officer

a. Appointment and Responsibility The Code Enforcement Officer (CEO) shall be appointed or reappointed by the Selectmen annually by July 1st and shall be responsible to the Selectmen in the performance of his/her duties.

b. Removal The Selectmen may remove the CEO.

c. Vacancy If the position of CEO is vacant, the municipal officers as a board shall perform the duties of CEO in Area Two (Inland Zone) until such vacancy is filled. The function of CEO in Area One (Shoreland Zone) can only be performed by a qualified individual.

d. Duties

i. It shall be the duty of the CEO to enforce the provisions of:

- (1) This Ordinance
- (2) Junkyard and automobile graveyard licensing law 30-A M.R.S.A. Paragraph 3751 et seq.
- (3) miscellaneous nuisance law 17 M.R.S.A. Paragraphs 2801 et seq.
- (4) the dangerous building statute 17 M.R.S.A. Paragraphs 2851 - 2859
- (5) handicapped accessibility law 5 M.R.S.A. Paragraphs 4591 et seq., 2701 et seq.
- (6) and any other legally enforceable codes falling under the CEO's jurisdiction by Ordinance or statute.

ii. If the CEO shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures and abatement of nuisance conditions. A copy of such notices shall be submitted to the Planning Board and be maintained as a permanent record.

- iii. The CEO shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The CEO shall also investigate all complaints or alleged violations of this Ordinance.
- iv. The CEO shall keep a complete record of all essential transactions of the office, including applications submitted for permits which may be approved by the CEO on his own authority, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found and fees collected.
- v. On a biennial basis (every two years), a summary of those records covering activities in Area One shall be submitted by March 1 (one) to the Director of the Bureau of Land Quality Control within the department of environmental protection.
- vi. The CEO shall transmit to the Planning Board a copy of each permit granted on his or her own authority.

3. **Legal Actions** When the above action does not result in the correction or abatement of the violation or nuisance condition, the Selectmen, upon notice from the CEO, are hereby directed to institute any and all actions and proceedings, whether legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Roque Bluffs. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

4. **Fines** Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, M.R.S.A., Subsection 4452.

E. **Local Plumbing Inspector**

1. **Local Plumbing Inspector**

a. **Appointment and Responsibility** The Local Plumbing Inspector (LPI) shall be appointed or reappointed by the Selectmen annually by July 1st and shall be responsible to the Selectmen in the performance of his/her duties.

b. **Removal** The Selectmen may remove the LPI.

2. **Duties**

a. **Permits** It shall be the duty of the LPI to issue plumbing permits as required by the State of Maine Subsurface Wastewater Disposal Rules and Plumbing Code and enforce the provisions of this Ordinance.

b. **Discretion** The LPI may, at her or his discretion, require placement or size of sewage disposal facilities to be more or less restrictive than the minimums set by code.

c. **Inspections** The LPI shall conduct on-site inspections of all plumbing which requires permits to insure compliance with state rules and this Ordinance. The LPI shall condemn and reject all work done or being done or material used or being used which does not comply with state rules and order changes necessary to obtain compliance.

d. Complaints The LPI shall also investigate all complaints or alleged violations of this Ordinance and take appropriate action.

e. Pre-sale inspection On request of a property owner who is going to sell a property, the LPI shall inspect subsurface waste disposal systems to determine if the system has malfunctioned within 180 days of transfer of ownership of the property.

f. Records The LPI shall keep a complete record of all essential transactions of the office, permits granted or denied, revocation of permits, violations found and fees collected.

g. Fees The LPI shall transfer fees to the town treasurer.

3. Violations If the LPI shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of use of failed or non-conforming sewage disposal systems, or work being done. A copy of such notices shall be submitted to the Planning Board and maintained as a permanent record.

F. Permits Required

1. Permits After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure, or construct a structure requiring a permit in the District in which such use or activity would occur or expand, change or replace an existing use or structure or renew a discontinued non-conforming use, except as noted in **paragraph b** below. A copy of a building permit issued under this ordinance shall be posted permit site while the work authorized by the permit is being performed.

a. Building Permits Required A permit is required is and a permit fee will be due for construction of any structure, regardless of size, which:

- i. is built upon a permanent foundation and/or
- ii. is intended for human habitation and/or
- iii. includes provision for the discharge of sewage or other waste such as waste water.
- iv. requires a permit under **Sections 17 and 18** of this ordinance.

Examples include dwellings, outhouses, guest cabins, etc.

b. Permits not Required No permit is required for:

- i. Building any structure, other than a Wireless Communications Support Structure, of 100 square feet or less that is not built upon a permanent foundation.

Examples include doghouses, storage and potting sheds, firewood shelters etc.

- ii. Replacing an existing road culvert as long as:

- (1.) The replacement culvert is not more than 25% longer than the culvert being replaced; and
- (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.

- iii. An archaeological excavation as long as the excavation is conducted by an archaeologist listed 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. **Setbacks** All structures of any size shall meet the side lot, road and water front setbacks required in the district where they will be built, regardless whether or not a permit is required.

d. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

G. **Permit Application and Fee**

1. **Application Forms** Every applicant for a permit shall submit a written application on an application form provided by the Planning Board. The application shall include a scale drawing of the site and other items as indicated on the application form or in **SECTION 17 FLOODPLAIN MANAGEMENT** or **SECTION 18 WIRELESS COMMUNICATIONS FACILITIES**, as appropriate to the CEO or Planning Board as indicated in **SECTION 14, TABLE 1**. A non-refundable fee in an amount approved by the Selectmen shall accompany the application if required.

2. **Signatures** All applications shall be signed by the owner or owners or individual who can show evidence of right, title or interest in the property or by an agent, representative 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. If the person signing the application is not the owner or lessee of the property then that person shall submit a letter of authorization from the owner or lessee. An applicant with a valid contract for purchase of a property shall be considered to be the owner.

3. **Date of Receipt** All applications shall be dated and the Code Enforcement Officer or Planning Board, as appropriate, shall note on the application the date and time of its receipt.

4. **Permits For Subsurface Sewage Disposal**

a. **New systems** A valid plumbing permit, including the site evaluation prepared by a qualified soils engineer and approved by the Plumbing Inspector, shall be submitted with a Building Permit application whenever the nature of the proposed structure would require the installation or upgrading of a subsurface sewage disposal system.

b. **Existing Systems** A valid plumbing permit shall be submitted with a Building Permit application in the following situations:

- i. Adding bedrooms in excess of the capacity of an existing system.
- ii. Conversion of a seasonal dwelling to year round use if the sewage disposal system is in Area One.
- iii. Moving a manufactured home onto a site served by an existing system.
- iv. Changing the use of a structure to one requiring a system of larger capacity.
- v. Upgrading an existing system in place.

In each of the above instances, the applicant is responsible for:

- i. Providing information on the capacity, design and installation of the existing system including the original design document for the system and Plumbing Permit issued when the system was installed; or
- ii. Providing a statement by a qualified soils engineer that the existing subsurface disposal system can accept the added sewage load; and
- iii. Providing a statement that the system is not failing.

In the absence of the above, the applicant shall provide a plan and Plumbing Permit for a replacement system of acceptable design and capacity.

5. **Internal Plumbing Permits**

The LPI shall insure that internal plumbing permits are issued as required.

H. Procedure for Granting and Administering Permits

1. Permits - General

a. Within 35 days of receipt of written application, the Planning Board or the CEO as indicated in **SECTION 14, TABLE 1** shall notify the applicant in writing either that the permit is a complete application or, if the application is incomplete, that specified additional material is needed to make the application complete.

b. The Planning Board or CEO, as appropriate, shall approve, approve with conditions or deny all permit applications 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 be made within 35 days of the first available date on the Planning Board's agenda following receipt of the application, or within 35 days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

c. The applicant shall have the burden of proving that a proposed land use activity is in conformity with the purposes and provisions of this Ordinance and other applicable State laws and Town Ordinances.

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

- i. Maintain safe and healthful conditions
- ii. Not result in water pollution, erosion, sedimentation of surface waters
- iii. Adequately provide for the disposal of all wastewater
- iv. Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat
- v. Conserve shore cover and visual, as well as actual, points of access to coastal waters and Simpson's Pond
- vi. Will protect archaeological and historic resources as designated in the Town's Comprehensive Plan.
- vii. Not adversely affect existing commercial fishing or maritime activities in a CFMA district.
- viii. Avoid problems associated with flood plain development and use
- ix. Conform with the provisions of **SECTIONS 14 and 15** of this Ordinance.

e. In the course of considering an application, the Planning Board or CEO may visit the site to become acquainted with the conditions of the property.

f. The board may request and retain copies of materials provided by an applicant such as engineering studies, surveys, or plans.

g. When a permit is denied or approved with conditions, the reasons and/or conditions shall be stated in writing.

h. 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 State law which the Town of Roque Bluffs is responsible for enforcing.

i. Neither the CEO nor the Planning Board is authorized to grant variances. Either may allow reduced standards for roads and driveways as provided in **Section 15 I J-1-a** of this Ordinance. Any permit application which cannot be approved without a variance must be denied. The applicant can then enter an appeal as provided in **Section 16**.

j. Once a permit is granted, the permit holder is responsible for complying with the permit, including any conditions which the Planning Board has made part of the permit, and for complying with the terms of this Ordinance and all other applicable laws and ordinances.

2. Special Exceptions In addition to the criteria specified in Section 16-H-1 above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

- a. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- b. The lot on which the structure is proposed is undeveloped and was established and recorded in the Washington County Registry of Deeds before the adoption of the Resource Protection District.
- c. All proposed buildings, sewage disposal systems and other improvements are:
 - i. Located on natural ground slopes of less than 20%; and
 - ii. Located outside the floodway of the 100-year flood plain along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood plain elevation; and the development is otherwise in compliance with any municipal flood plain ordinance.
- d. The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
- e. All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

3. Subdivision Permits The standards set forth in Maine State Planning Office publication, "Model Subdivision Regulations - eleventh edition - 1996" and State Subdivision Statutes M.R.S.A. Title 30-A, Sections 4401-4407 shall become the Subdivision Regulations of the Town of Roque Bluffs and shall be followed when evaluating applications for permits to subdivide properties.

4. Expiration of Permits Permits shall lapse and become void one year after of approval of the permit as follows:

- a. Permits for a change in use: Unless a substantial start, defined as actually commencing the new or changed use for which a permit was granted, is made within the one year period.
- b. Permits for a building: Unless a substantial start, defined as completion of driveway or access road, and construction of a foundation; and, if the building is to be used as a dwelling in addition to the above, installation of the septic system and well is made within the one year period. If a substantial start is made within one year of the issuance of the permit, the permit holder shall have one additional year in which to complete the project, at which time the permit shall expire.
- c. All other permits: Unless the permitted activity is completed within the one year period.

d. The Planning Board may grant an extension of a permit or reinstate a lapsed permit or grant an extension in the period allowed for obtaining a permit for the reconstruction of a non-conforming structure as covered in SECTION 12-D-3 provided that the owner demonstrates extenuating circumstances sufficient, in the judgment of the Planning Board, to warrant such action. These include, but are not limited to, serious illness or other event or situation beyond the control of the permit holder or applicant. The permit holder's or applicant's failure to act in a timely fashion, absent extenuating circumstances, shall not constitute sufficient reason to grant an extension or reinstatement. Lapsed permits shall be reinstated only upon a finding by the by the Planning Board that the permit is consistent with this Ordinance, as amended.

5. Permits for Change in Use

a. It is the intent of this Ordinance that proposed changes in uses shall be judged on their individual merits and the impact on the Area and District in which they are proposed and on the Town as a whole.

b. No permit for a change in use of a property or structure shall be granted except after a public hearing by the Planning Board. Notice of said hearing shall be given by publication of the time and place thereof in a local newspaper not less than fourteen (14) days before said hearing. The Planning Board shall send notice of such hearing by mail (Return Receipt Requested) to all abutting property owners, and to others who, in the Board's opinion, might be directly affected by the proposed change in use. The expenses involved in the above to be borne by the applicant.

c. The Planning Board shall render its decision within 30 days after the public hearing, provided that before that time it has received all information that may have been requested of the applicant.

d. Change in Use permits shall be approved only when, in the opinion of the majority of the board, the applicant has demonstrated that the proposed use:

- i. Will be consistent with the maintenance or enhancement of the environmental and land suitability purposes of the District where it is located.
- ii. Will not unduly affect or restrict existing land uses.
- iii. Will not unduly burden the financial or technical ability of the Town to furnish public facilities and services.
- iv. Will not adversely affect safety of the community.

e. The Planning Board, in issuing a Change of Use permit, may limit the time that the permit is valid, and may attach other conditions that are designed for the protection of the Town and its inhabitants.

6. Installation of Public Utility Services in Area One

A public utility, water district, sanitary district or any utility company of company of any kind may not install services to any new structure in Area One 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 or other written arrangements have been made between the municipal officials and the utility. Following installation of service, the company shall forward the written authorization to the Planning Board, indicating that the installation has been completed.

SECTION 17. FLOODPLAIN MANAGEMENT

A. National Flood Insurance Act

1. Floodplain Insurance Certain areas of the Town are subject to periodic ocean storms and flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). In 1975 the Town chose to become a participating community in the National Flood Insurance Program. Under this Section, the Town agrees to comply with the requirements of the National Flood Insurance Act of 1968, as amended, as delineated herein.

2. Intent It is the intent of the Town to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

3. Authority The Town has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A M.R.S.A., Sections 3001-3007, 4352 and 4401-4407.

4. Permits and Review The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town, having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Section establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town.

B. FLOOD INSURANCE RATE MAP

1. Flood Insurance Rate Map The areas of special flood hazard, are identified by the Federal Emergency Management Agency in a map entitled "Flood Insurance Rate Map - Town of Roque Bluffs, Maine, Washington County," dated July 15, 1992, hereinafter referred to as the Flood Map, is hereby adopted by reference and declared to be a part of this Ordinance.

2. Zones Any area marked Zone A on the Flood Map is an area of 100 year flood. This section shall apply to any development in areas marked Zone A.

C. PERMITS

1. Permits Before any construction or other development, as defined in **Paragraph K**, including the placement of manufactured homes, begins within any areas of special flood hazard established in **Paragraph B**, a Flood Hazard Development Permit shall be obtained from the Planning Board as given in **Section 16**. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town.

2. Application The application shall include, in addition to the information required in **Section 16**, the following items which apply only to new construction and substantial improvements:

a. A statement of the cost of the development including all materials and labor;

b. The elevation in relation to the National Geodetic Vertical Datum (NGVD), or to a locally established datum, of the:

i. Base flood at the proposed site of all new or substantially improved structures, which is determined in Zone A

(a) From any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to **Paragraphs E-10 and H-4**.

(b) From the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,

(c) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building;

ii. Highest and lowest grades at the site adjacent to the walls of the proposed building;

iii. Lowest floor, including basement; and whether or not such structures contain abasement; and,

iv. Level, in the case of non-residential structures only, to which the structure will be floodproofed;

c. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in **Paragraph E**;

d. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;

e. The following certifications as required in **Paragraph E** by a registered professional engineer or architect:

i. A Floodproofing Certificate (FEMA Form 81-65, 02/97, as amended) to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of **Paragraphs C-2-b-iv; E-7** and other applicable standards in **Paragraph E**;

ii. A Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of **Paragraph E-11-b**;

iii. A certified statement that bridges will meet the standards of **Paragraph E-12**;

iv. Containment walls will meet the standards of **Paragraph E-13**;

f. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,

g. A statement of construction plans describing in detail how each applicable development standard in **Paragraph E** will be met.

3. **Expert Fees** In addition to the permit application fee required in **Section 16, Paragraph G-1**, An additional fee may be charged if the Planning Board and/or Board of Appeals need the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision of to hire expert assistance may appeal that decision to the Board of Appeals as provided in **Section 16**.

D. REVIEW

In reviewing applications under this section, the Planning Board shall:

1. **Review** Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of **Paragraph E** have, or will be met;

2. **Base Flood Data** Utilize the base flood data contained in the Flood Map In the review of all Flood Hazard Development Permit applications. In special flood hazard areas where base flood elevation data are not provided, the Planning Board

shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained under **Paragraphs C-2-b-i; E-10; and H-4**, in order to administer **Paragraph E** of this Ordinance and when the community establishes a base flood elevation in a Zone A by methods outlined in **Paragraph C-2-b**, the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.

3. **Interpretations** Make interpretations of the location of boundaries of special flood hazard areas shown on the Flood Map;

4. **Other Permits** In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

5. **Notifications** Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;

6. **Issue Permits** If the application satisfies the requirements of this section, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:

a. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer (CEO) with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of **Paragraphs E-6; E-7 or E-8**.

Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the CEO shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,

b. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of **Paragraphs E-7-a, b and c**. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,

c. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in **Paragraph E-9**, mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers. For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Planning Board as required in **Paragraph F**.

7. **Permanent Records** Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of **Paragraph I** of this Section, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of **Paragraphs C; E and G** of this Section.

E. DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

1. **Design and Materials** All development shall:
 - a. Be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - b. Use construction materials that are resistant to flood damage;
 - c. Use construction methods and practices that will minimize flood damage; and,
 - d. Use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
2. **Water Supply** All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
3. **Sanitary Sewage Systems** All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
4. **On Site Waste Disposal System** On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
5. **Watercourse Carrying Capacity** All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
6. **Residential** New construction or substantial improvement of any residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant under this section.
7. **Non Residential** New construction or substantial improvement of any non-residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to this section, or together with attendant utility and sanitary facilities shall:
 - a. Be floodproofed to at least one foot above the base flood elevation utilizing information obtained pursuant to Paragraphs C-2-b-i; D-2; or H-4 so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. Be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Paragraph C-2-e, and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

8. **Manufactured Homes** New or substantially improved manufactured homes located within Zone A shall:

a. Be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to this **Paragraphs C-2-b-i; D-2; or H-4;**

b. Be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,

c. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:

i. Over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,

ii. Frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

iii. All components of the anchoring system described in **Paragraphs E-8-C-i** and **ii** shall be capable of carrying a force of 4800 pounds.

9. **Accessory Structures** Accessory Structures located within Zone A, shall be exempt from the elevation criteria required in **Paragraph E-6** and **E-7** above, if all other requirements of **Paragraph E** and all the following requirements are met. Accessory Structures shall:

a. Be 500 square feet or less and have a value less than \$3000;

b. Have unfinished interiors and not be used for human habitation;

c. Have hydraulic openings, as specified in **Paragraph E-11-b**, in at least two different walls of the accessory structure;

d. Be located outside the floodway;

e. When possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,

f. Have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

10. **Floodways** Encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in a floodway which, in Zone A riverine areas, is the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

a. Will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,

b. Is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/ January 1995, as amended).

11. **Enclosed Areas Below the Lowest Floor** New construction or substantial improvement of any structure in Zone A that meets the development standards of Paragraph E, including the elevation requirements of Paragraphs E-6, E-7, or E-8 and is elevated on posts, columns, piers, piles, "stilts," or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

a. Enclosed areas are not "basements" as defined in Paragraph K;

b. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:

i. Be engineered and certified by a registered professional engineer or architect; or,

ii. Meet or exceed the following minimum criteria:

(a) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;

(b) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,

(c) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;

c. The enclosed area shall not be used for human habitation; and,

d. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

12. **Bridges** New construction or substantial improvement of any bridge in Zone A shall be designed such that:

a. When possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Paragraphs C-2-b-i; D-2; or H-4; and

b. A registered professional engineer shall certify that:

i. The structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Paragraph E-10; and

ii. The foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

13. **Containment Walls** New construction or substantial improvement of any containment wall located within Zone A shall:

a. Have the containment wall elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Paragraphs C-2-b-i; D-2; or H-4;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Paragraph C-2-e.

14. Wharves, Piers and Docks New construction or substantial improvement of wharves, piers, and docks are permitted in Zone A in and over water and seaward of the mean high tide if the following requirements are met:

a. Wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and

b. For commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

15. Coastal Floodplains

a. All new construction located within Zone A shall be located landward of the reach of mean high tide except as provided in **Paragraph b** below.

b. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in **Paragraph E-7 only if** permitted as a Conditional Use following review and approval by the Planning Board, as provided in **Paragraph F**, and if all the following requirements and those of **Paragraphs E-1; E-10 and E-11** are met.

i. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.

ii. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.

iii. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.

iv. The structure shall have unfinished interiors and shall not be used for human habitation.

v. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to one foot above the base flood elevation.

vi. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.

F. CONDITIONAL USE REVIEW

The Planning Board shall hear and decide upon applications for conditional uses provided for in this Section. The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the CEO that a Conditional Use Permit is required shall file an application for the permit with the Planning Board.

1. Review Procedure for a Conditional Use Flood Hazard Development Permit

a. The Flood Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in the Ordinance will be satisfied, may serve as the permit application for the Conditional Use Permit.

b. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.

c. If the Planning Board finds that the application satisfies all relevant requirements of the ordinance, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.

d. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.

e. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

2. **Expansion of Conditional Uses** No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued Conditional Use Permit or if it is a building or use which would require a Conditional Use Permit if being newly-established or constructed under this Ordinance.

G. **CERTIFICATE OF COMPLIANCE**

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the CEO subject to the following provisions:

1. **Elevation Certificate** For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the CEO, an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with **Paragraph E-7; E-8 or E-9.**

2. **Notification of Completion** The applicant shall submit written notification to the CEO that the development is complete and complies with the provisions of this ordinance.

3. **Issuance of Certificate of Compliance** Within 10 working days, the CEO shall:

- a. review the required certificates and the applicant's written notification; and,
- b. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

H. **REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS**

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

1. **Minimize Flood Damage** All such proposals are consistent with the need to minimize flood damage.

2. **Utilities** All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.

3. **Drainage** Adequate drainage is provided so as to reduce exposure to flood hazards.

4. **Data** All proposals include base flood elevations, flood boundaries, and in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

5. **Condition of Approval** Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land area within a Special Flood Hazard Area, are to be constructed in accordance with **Paragraph E** of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition

shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

I. APPEALS AND VARIANCES

The Board of Appeals may, upon written application of an aggrieved party, hear and decide appeals from where it is alleged that there is an error in any order, requirement, decision, or determinations made by, or failure to act by the Planning Board or CEO in the administration of the provisions of this Section. In accordance with the provisions of **Section 16, Paragraph C** and the following:

1. **Variations in Floodway** Variations shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

2. **Variance Requirements** Variations shall be granted only upon:

a. A showing of good and sufficient cause; and,

b. A determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,

c. A showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,

d. A determination that failure to grant the variance would result in undue hardship as defined in **Section 16, Paragraphs C-4-c-ii-(1-4)**.

3. **Minimum Necessary** Variations shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.

4. **Functional Dependent Use** Variations may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:

a. Other criteria of **Paragraphs I** and **E-10** are met; and,

b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

5. **Historic Structures** Variations may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:

a. The development meets the criteria of **Paragraphs I-1** through **I-4** above; and,

b. The proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

6. **Notification** Any applicant who meets the criteria of **Paragraphs I-1** through **I-5** above shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

- a. The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
- b. Such construction below the base flood level increases risks to life and property; and,
- c. The applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

7. Appeal Procedure for Administrative and Variance Appeals

- a. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty (30) days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
- b. 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.
- c. The Board of Appeals shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request.
- d. The person filing the appeal shall have the burden of proof.
- e. The Board of Appeals shall decide all appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
- f. The Board of Appeals shall submit to the Planning Board a report of all variance actions, including justification for the granting of the variance and an authorization for the Planning Board to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
- g. 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.

J. ENFORCEMENT AND PENALTIES

1. **Enforcement** It shall be the duty of the CEO to enforce the provisions of this Section pursuant to Title 30-A M.R.S.A. § 4452.

2. **Penalties** The penalties contained in Title 30-A M.R.S.A. § 4452 shall apply to any violation of this Ordinance. In addition to any other actions, the CEO, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;

- a. The name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
- b. A clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
- c. A clear statement that the public body making the declaration has authority to do so and a citation to that authority;
- d. Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,

e. A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

K. GLOSSARY OF TERMS USED IN THIS SECTION

Unless specifically defined below, words and phrases used in this section shall have the same meaning as they have at common law and to give this section its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

Accessory Structure A small detached structure that is incidental and subordinate to the principal structure.

Adjacent Grade The natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Area of Special Flood Hazard the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Rate Map.

Base Flood The flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement Any area of the building having its floor subgrade (below ground level) on all sides.

Building see **Structure**.

Certificate of Compliance A document signed by the CEO stating that a structure is in compliance with all of the provisions of this Ordinance.

Code Enforcement Officer (CEO) Any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

Conditional Use A use that because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board.

Development Any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

Elevated Building A non-basement building

a. built, in the case of a building in Zone A, to have the top of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and

b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood. In the case of Zone A, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in **Paragraph E-11**.

Elevation Certificate An official form (FEMA Form 81-31, 08/99, as amended) that:

a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,

b. is required for purchasing flood insurance.

Flood or Flooding

a. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- The overflow of inland or tidal waters.
- The unusual and rapid accumulation or runoff of surface waters from any source.

b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a. of this definition.

Flood Elevation Study An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM) An official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Floodplain or Flood-prone Area Any land area susceptible to being inundated by water from any source (see flooding).

Floodplain Management The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

Floodway see **Regulatory Floodway**.

Freeboard A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Historic Structure Any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- By an approved state program as determined by the Secretary of the Interior, or
- Directly by the Secretary of the Interior in states without approved programs.

Locally Established Datum For purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Lowest Floor The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in **Paragraph E-11**.

Manufactured Home A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate map are referenced.

Minor Development All development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures, mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.

National Geodetic Vertical Datum (NGVD) The national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

New Construction Structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

100-year flood see **Base Flood**.

Regulatory Floodway

- a. The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. In Zone A riverine areas, the floodway is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Riverine Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area see Area of Special Flood Hazard.

Start of Construction The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within one-hundred-eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building or modification of any construction element whether or not that alteration affects the external dimensions of the building.

Structure For floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the CEO and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

Variance A grant of relief by a community from the terms of a floodplain management regulation.

Violation The failure of a structure or development to comply with these floodplain management regulations.

SECTION 18. WIRELESS COMMUNICATION FACILITIES

A. INTENT

This Section is intended to balance the interests of the residents of the Town of Roque Bluffs, wireless communications services providers and users and/or purchasers of wireless communications services. It is also the intent of the Town that antenna arrays be located in Alternative Tower Structures (ATS) or be co-located on existing Wireless Communication Towers (WCTs) whenever possible, rather than on newly-built Support Structures.

B. PERMITS

1. **Change in Use Permit** Before construction of any Wireless Communications Facility (WCF) is undertaken, including those located on ATS, a permit for change in use of the property on which the WCF will be located shall be obtained in accordance with **Sections 16-G-1 through 3 and 16-H-4** of this Ordinance.

2. **Building Permits** Before construction or expansion of any WCF or addition of co-located Antenna Arrays to an existing WCF is undertaken, a building permit shall be obtained.

3. **Application** The application for a building permit shall be submitted in accordance with **Sections 16-G and 16-H-1** of this Ordinance and shall include, in addition to the requirements therein:

a. Proof of the right, title and interest to use the property on which the WCF is proposed and showing any rights-of-way and/or other encumbrances to the property and proof of rights-of-way over adjoining properties for roads and utilities if any and;

b. Name(s) and address(es) of all companies or people responsible for constructing, operating and maintaining the WCF and;

c. For new WCF to be located on an Alternative Tower Structure, Detailed description and plans for the WCF including:

i. Location map showing names of owners of abutting properties, and identifying all residences and accessory structures and other buildings within 1,000 feet of the boundaries of the structure in which the proposed WCF will be located, and;

ii. Certification by a structural engineer that the structure in which the proposed WCF will be located can support the proposed WCF, and;

iii. Certification that the owner of the structure(s) in which the proposed WCF will be located has granted permission for use of the ATF.

d. For new free standing WCF not using an ATS, detailed description and plans for the WCF including:

i. Property Map showing location and layout of the WCF and including proposed Support Structure(s), buildings, fences, access roads, power lines, and accessory structures on the property, including setbacks from property lines, and;

ii. Dimensions of the Support Structure(s) and associated guy wires or other supporting structures, buildings and accessory structures, and;

iii. Descriptions and/or plans showing provisions for lighting and colors of all structures, and;

iv. Location map showing names of owners of abutting properties, and identifying all residences and accessory structures and other buildings within 1,000 feet of the boundaries of the property.

v. Landscape map showing how the applicant intends to satisfy the requirements for screening and buffering the WCF, and;

vi. Certification by a structural engineer that the Support Structure(s) meet all Federal, State and Local building code requirements and can support additional co-located Antenna Array(s) and facilities, and;

vii. Written certification that the WCF owner(s) will comply with **Section F-5** (annual verification of License) and **SECTION H** (abandonment and removal) and owner(s) will inform successors in the owner(s) interests in the WCF of this obligation, and;

viii. Certification in writing that the owner(s) and operator(s) of the WCF will (1) accept co-located antenna arrays provided that they are technically compatible and (2) negotiate in good faith for fees and/or charges to be paid by the co-locator for the adaptation of the existing facilities to accommodate the co-locator's equipment and use of the Support Structure,

- OR -

Certification in writing that the proposed WCF cannot accept any co-located users, including explanation, and;

ix. Certification in writing that all required Federal and State licenses and/or permits have been obtained and that the WCF operator is licensed by the FCC to be the operator of such a facility.

e. A letter that commits the WCF owner and its successors in interest to:

i. Respond in a timely comprehensive manner to a request for information from any potential co-location applicant, and;

ii. Negotiate in good faith for shared use by third parties in possession of required FCC licenses and/or permits, and;

iii. Allow shared use if applicant's proposed use is technically compatible and applicant agrees in writing to pay reasonable costs for modifications, as necessary, to prepare for the applicant's use and ongoing co-location charges.

C. EXEMPTIONS

The following WCF are allowed and are exempt from the provisions of this Section:

1. **Amateur Radio** A WCF owned and operated by a Federally licensed amateur radio operator as part of the Amateur Radio Service (Ham operator) is allowed in Area One, excepting SFWP and RP districts, or in Area Two. The WCF shall have a maximum Support Structure height, including Antenna Arrays, of seventy-five (75) feet above original grade and shall be used only by the licensed amateur radio operator. The WCF shall not be licensed or used for any commercial purpose.

2. **Business Communication** A WCF used solely for single-channel business communications, such as pagers and two-way communications is allowed in Area Two. The WCF shall have a maximum tower height of seventy-five (75) feet above original grade.

3. **Municipal Services** One (1) WCF operated solely for municipal, public safety or public works use by the Town of Roque Bluffs is allowed in Area Two. The WCF shall have a maximum Support Structure height, including Antenna Arrays, of one-hundred (100) feet above original grade.

D. CO-LOCATION

It is the policy of the Town of Roque Bluffs to minimize the number of Wireless Communication Facilities and to encourage the co-location of Antenna Arrays of more than one communications service provider on a single Support Structure.

1. **Reasonable Fee** Shared use shall be conditioned on the applicant's agreement to pay a reasonable fee and costs of adapting existing facilities to the proposed use.

2. **Only Site** Applications for permits to construct a new WCF including a Support Structure shall include documentation demonstrating that no existing or proposed WCF Support Structure within a 5 mile radius of the applicant's property will practically, technically and economically meet the engineering requirements for the proposed Antenna Array(s).

3. **Co-location** Any new WCF Support Structure must be designed to accommodate co-location, even if only one user will locate on the structure when it is built.

E. LAND USE STANDARDS

1. Area Except as shown in Paragraph C above, WCF facilities are allowed only in Area 2.

2. Lot Size The lot on which any new WCF is proposed must meet the minimum lot size for Area 2. A new WCF shall not be built on any lot which does not meet the minimum lot size requirement but which are lawful lots of record for residential use as defined in Section 12-E.

3. Setbacks

i. The center of the base of any Support Structure must be set back at least 100% of the structure height from (1) side lot lines and (2) roads.

ii. Equipment facilities, anchors and/or guy wire pads shall meet the setbacks required for buildings and be wholly within the lot boundaries.

iii. There shall be no setback requirements for Antenna Array(s) located on Alternative Tower Structures (ATS).

iv. No part of a structure, including anchors, guy wires, overhead lines, etc. shall be located less than the required setback in i. above.

4. Clustering If more than one WCF is proposed on a single lot or parcel, they shall be clustered together as closely as technically possible.

5. Height The maximum height of any WCF Support Structure, including Antenna Array(s) shall be limited to one hundred seventy five (175) feet above the original grade at its center point.

F. CONSTRUCTION AND OPERATION - FREESTANDING WCF

1. Structural Standard All WCF Support Structures shall comply with the Electronic Industries Association / Telecommunications Industries Association (EIA/TIA) 222 Revision E Standard entitled Structural Standards for Steel Antenna Towers and Supporting Structures.

2. Screening

i. Antenna Arrays located on a Support Structure shall be placed in such a manner as to not be visible when viewed from ground level adjacent to the structure. If, however, circumstances do not permit such placement, the Antenna Array and supporting electrical and mechanical equipment shall be placed and colored to blend into the architectural detail and coloring of the host structure so as to make the Antenna Array and related equipment as visually unobtrusive as possible.

ii. Tower Compounds shall be landscaped with a buffer strip of plant materials that effectively screens the view of the compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound. In locations where the visual impact of the tower would be minimal, the landscape requirement may be reduced or waived altogether. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property may be a sufficient buffer.

2. Lighting

i. Support Structures shall not be artificially lighted, unless required by the Federal Aviation Administration (FAA) or other applicable authority. If lighting is required, the applicant shall document the available lighting alternatives for the Planning Board. The Board shall accept the alternative which, in its sole judgment, would cause the least disturbance in the surrounding area.

ii. The Tower Compound may use lighting for security purposes, however such lighting shall be minimized to produce the minimum disturbance to the surrounding neighborhood.

3. Noise

i. Noise levels shall not exceed 5 dBA above ambient levels on a windless day or 55 dBA Sound Pressure Level (DBA) whichever is greater.

ii. Operation of emergency back-up power generators in the event of loss of power from the local power grid or the testing of a back-up generator between the hours of 8 AM and 9 PM are exempt from the standard in i above. No testing or non-emergency use of a back-up power generator will be done between the hours of 9 PM and 8 AM.

4. Fencing The Tower Compound shall be secured with security fencing or other suitable materials capable of preventing access to the compound by children and/or other unauthorized persons. Any gate or opening in the fencing will be locked at all times except when authorized operating and/or maintenance personnel are present

5. Licensing The entity responsible for operating the WCF shall submit to the Town a copy of all applicable FCC licenses on an annual basis to verify that the facility is in active use. Failure to do so in two successive years will be considered evidence of abandonment.

6. Temporary WCF In the event of an emergency or to provide temporary services an FCC Licensed Wireless Communications Provider may set up a Temporary WCF for a period of 90 days without approval of the Planning Board.

G. CONSTRUCTION AND OPERATION - WCF USING ATS

Sections F-3 and F-6 apply to WCF located in an ATS.

H. Abandonment and Obsolescence

1. Abandonment Any WCF which is not operated for a continuous period of twenty-four (24) months shall be considered abandoned and the owner of such WCF will remove the WCF within ninety (90) days of receipt of notice from the Town notifying the owner of such abandonment. If such WCF is not removed within said ninety (90) days, the Town may remove the WCF at the owner's expense

2. Multiple Users If there are two or more users of a single WCF, then this provision shall not become effective until all users cease using the WCF.

3. Removal Removal of the WCF shall include dismantling of any support structures, anchors, guy wires, overhead lines or masts and the removal of all debris created as a result thereof. The Town may require the removal of any equipment facilities, fencing, access roads and the return of the land to near original pre-construction condition as possible.

I. GLOSSARY OF TERMS USED IN THIS SECTION

Wireless Communications (WC) Wireless Communications shall mean any wireless services as defined in the Federal Communications Act of 1996 which includes FCC licensed commercial wireless communications services including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced PMD (ESMR), paging and similar services that currently exist or may be developed in the future.

Alternative Tower Structures (ATS) Alternative Tower Structures shall include clock Towers, church steeples, light/telephone poles, water towers, electrical transmission towers, smokestacks and similar structures that can provide support for a WCF antenna array and provide concealment for the array.

Antenna Arrays (AA) An antenna array is one or more rods, [panels, discs or similar devices used for the transmission and/or reception of radio frequency (RF) signals through electromagnetic energy, which may include omni-directional antennas (whip), directional antennas (panel) and parabolic antennas (dish). The Antenna Array does not include the Support Structure defined below.

Wireless Communications Facility (WCF) A Wireless Communications Facility is any facility, staffed or unstaffed, consisting usually of one or more Antenna Arrays, transmission cables, Equipment Facility and one or more Support Structures.

Co-location Co-location shall mean the use of a common Support Structure by two or more wireless license holders or by one license holder for more than one antenna Array and/or more than one type of wireless communications technology.

Support Structure A Support Structure is a structure designed and constructed specifically to support one or more Antenna Arrays and may be a monopole, self-supporting (Lattice-work) or guy wire supported tower or other similar structure.

Equipment Facility An Equipment Facility is any structure used to contain ancillary equipment for a WCF including, but not limited to a building, pedestal or other structure. Equipment Facilities shall conform to all requirements of this Ordinance for non-WCF structures.

Height For the purposes of this Section, the height of any structure located on a WCF site shall mean the height including all Antenna Arrays mounted on a Support Structure.

Temporary Wireless Communications Facility (Temporary WCF) Temporary WCF shall mean a WCF which is to be placed in use for a limited period of time and is not deployed in a permanent manner.

Tower Compound A Tower Compound includes the bases of the WCF Support Structure(s), Equipment Facility(ies) and other ancillary equipment or structures included within the perimeter fence.

SECTION 19. DEFINITIONS

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

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

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

Appellate Basis - a proceeding which reviews the information gathered by the Planning Board and the decisions made based on that information, rather than gathering information on which to base it's decision. See *De Novo Review*.

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

Basal Area - the area of cross-section of a tree stem at 4½ feet above ground level and inclusive of bark.

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

Boat launching facility - a facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

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

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

Coastal wetland - all tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Oceanic And Atmospheric Service (NOAA). Coastal wetlands may include portions of coastal sand dunes.

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

DBH - the diameter of a standing tree measured 4 1/2 feet above the ground.

De Novo Review - A review that looks at the factual and legal issues afresh, undertakes its own credibility determinations, evaluates evidence presented and draws its own conclusions. See *Appellate Review*.

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

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 a 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 a 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.

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

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

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

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

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

Family - One or more persons related by blood (Mother, father, children, aunts, uncles, grandparents, cousins, sisters, brothers, etc), marriage or adoption plus 5 (Five) or less additional persons occupying a premises and living together as a single household or 5 (Five) or less persons, not necessarily related, occupying a premises and living together as a single household.

Floodway - The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the 100 year (base) flood without cumulatively increasing the water surface elevation 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 or decks.

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

Forested Wetland - A freshwater wetland dominated by woody 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 posts, but including basements, slabs, 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 (10) or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of 10 acres; and
2. inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstance 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.

Fuel - fuel is any combustible liquid or gas used for heating, powering vehicles and machinery etc. Examples are LP gas, heating oil, gasoline, kerosene or similar products.

Functionally water-dependent uses - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale marketing facilities waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot be reasonably be located or operated at an inland site, and uses which primarily provide general public access to marine or tidal waters. The storage of recreational boats and / or watercraft is explicitly not a water-dependent use.

Great pond - any inland body of water which in a natural state has a surface area in excess of ten acres. (Note: Simpson's pond is the only Great Pond in Roque Bluffs, However, the pond and all surrounding land is owned by the State of Maine and therefore not subject to regulation by the Town.)

Great pond classified GPA - any great pond classified GPA, pursuant to 38 M.R.S.A. Article 4A Section 465-A. This classification includes some but not all impoundments of rivers that are defined as great ponds. (Note: there are no Great Ponds classified GPA in Roque Bluffs.)

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

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

Increase in nonconformity of a structure - any change in a structure or property which causes further deviation from the dimensional standard(s) creating a 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 an increase in 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 or wetland than the closest portion of the existing structure from that water body or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

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

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

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 for public purposes.

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.

Marina - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait 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 which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

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

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

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

Native - indigenous to the local forests.

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 place

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

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

Non-conforming use - use of buildings, structures, premises, land or parts thereof which is not allowed in the Area or 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 (non-tidal waters) - 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 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.

(NOTE: Adjacent to tidal waters, setbacks are measured from the upland edge of the "coastal Wetland" or, in the case of unstable banks so designated by the DEP, from the top edge of the bank.)

Normal high-water line (Tidal Waters and Coastal Wetlands) - see definition for Coastal Wetland.

Outlet Stream - means any perennial or intermittent stream as depicted on the most recent edition of a United States Geological Survey 7.5-minute series or, if not available, on a 15-minute series topographic map, that flows from a freshwater wetland.

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

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

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

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

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

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

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

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

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

Recreational vehicle - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles. See Section 15 I-F regarding use of Recreational Vehicles as dwellings.

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

Residential dwelling unit - 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 except as allowed in **Section 15-I-F** for use of Recreational Vehicles as dwellings.

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

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

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

(NOTE: the portion of a river that is subject to tidal action is a coastal wetland.)

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

Salt marsh - areas along coastal waters (most often along coastal bays) which support salt tolerant species, and where at average high tide during the growing season, the soil is regularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

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

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

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

Setbacks

- a. **from Water** - 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.
- b. **from sidelot lines** - the nearest horizontal distance from a property line defining a boundary of the lot to a structure.

c. **from a road** - the distance measured from the centerline of the road as follows:

- If the width of the right-of-way is documented, one-half of the width plus 20 feet.
- If the width of the right-of-way is unknown, one-half of 33 feet plus 20 feet.

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

Shoreland Zone - the land area within two-hundred and fifty (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 coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland designated RP or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a freshwater wetland, outlet stream, tributary stream, or stream designated SFWP.

Shoreline - the normal high-waterline, or upland edge of a freshwater or coastal wetland.

Significant River Segments - There are no Significant River Segments, as defined in 38 M.S.R.A. section 437 within the town of Roque Bluffs

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.

Simpson's Pond - a fresh water body within the political boundaries of Roque Bluffs which has a surface area in excess of ten (10) acres; mandated by law for inclusion in this Ordinance but which is wholly owned by the State of Maine.

Slash - the residue, e.g., treetops and branches, left on the ground after a timber harvest.

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

Structure - anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or created with a fixed location on or in the ground, exclusive of fences. The term includes structures temporarily or permanently located, such as decks satellite dishes and broadcast or telecommunications towers.

Substantial start - A substantial start is defined as:

- a. For a change in use: actually commencing the new or changed use.
- b. For a dwelling: completion of driveway or access road, construction of a foundation and, if planned, installation of a septic system.
- c. For any other building or structure: completion of the building or structure.

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

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

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

Timber harvesting - the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone (Area 1) on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to **Section 15 II C**.

Town Road - a public way which has been accepted by the town and is maintained by the town.

Tributary stream - means 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 on 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 a tributary stream located within the Shoreland zone of the receiving water body or wetland.

Upland edge of a wetland - the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of salt tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet tall or taller.

Unscarified soil - soil in an undisturbed state: not plowed, turned, harrowed or otherwise cut or moved.

Vegetation - all live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under four (4) inches in diameter, measured 4 ½ feet above the ground level.

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

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

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

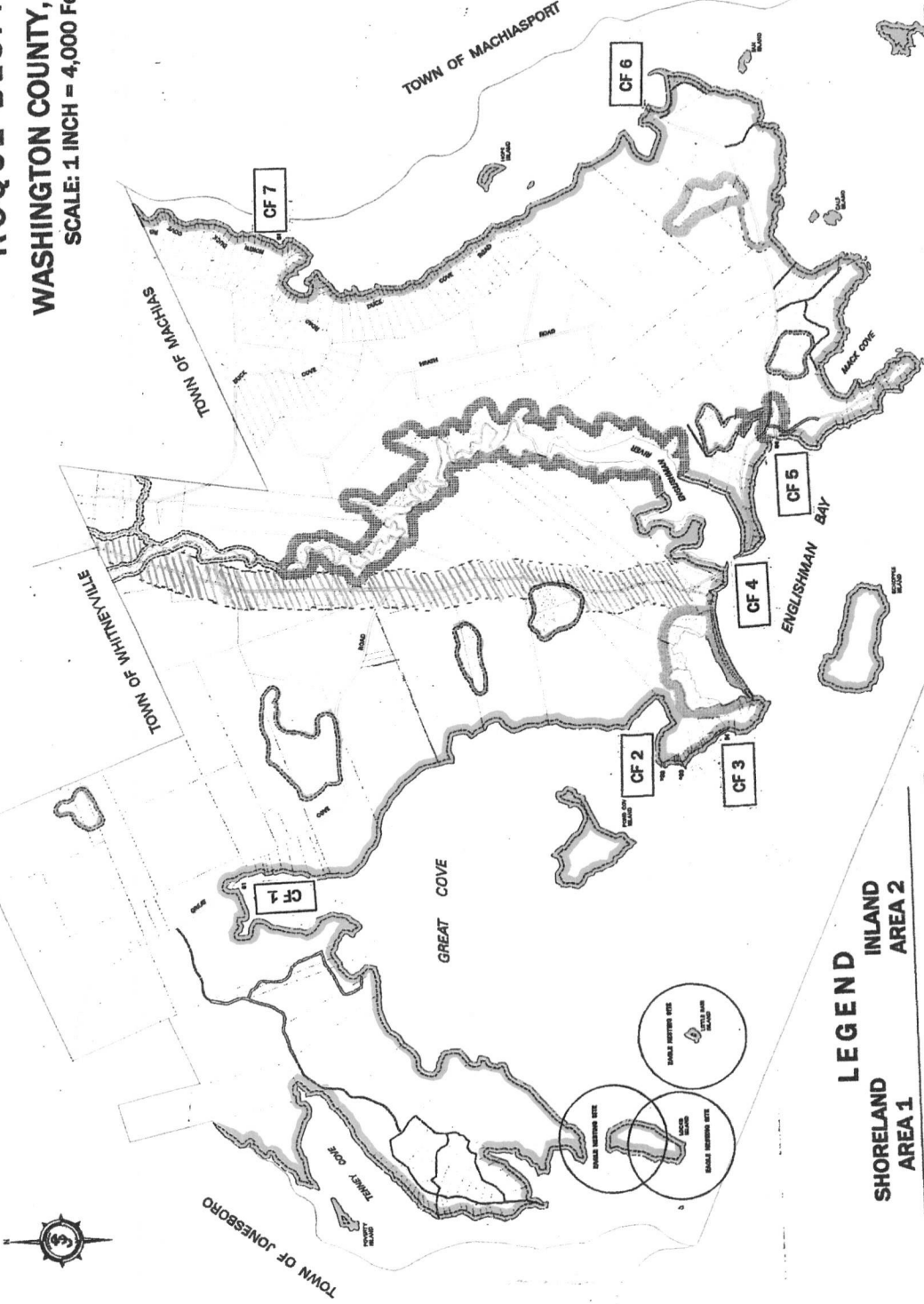
Water crossing - any project extending from one bank to the opposite bank of a river stream or tributary stream, whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance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

Wetland - a freshwater or coastal (tidal) wetland.

Woody vegetation - live trees or woody, non-herbaceous shrubs.

ZONING MAP TOWN OF

ROQUE BLUFFS WASHINGTON COUNTY, MAINE SCALE: 1 INCH = 4,000 Feet



LEGEND

	VILLAGE RESIDENTIAL
	GROWTH RESIDENTIAL I
	RURAL RESIDENTIAL
	RESOURCE PROTECTION
	UNFORESTED WETLAND
	SALT MARSH
	STREAM/FRESHWATER WETLAND PROTECTION
	LIMITED RESIDENTIAL
	COMMERCIAL FISHERY/MARITIME ACTIVITIES

NOTES:

1. Mapped Wetlands: Map shows wetland areas of 10 acres or more as identified on National Wetland Survey Maps. Field verification of the actual wetland boundaries should be undertaken prior to development. Wetland Streams contiguous with and at the same elevation as the normal high water line on Great Ponds, rivers and streams are considered part of these wetlands.
2. Areas marked CF do not have fixed boundaries; they identify areas where water-dependent uses take place. These are: CF1: Sinford Cove; CF2 - Town Boat Ramp/Roque Island Pier; CF3 - Beach Access; CF4 - Englishman River; CF5 - Little Marsh; CF6 - Seawall Cove; CF7 - Mardin's Cove.
3. All outer streams serving freshwater wetlands are designated Stream/Freshwater Protection Districts

