

Town of Bowdoinham
Land Use Ordinance

ARTICLE 6: SHORELAND OVERLAY DISTRICTS

A) Purpose

The purposes of this Ordinance are:

- 1) to further the maintenance of safe and healthful conditions;
- 2) to prevent and control water pollution;
- 3) to protect fish spawning grounds, aquatic life, bird and other riparian wildlife habitat;
- 4) to protect buildings and lands from flooding and accelerated erosion;
- 5) to protect archaeological and historic resources; to protect commercial fishing and maritime industries;
- 6) to protect freshwater and coastal wetlands;
- 7) to control building sites, placement of structures and land uses;
- 8) to conserve natural, native vegetation along the shoreline, visual corridors and actual points of access to inland and coastal waters;
- 9) to conserve natural beauty and open space; and
- 10) to anticipate and respond to the impacts of development in shoreland areas.

Commented [JH1]: It seems like this is this applies specifically to Article 6.

Would like to say "The purposes of Article 6 of this Ordinance are to further ." or just "The purposes of Article 6 are to further ..."

B) Applicability

The Shoreland Zone shall be:

- 1) All areas within 250 ft., horizontal distance, of the:
 - a) normal high-water line of any river;
 - b) upland edge of a coastal wetland, including all areas affected by tidal action; or
 - c) upland edge of freshwater wetlands, which are:
 - (i) Of ten or more contiguous acres, or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and
 - (ii) Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.
 - (iii) Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.
- 2) All land areas within 75 ft., horizontal distance, of the normal high-water line of tributary streams.

Commented [JH2]: I made this into a numbered list to match formatting across Articles. No text was changed.

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- 3) The Shoreland Zone includes 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 freshwater or coastal wetland.

C) Zoning Map and Districts

1) Town of Bowdoinham Official Shoreland Zoning Map

The areas of the Town to which Article 6 is applicable are shown on the "Town of Bowdoinham Official Shoreland Zoning Map" dated June 10, 2015, which is hereby made a part of this Ordinance.

2) Map Scale

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

3) Map Certification

The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.

4) Map Changes

If amendments, in accordance with Article 1, Section H, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

Commented [JH3]: Verify

5) Shoreland Zoning Districts

The areas to which Article 6 is applicable are hereby divided into the following districts as shown on the "Town of Bowdoinham Official Shoreland Zoning Map:"

Commented [JH4]: See comment at the top of this page

- a) Resource Protection
- b) Limited Residential
- c) Limited Commercial
- d) General Development I
- e) General Development II
- f) Commercial Fisheries/Maritime Activities
- g) Stream Protection

6) Interpretation of District Boundaries

- a) District boundary lines are shown on the Official Shoreland Zoning Map, as defined in Section E below and as may be determined by a qualified professional.
- b) The boundaries of the shoreland area are as defined herein in Section B above.

Commented [JH5]: This is now Section E instead of I.

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- (i) Boundaries indicated as following or parallel to shorelines shall be construed to follow or be parallel to the normal high water mark of such shore lines, and in the event of changes in the shore line shall be construed as moving with the actual shore line.
- c) Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

Commented [JH6]: I completely revised this part of the document (Sections C through G and made them subsections of Section C). This necessitated some text changes for flow. No changes to the meaning of the text were made.

Commented [JH7]: Subsequent Section Lettering was updated.

D) Land Use Requirements

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

E) Establishment of Districts

The Shoreland Zone, as stated above, is divided into the following districts as shown on the Official Shoreland Zoning Map:

1) Resource Protection District

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

- a) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, and coastal wetlands, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department of Environmental Protection as of December 31, 2008 or based on field determination by MDIF&W.
- b) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100-year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100-year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
 - (i) The location of the 100-year floodplain on a lot may be determined by a professional surveyor.
- c) Areas of two or more contiguous acres with sustained slopes of 20% or greater.

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- d) 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 the period of normal high water.
- e) 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.

The areas of the Resource Protection District are shown on the Official Shoreland Zoning Map through use of aerial data. The actual, on-the-ground location of the Resource Protection District shall be determined by the district's description above and may be located by a professional surveyor.

2) Limited Residential District

The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the Limited Commercial District, the General Development District, or the Commercial Fisheries/Maritime Activities District.

Areas that are shown as Resource Protection on the Official Shoreland Zoning Map but are proven not to be Resource Protection based on on-the-ground determination shall be considered to be the Limited Residential District.

3) Limited Commercial District

The Limited Commercial District includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District, which should not be developed as intensively as the General Development Districts. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited. Please refer to the Official Shoreland Zoning Map for the location of the Limited Commercial District.

4) General Development I District

The General Development I District includes the following types of existing, intensively developed areas.

- a) Areas of two or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:
 - (i) areas devoted to manufacturing, fabricating or other industrial activities;
 - (ii) areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and
 - (iii) areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, racetracks and fairgrounds.
- b) Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.

Please refer to the Official Shoreland Zoning Map for the location of the General Development I District.

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5) General Development II District

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. Please refer to the Official Shoreland Zoning Map for the location of the General Development II District.

6) Commercial Fisheries/Maritime Activities District

The Commercial Fisheries/Maritime Activities District includes areas where the existing predominant pattern of development is consistent with the allowed uses for this district as indicated in the Table of Land Uses, Article 5, Section J, and other areas which are suitable for functionally water-dependent uses, taking into consideration such factors as:

- a) shelter from prevailing winds and waves;
- b) slope of the land within 250 feet, horizontal distance, of the shoreline;
- c) depth of the water within 150 feet, horizontal distance, of the shoreline;
- d) available support facilities including utilities and transportation facilities; and
- e) compatibility with adjacent upland uses.

f) The following described properties are specifically included in the Commercial Fisheries/Maritime Activities District:

- (i) Map U02, Lot 013: being a parcel of land on the southeast side of the Cathance River, bounded and described as follows: beginning at a point on the western corner of Map U-2, Lot 13, where Lot 13 abuts the Bay Road and the Cathance River; thence in a southeasterly direction along the Bay Road a distance of 273' +/- to a point which is midway between the southeasterly boundary of Map U-2, Lot 13 and the northwesterly boundary of Map U-2, Lot 14; thence in a northeasterly direction along a line parallel to the northwesterly boundary, or extension of the boundary, of Map U-2, Lot 14 a distance of 450' to a point; thence in a northwesterly direction along a line parallel to the Bay Road and the first call in this description a distance of 100' +/- to a point on the southerly side of the Cathance River; thence in a southwesterly direction along the Cathance River a distance of 540' +/- to the point of beginning.
- (A) Excluded from this District are areas that are undeveloped and are in the 100-year floodplain or consist of wetland vegetation and hydric soils. These areas shall be considered part of the Resource Protection District. Anyone seeking to develop in this District shall be required to demonstrate that the area to be developed is not in the 100-year floodplain and is not in an area with wetland vegetation and hydric soils.
- (ii) A portion of Map U02, Lot 012 that is described as follows: a strip of land that is forty (40) feet wide at the right-of-way line of Bay Road (Route 24) and extends southwesterly for a distance of one-hundred twenty-five (125) feet parallel to the shoreline of the Cathance River.

7) Stream Protection District

Commented [JH8]: There is no section J in Article 5. I can't figure out what this needs to point to.

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The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a tributary stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area 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.

F) Table of Uses

All land use activities, as indicated in Table 6.1, Land Uses in the Shoreland Zone, shall conform with all of the applicable **Shoreland Zoning Standards** in Article 7. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

Commented [JH9]: Changed to Shoreland Zoning standards from land use standards for clarity.

DISTRICT

RP: Resource Protection

GD: General Development I and General Development II

LR: Limited Residential

CFMA: Commercial Fisheries/Maritime Activities

LC: Limited Commercial

SP: Stream Protection

REVIEWING AUTHORITY

A: Allowed (no permit required but the use must comply with all applicable land use standards.)

P: 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

FOOTNOTES APPLICABLE TO TABLE 6.1, LAND USES IN THE SHORELAND ZONE.

- ¹ Requires permit from the Code Enforcement Officer if more than 100 sq. ft. of surface area, in total, is disturbed.
- ² In RP not allowed in areas so designated because of wildlife value.
- ³ Provided that a variance from the setback requirement is obtained from the Board of Appeals.
- ⁴ Functionally water-dependent uses and uses accessory to such water dependent uses only (See note on previous page).
- ⁵ See further restrictions in Article 7, Section D.13.

Commented [JH10]: I updated the formatting here to match Table 5.1. Also, used the same abbreviations as found in Table 5.1 as much as possible. Do you prefer the grid patten in Table 5.1 or this format instead?

For example, what was formerly 'yes' is now A and what was formerly 'no' is now P.

Commented [JH11]: Will need to verify

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

⁷Except as provided in Article 7, Section D.8.c.

⁸Single family residential structures may be allowed by special exception only according to the provisions of Article 7, Section C., Special Exceptions. Two-family residential structures are prohibited.

⁹Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

¹⁰Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

¹¹Permit not required but must file a written “notice of intent to construct” with CEO.

¹²Permit not required but must notify the CEO in writing prior to any clearing or removal.

Commented [JH12]: Verify

Commented [JH13]: Verify

TABLE 6.1. LAND USES IN THE SHORELAND ZONE

LAND USES	DISTRICT					
	SP	RP	LR	LC	GD	CFMA
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	A	A	A	A	A	A
2. Motorized vehicular traffic on existing roads and trails	A	A	A	A	A	A
3. Forest management activities except for timber harvesting & land management roads	A	A	A	A	A	A
4. Timber harvesting	A	A	A	A	A	A
5. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO	CEO ¹²	CEO ¹²	CEO ¹²	CEO ¹²
6. Fire prevention activities	A	A	A	A	A	A
7. Wildlife management practices	A	A	A	A	A	A
8. Soil and water conservation practices	A	A	A	A	A	A
9. Mineral exploration	P	A ¹	A ¹	A ¹	A ¹	A ¹
10. Mineral extraction including sand and gravel extraction	P	PB ²	PB	PB	PB	PB

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LAND USES	DISTRICT					
11. Surveying and resource analysis	A	A	A	A	A	A
12. Emergency operations	A	A	A	A	A	A
13. Agriculture	A	PB	A	A	A	A
14. Aquaculture	PB	PB	PB	A	A	A
15. Principal structures and uses						
A. One and two family residential, including driveways	PB ³	PB ⁸	CEO	CEO	CEO	P
B. Multi-unit residential	P	P	PB	PB	PB	P
C. Commercial	P	P ⁹	P ⁹	PB	PB	PB ⁴
D. Industrial	P	P	P	P	PB	PB ⁴
E. Governmental and institutional	P	P	PB	PB	PB	PB ⁴
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB ³	PB	CEO	CEO	CEO	PB ⁴
16. Structures accessory to allowed uses	PB ³	PB	CEO	CEO	A	A
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland						
a. Temporary	CEO ¹⁰	CEO ¹⁰	CEO ¹⁰	CEO ¹⁰	CEO ¹⁰	CEO ¹⁰
b. Permanent	PB	PB	PB	PB	PB	PB ⁴
18. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI	P
19. Home occupations	PB	PB	PB	CEO	A	A
20. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI	LPI
21. Essential services	PB ⁵	PB ⁵	PB	PB	PB	PB

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LAND USES	DISTRICT					
A. Roadside distribution lines (34.5kV and lower)	CEO ⁵	CEO ⁵	A ¹¹	A ¹¹	A ¹¹	A ¹¹
B. Non-roadside or cross-country distribution lines (greater than 34.5kV)	PB ⁵	PB ⁵	PB	PB	PB	PB
C. Other essential services	PB ⁵	PB ⁵	PB	PB	PB	PB
22. Service drops, as defined, to allowed uses	A	A	A	A	A	A
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO	CEO	CEO ⁴
24. Individual, private campsites	CEO	CEO	CEO	CEO	CEO	CEO
25. Campgrounds	P	p ⁶	PB	PB	PB	P
26. Road construction	PB	p ⁷	PB	PB	PB	PB ⁴
27. Land management roads	A	A	A	A	A	A
28. Parking facilities	P	p ⁶	PB	PB	PB	PB ⁴
29. Marinas	PB	P	PB	PB	PB	PB
30. Filling and earth moving of <10 cubic yards	CEO	CEO	A	A	A	A
31. Filling and earth moving of >10 cubic yards	PB	PB	CEO	CEO	CEO	CEO
32. Signs	A	A	A	A	A	A
33. Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO	CEO
35. Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB	PB

Commented [JH14]: Since notice to the CEO is required for superscript 11, it makes more sense to have these noted as CEO rather than A.

