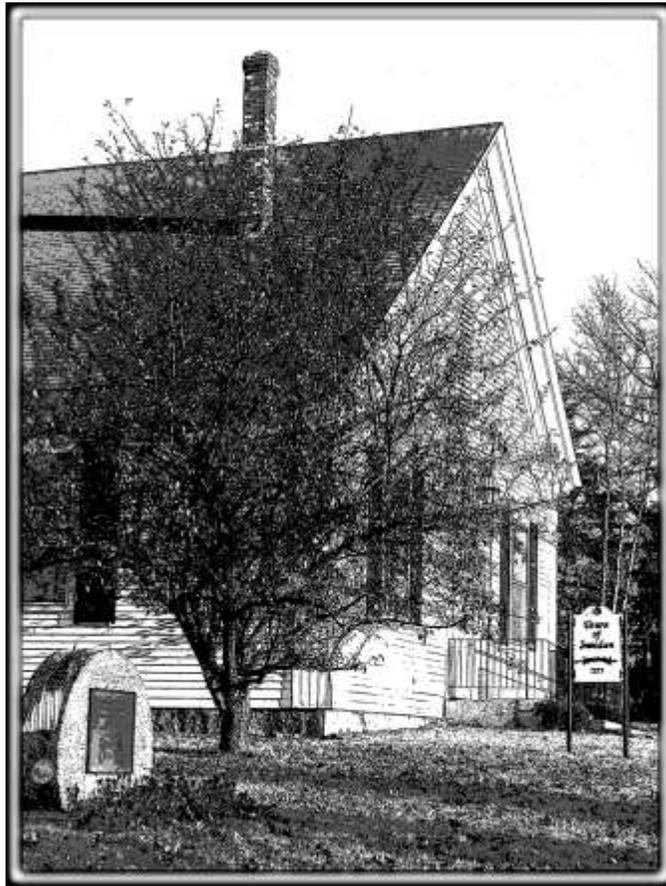


# Town of Sweden, Maine Zoning and Land Use Ordinance

Seventh Revision  
March 21, 2009



## **Publication History:**

- Originally Adopted - March 1975
- First Revision - March 1979
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Appendix A: Town of Sweden Zoning Map

Appendix B: Town of Sweden Water Resources and Wetlands Map

Appendix C: Phosphorous Control Standards for Sweden's Watershed Areas



# Town of Sweden

## Zoning and Land Use Ordinance

### I. PURPOSE

- A. Purpose.** The purpose of this Ordinance is to assist the residents of Sweden in meeting Town goals by executing Town policies and implementing Town strategies, as stated in the Town of Sweden Comprehensive Plan. More specifically, it is to: ensure orderly growth and development; encourage sound forest management practices; regulate building sites, placement of structures, and land uses; protect water quality; conserve fish spawning grounds and wildlife habitat; preserve wetlands; and maintain open space. As planning is a continual process of update and revision, likewise this Ordinance must be reviewed and updated from time-to-time to remain compatible with, and supportive of, the Town's desires as reflected in the Comprehensive Plan.
- B. Long-term Preservation.** All of the above would ensure long-term preservation of Sweden's rural character and natural beauty, and enhance conditions for quality living of its residents.

### II. AUTHORITY

This Ordinance has been prepared in accordance with the provisions of Title 30-A and Title 38 of the Maine Revised Statutes Annotated.

### III. EFFECTIVE DATE

The original date of this Ordinance was March 3, 1975, superceding the Zoning Plan of December 7, 1970. The effective date of this latest revision of the Ordinance is March 2009, which supercedes previous revisions of March 1979, August 1983, May 1998, October 2006, and March 2008.

### IV. AVAILABILITY

A certified copy of the latest enacted revision of the Ordinance, Zoning Map, and any subsequent amendments thereto, will be provided to the Department of Environmental Protection by certified mail (return receipt requested). A certified copy of this Ordinance shall also 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 reasonable cost, at the expense of the person making the request.

### V. SEVERABILITY AND INCONSISTENT ORDINANCES

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

### VI. AMENDMENTS

- A. Initiation of Amendment.** An amendment to this Ordinance may be initiated by:
- The Planning Board, provided a majority of the Board has so voted; or,
  - Written request of the Municipal Officers, by majority vote, to the Planning Board; or,

- Written petition of a number of registered voters equal to at least 10% of the number of votes cast in the Municipality in the last gubernatorial election, but in no case less than ten.

**B. Adoption of Amendment.** An amendment to this Ordinance, initiated in the foregoing manner, may be adopted only by a majority vote of the Governing Body. The Planning Board shall hold a public hearing on the proposed amendment at least thirty (30) days prior to the meeting of the Governing Body. Notice of the hearing shall be posted at least ten (10) days in advance in a newspaper of general circulation in the area.

Copies of any amendments, attested and signed by the Municipal Clerk shall be submitted to the Department of Environmental Protection (DEP) following adoption by the Governing Body, and shall not be effective unless approved by the DEP. If DEP fails to act on any amendment within 45 days of the Department's receipt of the amendment, the amendment is automatically approved.

## VII. GENERAL PROVISIONS

**A. Zones and Districts.** The Town of Sweden is hereby divided into the following Zones and Districts:

- Natural Resources Protection Zone
- Limited Residential Zone
- Residential Zone
- Rural Preservation Zone
- Aquifer Protection District (Overlay District)
- Stream Protection District (Overlay District)
- Forest Conservation District (Overlay District)

These Zones and Districts are shown on the Official Zoning Map (originated March 1975, revised March 1985, February 1991, September 2003, March 2008) filed in the Municipal Office. This Map is hereby made a part of this Ordinance, as much as if it were completely described herein. An approximate reduced-size copy is included in Appendix A. The Flood Insurance Rate Map, dated July 2009, is also considered as part of the Official Zoning Map.

**B. Buildings and Land Use Requirements.** Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied; no building or structure or part thereof shall hereafter be erected, constructed, expanded, altered, moved, or destroyed; and no new lot shall be created except in conformity with all regulations herein specified for the Zone and/or District in which it is located, unless a variance is granted. Furthermore, any provisions of the State's shoreland zoning minimum guidelines of May 1, 2006 not specifically incorporated herein are nevertheless considered effective as and when applicable.

**C. Rules Governing Zone/District Boundaries.** Where uncertainty exists with respect to the various Zones/Districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of roads, highways, well-established lot lines or municipal limits shall be construed as following such lines or limits.
2. Boundaries indicated as following shorelines shall be construed to follow such shorelines and, in the event of natural change of the shoreline, shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the centerlines of streams, rivers, lakes or other bodies of water shall be construed to follow such centerlines.
3. Boundaries indicated as being parallel to or extensions of features indicated in paragraphs 1 and 2 above shall be so construed. Distances and bearings not specifically indicated on the Official Zoning Map shall be determined by the scale and locus of the Map.
4. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by paragraphs 1 through 3 above, the Board of Appeals shall interpret the Zone/District Boundaries.

**D. Lot Division by Zone/District Boundaries.** Where a Zoning boundary line divides a lot or parcel of land in the same ownership of record, the regulations applicable to the less restricted portion of the lot may be extended. The amount of this extension shall be not more than 50 feet into the more restricted portion of the lot, except if the more restricted portion of the lot is zoned Natural Resource Protection. In such a case, there shall be no extension of the

less restricted portion. Any corresponding extension of use shall be considered a Conditional Use, subject to approval of the Planning Board and in accordance with the criteria set forth in the paragraph, "Factors Applicable to Conditional Uses", in Section XIII.

## VIII. ZONE REQUIREMENTS

**A. General Requirements.** The following general requirements shall apply to all Zones:

**1. Development Permits and Requirements.**

- a. A Building Permit and associated Plumbing Permit shall be required for all buildings and structures according to the provisions of this ordinance.
- b. Permit applicants are responsible for any reasonable cost to the town incurred in approving any permit application. These costs may include, but need not be limited to, administrative and technical review costs.
- c. Permitted Uses and Conditional Uses shall conform to all other applicable provisions of this Ordinance.

**d. Phosphorus Control.**

- (1) A phosphorus control plan shall be required for all subdivision plans to be reviewed by the Town of Sweden Planning Board. Said plan shall comply with the standards contained in the most current version of the manual "Phosphorus Control in Lake Watersheds" as published by the Maine Department of Environmental Protection. The following standards shall be utilized by the Planning Board in its review:
  - (a) A Future Area to be Developed (FAD) rate of 45% shall be assumed and used in computing per-acre phosphorus budgets for each watershed.
  - (b) An allowable phosphorus increase of 0.75 part per billion (ppb) shall be utilized for Moose Pond, Stearns Pond, and Keyes Pond. An allowable increase of 0.50 ppb shall be utilized for Highland Lake.

These two standards shall be reviewed every three years by the Sweden Planning Board and may be revised following a public hearing by a majority vote of the Board. Revisions shall be based upon such additional information as water quality testing data and a review of development rates.
- (2) For all other new construction in lake watersheds, including but not limited to the construction/reconstruction of any structures and roadways, and any earth-moving activities that disturb more than 1000 square feet of surface area, phosphorus control is required in accord with the standards contained in Appendix D of this Ordinance. Phosphorus control methods utilize the design criteria contained in the manual "Phosphorus Control in Lake Watersheds" published by the Maine DEP. The following are exempted:
  - (a) Any structural addition or series of additions to an existing structure which create no more than 400 square feet of new ground floor area in any ten-year period.
  - (b) Timber harvesting activities, although it is noted that such activities shall comply with the standards contained in SECTION X. Para W. of this Ordinance as well as the standards of the Natural Resources Protection Act (38 MRSA), which are adopted herein by reference and are enforceable under the provisions of this Ordinance.
  - (c) Development activities which are more than 500 feet from any lake, pond, or non-intermittent stream appearing on the USGS 7.5 minute topographic map, and which do not contribute stormwater runoff to any ditch that directly drains

channelized flow to any such stream, lake or pond. (The intent is to exempt channelized flow that is dispersed into a vegetated buffer area.)

2. **Dwellings.** No more than one dwelling unit shall be placed/constructed on a lot unless each dwelling unit meets the minimum lot size and all setback requirements specified for the underlying zone, except as may be otherwise provided for in this Ordinance.
3. **Structure Height Limit.** No building or structure shall exceed 50 feet in height, 35 feet in a Shoreland Zone as defined, including any features of buildings or structures such as, but not limited to, towers, ventilators, cupolas, and spires. Household antennas and residential chimneys are excepted from this limit.
4. **Dimensional Requirements.** Any lot created after the effective date of the current revision to this Ordinance shall meet the following requirements.
  - a. **Lot Size:** Any lot shall meet the square footage requirement specified for its underlying zone.
  - b. **Lot Frontage:** All lots shall front upon a road either publicly or privately maintained, and meet the minimum roadway frontage specified. If abutting a great pond, river, or a stream (as defined in the state's Shoreland Zone), lots shall meet the minimum shore frontage specified.
    - (1) Roadway frontage will be determined as horizontal distance between the intersections of the side lot lines and the front lot line.
    - (2) Shore lot frontage will be determined as the horizontal distance measured in a straight line between the intersections of the side lot lines with the shoreline at normal high-water elevation.
  - c. **Lot Depth-to-Shore-Frontage Ratios.** All lots created within a subdivision that has frontage on a great pond, river or stream (as defined in the state's Shoreland Zone), may not have a lot depth-to-shore-frontage ratio greater than five to one.
  - d. **Structure Setbacks.** No building or structure shall be erected or located on a lot, or recreational vehicle located on a lot, or campsite placed on a lot, unless it shall be setback from the roadway centerline, from the side and rear lot lines, and from the normal high-water line of any lake, pond, river or stream (as defined in the state's Shoreland Zone), the distance specified for structure setbacks in the respective Zone.
  - e. **Roadway Buffer Vegetation.** All lots, regardless of zone, shall be required to maintain a 50-foot buffer strip (see Definitions) along the roadway.
5. **Back Lots.** For all lots without frontage on a public road, and not coming under the purview of the State's Subdivision Law, no building permit shall be issued to erect any structure unless a privately maintained access road, providing the required road frontage for all lots served, and meeting the following criteria, has been constructed within a deeded right-of-way, a minimum of 50 feet in width:
  - a. The access road shall be constructed to a minimum width of 12 feet if serving one dwelling unit.
  - b. The access road shall contain a minimum depth of three inches of surface gravel, need not be paved, and shall have drainage ditches and culverts at all appropriate points.
  - c. Any access road serving more than one dwelling unit must be two feet wider, and contain an additional three inches of gravel, for each additional dwelling unit it

serves, up to a maximum of 20 feet in width. The access road may serve up to a total of six dwelling units whereupon road design and construction standards of the Sweden Subdivision Regulations must be met.

- d. A road terminating at the end lot must have a turnaround area 65 feet in diameter or as approved by the Planning Board.
  6. **Water Crossings.** All crossings of flowing water or wetlands, as allowed by this Ordinance, shall be accomplished in accord with the State of Maine Natural Resources Protection Act, 38 MRSA, as amended. For stream crossings in conjunction with timber harvesting, see paragraph W., Section X. **PERFORMANCE STANDARDS.**
  7. **Lot Coverage.** The total area of all structures, parking and other nonvegetated surfaces, within a Shoreland Zone, as defined, shall not exceed 20% of the lot, or portion thereof, located within the Shoreland Zone.
- B. Natural Resource Protection Zone.** The Natural Resource Protection Zone includes areas in which development and certain uses would adversely affect water quality, productive wildlife habitat, biological ecosystems, or scenic and natural values.
1. **Purpose.** To protect surface water drinking quality and reduce the potential for pollution of drinking water; to preserve and buffer fragile natural fish and wildlife habitat and breeding areas; to preserve natural habitat for known endangered plant and wildlife species; to preserve and maintain specific natural scenic and aesthetic areas in support of rural character; and to prevent excessive human intrusion into environmentally sensitive wetlands.
  2. **Permitted Uses.** The following uses will be permitted in a Natural Resource Protection Zone:
    - Hunting, fishing, trapping
    - Hiking, cross-country skiing
    - Open-space recreation not involving structures or motorized vehicles other than snowmobiles on pre-existing defined trails.
    - Signs necessary for approved open space recreation, public safety, sale of property, and habitat preservation
    - Maintenance of existing roads, trails, and stream crossings
  3. **Conditional Uses.** The following uses may be allowed only upon approval of the Planning Board in accordance with the provisions of Section XIII. **CONDITIONAL USE:**
    - New trails and stream crossings
    - Timber harvesting and vegetative clearing (see also Section X.)
    - Signs other than those specifically prohibited
    - Agriculture, fisheries, and wildlife habitat enhancement
  4. **Prohibited Uses.** Uses not specifically allowed as Permitted or Conditional Uses are prohibited.
  5. **Dimensional Requirements.**
    - a. Minimum Lot Size: 70,000 square feet (approximately 1½ acres)
    - b. Minimum Lot Frontage:
      - 200 feet roadway frontage

- 200 feet shoreline frontage
6. **Performance Standards.** In addition to any other requirements of this Ordinance, Permitted and Conditional Uses shall also meet the requirements of all applicable land use and performance standards as contained in Section X. PERFORMANCE STANDARDS.
- C. **Limited Residential Zone.** Unless otherwise dimensioned on the Sweden Zoning Map, this Zone shall include those shoreland areas (not designated Natural Resource Protection) on Keyes Pond to a distance of 600 feet from the normal high-water mark, and on Stearns Pond, Moose Pond and Webber Pond to a distance of 250 feet from the normal high-water mark.
1. **Purpose.** To designate residential-recreational development areas on Sweden's ponds which can sustain more intensive land uses than in the Natural Resource Protection Zone, but require less intensive land uses than permitted in the Residential Zone; and to preserve and maintain rural-residential character, as much as possible around the populated ponds.
  2. **Permitted Uses.** The following uses will be permitted in the Limited Residential Zone:
    - All permitted and Conditional Uses allowed in the Natural Resource Protection Zone
    - Single family dwellings or single manufactured homes
    - Private garages or other private accessory structures for use in connection with the principal residential use on the same premises or for private (non-commercial) use on separate premises
    - Farm, garden or agricultural uses
    - Sales of agricultural products raised on the premises if sales stand is less than 150 square feet
    - Timber harvesting and vegetative clearing (see also Section X.)
    - Home occupations not requiring a Conditional Use Permit
    - One recreational vehicle per lot
    - Piers and docks not requiring a Conditional Use Permit
  3. **Conditional Uses.** The following uses may be allowed only upon approval of the Planning Board in accordance with the provisions of Section XIII. CONDITIONAL USE:
    - Municipal use and public utilities
    - Educational use
    - Church or day nursery
    - Home occupations requiring a Conditional Use Permit
    - Road construction
    - Mineral exploration/extraction
    - Cluster housing
    - Piers and docks requiring a Conditional Use Permit
    - Organized recreational/educational camps
  4. **Prohibited Uses.** Uses not specifically allowed as Permitted or Conditional Uses are prohibited.
  5. **Dimensional Requirements.**
    - a. Minimum Lot Size: 70,000 square feet (approximately 1½ acres)

- b. Minimum Lot Frontage:
    - o 200 feet roadway frontage
    - o 200 feet shoreline frontage
  - c. Structure Setbacks:
    - o 75 feet from roadway centerline.
    - o 100 feet (at all points) from high-water line of a great pond; 75 feet (at all points) from a stream or upland edge of a wetland.
    - o Height of structure from rear and side lot lines, but not less than 30 feet.
6. **Performance Standards.** In addition to any other requirements of this Ordinance, Permitted and Conditional Uses allowed shall also meet the requirements of all applicable land use and performance standards as contained in Section X. PERFORMANCE STANDARDS.
- D. Residential Zone.** The Residential Zone includes all areas, not otherwise delineated as a Zone on the Sweden Zoning Map, suitable for residential development as well as recreational, agricultural, and home occupation uses.
1. **Purpose.** To provide a less restrictive area for residential development and other compatible land uses than the other designated Zones; and to preserve and maintain rural-residential character, as much as possible, along the major public roadways.
  2. **Permitted Uses.** The following uses will be permitted in the Residential Zone.
    - o All permitted uses allowed in the Natural Resource Protection Zone and Limited Residential Zone
    - o Yard, garage, barn and tag sales, if no more than four days per month
  3. **Conditional Uses.** The following uses may be allowed only upon approval of the Planning Board in accordance with the provisions of Section XIII. CONDITIONAL USE:
    - o Municipal use and public utilities
    - o Educational use
    - o Church or day nursery
    - o Home occupations requiring a Conditional Use Permit
    - o Road construction
    - o Mineral exploration/extraction
    - o Cluster housing
    - o Multi-family dwellings
    - o Mobile Home Parks. (See Section X. G.)
  4. **Prohibited Uses.** Uses not specifically allowed as Permitted or Conditional Uses are prohibited.
  5. **Dimensional Requirements:**
    - a. Minimum Lot Size: 70,000 square feet (approximately 1½ acre)
    - b. Minimum Lot Frontage:
      - o 150 feet roadway frontage
      - o 200 feet shoreline frontage
    - c. Structure Setbacks:

- 75 feet from roadway centerline
  - 100 feet (at all points) from high-water line of a great pond or river; 75 feet (at all points) from a stream or upland edge of a wetland
  - Height of structure from rear and side lot lines, but not less than 30 feet
6. **Performance Standards.** In addition to any other requirements of this Ordinance, Permitted and Conditional Uses allowed shall also meet the requirements of all applicable land use and performance standards as contained in Section X. PERFORMANCE STANDARDS.
- E. Rural Preservation Zone.** The Rural Preservation Zone includes the predominantly undeveloped lands, as designated on the Sweden Zoning Map, generally situated in those areas least accessible to public or private roadways.
1. **Purpose:** To maintain Sweden's rural character and natural scenic beauty; to encourage preservation of existing larger open spaces and forest conservation areas; to ensure significantly less intensive residential development and land uses than in the Residential and Limited Residential Zones; and to reduce development pressures upon certain of the Town's environmentally sensitive areas.
  2. **Permitted Uses:** All Permitted Uses allowed in the Natural Resource Protection Zone, Limited Residential Zone and Residential Zone.
  3. **Conditional Uses:** All uses listed under Conditional Uses in the Natural Resource Protection Zone, Limited Residential Zone and Residential Zone upon approval of the Planning Board in accordance with the provisions of Section XIII. CONDITIONAL USE, *except* mobile home parks.
  4. **Prohibited Uses.** Uses not specifically allowed as Permitted Uses or Conditional Uses are prohibited.
  5. **Dimensional Requirements.**
    - a. Minimum Lot Size: 220,000 square feet (approximately five acres)
    - b. Minimum Lot Frontage:
      - 300 feet roadway frontage
      - 200 feet shoreline frontage
    - c. Structure Setbacks:
      - 125 feet from roadway centerline
      - 100 feet from high-water line of a great pond or river; 75 feet from a stream or upland edge of a wetland
      - Height of structure from rear and side lot lines, but not less than 30 feet
  6. **Performance Standards.** In addition to any other requirements of this Ordinance, Permitted and Conditional Uses allowed shall also meet the requirements of all applicable land use and performance standards as contained in Section X. PERFORMANCE STANDARDS.
  7. **Major and Minor Subdivisions.** Any plans for major or minor subdivisions, in addition to meeting all other requirements of Sweden's Subdivision Regulations, shall incorporate clustering of individual lots/dwelling units, in accordance with the provisions for cluster development in Section X.
- F. Aquifer Protection District (Overlay District)** This District contains those lands covering significant sand or gravel aquifers identified on the Maine Geological Survey Sand and

Gravel Aquifer Map, as delineated on the Sweden Zoning Map. Land use criteria of the underlying Zone apply, except that the Aquifer Protection District land use criteria will prevail when the latter are more restrictive.

1. **Purpose.** To prevent destruction or pollution of Sweden's identified sand and gravel aquifers; and to minimize the detrimental effect of development and land use in areas overlying the aquifer.
2. **Permitted Uses.** All Permitted Uses allowed in the underlying zone are allowed except:
  - Open space off-road recreational activities involving motorized vehicles, other than the use of snowmobiles on existing trails.
  - Agriculture
3. **Conditional Uses.** All Conditional Uses allowed in the underlying zone may be allowed only upon approval of the Planning Board in accordance with the provisions of Section XIII. CONDITIONAL USE. In addition, the following require a Conditional Use Permit:
  - Agriculture
  - Spread of chemical fertilizer, herbicides, pesticides, and manure beyond that reasonably associated with home lawn and garden care
4. **Prohibited Uses.** The following uses are prohibited:
  - All uses not specifically allowed as Permitted or Conditional Uses
  - Disposal or storage of solid waste, hazardous wastes, and leachable materials except for inside storage of materials accessory to a Permitted or approved Conditional Use
  - Application of road salt on roadways, except Route 93, Knight's Hill Road, and Smart's Hill Road
  - Any activity involving the application or use of hazardous materials other than normal household use for lawn and garden
  - Aerial spraying of herbicides and pesticides
  - Mineral exploration/extraction
5. **Dimensional Requirements:**
  - a. Minimum Lot Size: 135,000 square feet (approximately three acres)
  - b. Minimum Lot Frontage: same as underlying Zone
  - c. Structure Setbacks: same as underlying Zone
6. **Performance Standards:** same as for the underlying Zone, except as specified above. In addition a nitrate study is required prior to any development and/or construction.

**G. Stream Protection District (Overlay District)** The Stream Protection District includes all land areas within 75 feet, horizontal distance, of the normal high water line of all non-intermittent streams appearing on the USGS Topographic Map, scale 1:24,000, exclusive of those areas within 250 feet of the normal high water line of a great pond, or within 250 feet of the upland edge of a freshwater wetland. Where streams are located within 250 feet of the above water bodies or wetlands, the standards for the district adjacent to that water body or wetland shall apply.

1. **Purpose.** To protect surface waters, reduce the potential for pollution of drinking waters, preserve and protect fish and wildlife habitat and breeding areas, and minimize the detrimental effect of development and land use in areas adjacent to streams.
2. **Permitted Uses.** All Permitted Uses allowed in the underlying zone are allowed *except*:

- Buildings or structures of any kind, other than those minimum stream crossing structures necessary for appropriate property access, trails, and timber harvesting activities
  - Home occupations
  - Recreational Vehicles
3. **Conditional Uses.** All Conditional Uses allowed in the underlying zone may be allowed only upon approval of the Planning Board in accordance with the provisions of Section XIII. CONDITIONAL USE, *except*:
    - Buildings or structures of any kind
    - Home occupations
    - Mineral exploration/extraction
  4. **Prohibited Uses.** Uses not specifically allowed as permitted or Conditional Uses are prohibited.
  5. **Dimensional Requirements.** Same as for underlying zone.
  6. **Performance Standards.** Same as for underlying zone.

**H. Forest Conservation District (Overlay District).** The Forest Conservation District is configured as a floating overlay district comprised of separate important forest parcels (of at least ten acres) of the Residential, Rural Preservation, and Natural Resource Protection Zones, voluntarily joined by participating property owners. Such tracts are agreed to be held and managed as long-term timber stands, suitable for future sustainable timber harvesting and enhanced preservation of rural character until such time as voluntarily withdrawn from the District. The District may include parcels such as formal land trusts, conservation easements, conservation-specific deed covenants, and those enrolled in the Maine State Tree Growth Program.

1. **Purpose.** To encourage and acknowledge stewardship and protection of certain identified and available forest resource lands for: future long-term forest conservation and sustainable forestry management; preservation of wildlife habitat, scenic vistas, and other natural aesthetic qualities; providing opportunities for minimally-intrusive outdoor recreation; and establishing a core anchor for Sweden's rural character.
2. **Uses.** Permitted, Conditional, and Prohibited uses, to include associated performance standards for the underlying zone.
3. **Management.** Forest Conservation management and sustainable harvesting remains the responsibility of respective individual landowners, in accord with any former agreements, and subject to all provisions of the Sweden Zoning and Land Use Ordinance.

## IX. NON-CONFORMANCE

### A. General.

1. **Purpose:** It is the intent of this Ordinance to promote land use conformities, except that any use of land, or any building, structure or parts thereof, legally existing at the time of the adoption of this Ordinance, or at the time a Zone is changed by amendment hereafter, that does not conform to the use requirements of this Ordinance or its amendments may continue, subject to the requirements set forth in this section.
2. **Transfer of Ownership:** Ownership of lots, structures and uses which remain lawful but become non-conforming by the adoption or amendment of this Ordinance 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.

### B. Non-Conforming Uses

1. **Non-Conforming Use Defined:** A non-conforming use is any use of building, structures, premises, land or parts thereof which is not permitted within the zone 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.
2. **Resumption Prohibited:** A building or structure in which a non-conforming use is discontinued for a period of time exceeding one year, or which is superceded by a conforming use, may not again be devoted to a non-conforming use.
3. **Non-Conforming Use of Part of a Building:** A non-conforming use of part of a building or structure shall not be extended throughout other parts of the building or structure unless those parts of the building or structure were arranged or designed for such use prior to the adoption of this Ordinance, or of any amendment making such use non-conforming.
4. **Non-Conforming Use of a Building or Structure:** A building or structure, non-conforming as to use, shall not be enlarged unless such building or structure, including such addition or enlargement, is made to conform to all the use requirements of the zone in which it is located.
5. **Non-Conforming Use of Land:** A non-conforming use of land may not be extended into any part of the remainder of a lot of land except as otherwise provided in this Ordinance. An existing, non-conforming use may be changed to another non-conforming use provided that the proposed use can be documented to be equally or more conforming to the Zone than the existing, non-conforming use; and the impact on adjacent properties and resources is less adverse than the impact of the former use as determined by the Sweden Board of Appeals. In the case of earth removal operations, the removal of earth may not be extended as a non-conforming use beyond the required setback lines of the specific parcel upon which such operations were in progress when such use became non-conforming. Adjacent parcels in the same or different ownership shall not be eligible for exemption under the non-conforming use provisions unless earth removal operations were in progress on these parcels before these provisions were enacted.

### C. Non-Conforming Structures

1. **Non-Conforming Structure Defined:** A non-conforming structure is any structure that does not meet the dimensional requirements of setback or height required by this

Ordinance, but is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

2. **Maintenance Permitted:** A non-conforming structure or building may be maintained or repaired as part of normal upkeep, but no structural alterations or structure expansion shall be made except those required or permitted by law or this Ordinance.
3. **Enlargements Controlled:** A building or structure non-conforming as to any setback requirements shall not be added to or enlarged unless such addition or enlargement conforms to all the regulations of the zone in which it is located and does not increase the extent of non-conformity, except as provided below as determined by the Code Enforcement Officer.
  - a. The addition of an open patio with no structures elevated above ground level shall not constitute the expansion of a non-conforming structure; however, within the shoreland setback area, no totally impervious patio surfaces may be constructed. The addition of steps to or the enclosure of an existing roofed-over porch shall not constitute the expansion of a non-conforming structure; but, the addition of a deck, or the enclosure of an existing deck, does constitute the expansion of a non-conforming structure.
  - b. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in paragraph 4 below. If the completed foundation does not extend beyond the exterior dimensions of the structure except for expansions in conformity with Section IX-C.3.c below, and the foundation does not cause the structure to be elevated by more than three 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. However, if the dwelling increases the number of bedrooms as the result of the foundation, the construction is considered an expansion of habitable space and shall be subject to the State Plumbing Laws requiring new soils documentation.
  - c. Over the lifetime of the structure, any portion of a structure that does not meet the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by 30% or more, of that portion in existence on January 1, 1989, provided that:
    - (1) The applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (latest revision), or that a new system can be installed in compliance with the law and said Rules;
    - (2) The dwelling shall not be expanded toward the water body or upland edge of a wetland; and
    - (3) There will be no increase in phosphorus export to the water body or wetland, in accordance with DEP manual Phosphorus Control in Lake Watersheds.
  - d. An existing structure non-conforming as to the required setback from a roadway centerline, or side/rear lot line, may be expanded in floor area or volume provided that no portion of the expansion shall be closer than 50 feet to the roadway centerline,

or closer than 20 feet (or height of the structure whichever is greater) to the side/rear lot line respectively.

**4. Relocation.**

a. 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 provided that phosphorus export will not be increased in accordance with DEP manual Phosphorus Control in Lake Watersheds, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming. In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

b. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

(1) Trees removed in order to relocate a structure must be replaced with at least one native tree, three feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

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

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

**5. Reconstruction or Replacement.** Any non-conforming building that is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that: a permit is obtained within 18 months of the date of said damage, destruction, or removal; such reconstruction or replacement shall not enlarge the size or change the nature of the prior non-conforming building or structure unless all such enlargements or changes conform to the provisions of this Ordinance; phosphorus export will not be increased in accordance with the DEP manual, Phosphorus Control in Lake

Watersheds; and, if the structure was located within the required shoreline setback area, such reconstruction or replacement is in compliance with the waterbody, tributary stream, or wetland setback requirement to the greatest practical extent as determined by the Planning Board 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 does not meet the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section IX-C.3 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 IX-C.4 above. Nothing in this section shall prevent the demolition of the remains of any building so damaged or destroyed. In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent the Planning Board shall consider, in addition to the criteria in paragraph 4 above, the physical condition and type of foundation present, if any. Any non-conforming structure which is removed, damaged or destroyed, regardless of cause, by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place, without expansion, with a permit from the Code Enforcement Officer, within one year of such damage, destruction, or removal.

6. **Discontinuance of Use.** Discontinuance of the use of a legally existing, non-conforming structure shall not constitute the abandonment of the structure. Conforming use of the structure may be revived at any time.

#### **D. Non-Conforming Lots**

1. **Non-Conforming Lots Defined:** A non-conforming lot is a single lot of record which, on the effective date of adoption of or amendment to this Ordinance, does not meet the area, frontage, width or depth requirements of the zone in which it is located.
2. **Vacant Lots:** A non-conforming vacant lot may be built upon without the need for 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 size and frontage can be met. Variances relating to setback or other requirements not involving area or frontage shall be obtained only by action of the Sweden Board of Appeals.
3. **Built Lots:** Structures built upon a non-conforming lot prior to the enactment or subsequent amendment of this Ordinance may be repaired, maintained or improved, and may be enlarged if in conformity with all dimensional requirements of this Ordinance except lot area, lot width or lot frontage. If the proposed enlargement of the structure(s) cannot meet the other dimensional requirements of this Ordinance, a variance must be obtained from the Sweden Board of Appeals in accordance with the provisions of this Ordinance.
4. **Contiguous Built Lots.** If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of the adoption of this Ordinance, 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 and Subsurface Wastewater Disposal Rules are complied with.

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

5. **Contiguous Lots - Vacant or Partially Built:** If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, 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.
- E. **Vested Rights.** Non-conforming use rights cannot arise by the mere filing of a notice of intent to build, an application for Planning Board subdivision approval, an application for required building permits, or an application for required state permits and approvals. Such rights arise only when actual construction has begun. Such construction must be legal at the time it is commenced and must be in possession of and in compliance with all validly issued permits, both state and local.

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## X. PERFORMANCE STANDARDS

### A. Agriculture

1. All spreading or disposal 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 MRSA sections 4201-4209).
2. Agricultural and animal husbandry practices shall be conducted to minimize soil erosion, sedimentation, contamination, and nutrient enrichments of ground and surface waters. 100 feet horizontal distance of the normal high-water mark of a great pond, or 75 feet horizontal distance of tributary streams and wetlands.
3. Aerial or motorized spraying of insecticides, herbicides, or pesticides over more than one acre shall be conducted so as to prevent drift to adjacent properties and water bodies, contamination of any dwelling areas, or pollution of public ways. Notification to the Town of Sweden and any abutting dwellers will be made prior to spraying. There shall be no aerial or motorized spraying of insecticides, herbicides, or pesticides within 100 feet of a great pond or within 75 feet of other water bodies, tributary streams, or wetlands.
4. Manure shall not be stored, spread, or stockpiled within 100 feet of a great pond or within 75 feet of other water bodies, tributary streams, or wetlands.

**B. Cluster Developments.** The primary purpose of this provision is to allow for new and imaginative concepts in housing developments that will help achieve the goal outlined in the 2004 Comprehensive Plan of retaining the rural character of the town. The basic principle of cluster development is the grouping of new homes onto a part of a development parcel so that the remainder can be preserved as open space, (i.e., as pastures, fields, farmlands and woodlands for the use and enjoyment of present and future generations). To accomplish this, the Planning Board is authorized to modify downward the minimum lot size required in approved cluster subdivisions. It is required, however, that the number of lots in a cluster development be no greater than that permitted in a normal subdivision in the Zone in which it is located. Listed below are criteria related to cluster developments. Additional information will be found in the Town's Subdivision Review Standards.

1. Cluster developments shall meet all requirements for a subdivision, including the road acceptance standards and all other applicable town ordinances.
2. In subdivisions of 10 acres or more, house lots and access roads shall not cover more than 50% of the parcel's net buildable area. Unbuildable areas such as wetlands, existing roadways, designated natural resource protection areas, water bodies, streams and floodplains are excluded from this calculation.
3. Minimum lot size, road frontage, and roadway centerline setback in specific zones may be modified downward upon adoption of a cluster subdivision as approved by the Planning Board.
4. Where cluster developments abut a body of water, at least 50% of the shoreline, as well as reasonable access to it, shall be included in the common land. In such instances, performance standards for "Shorefront Common Areas" must be met. In no case shall shore frontage be reduced below the minimum shore frontage normally required in the Zone.
5. Unless specifically approved by the Planning Board as compatible with the surrounding rural character of the area, all cluster plans shall consist of only detached, single family homes, each set on its own individual lot. If multi-family dwellings are approved, no more than five units per building structure are permitted.

6. Natural buffer strips of at least 100 feet shall be permanently deeded and maintained between the clustered housing area and abutting properties, as well as along the public roadway frontage abutting, or contained within, the subdivision.
7. Common open space shall be dedicated upon approval of the project as a separate lot of record. There shall be no further subdivision of this land, which shall be used only for non-commercial recreation, agriculture or conservation. However, easements for public utilities, or structures accessory to non-commercial recreation, agriculture or conservation may be permitted.
8. The common open space shall be shown on the development plan and with appropriate notation on the face thereof to indicate that the common space shall not be used as future building lots.
9. All common open space for recreational or conservation purposes shall be:
  - a. Owned jointly or in common by the owners of the building lots; or
  - b. Owned by a trust or association which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or
  - c. Owned by the Municipality for control and access.

In each of the above, appropriate deeds, trust easements, covenants or other legal instruments necessary to define the ownership and control of, and responsibility for, the common open space must be presented to and approved by the Planning Board.
10. Unless it can be proven to the satisfaction of the Planning Board that each lot of the cluster development can support an individual water supply system and an individual septic system, a common water supply and distribution system and a centralized waste disposal collection and treatment system will be required, at no expense to the Municipality, and in accordance with the sanitary provisions of this Ordinance.
11. Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography and natural drainage areas in accordance with an overall plan for site development.
12. Where the subdivision abuts or contains an existing or proposed public roadway, no residential lot may have vehicular access directly onto the public roadway. A common entrance/exit access road(s) will be provided for all lots.
13. Utilities must be installed underground wherever possible. Transformer boxes, pumping stations, and meters must be located so as not to be unsightly or hazardous to the public.

#### **C. Elevation of Buildings in Flood Hazard Areas**

See separate Floodplain Management Ordinance, Sweden, Maine, adopted March 2009.

#### **D. Erosion and Sedimentation Control**

1. All activities that involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. 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. 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. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
3. 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.
4. Any exposed ground area shall be temporarily or permanently stabilized within one 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 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 bale per 500 square feet and shall be maintained until a catch of vegetation is established.
  - b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
  - c. Additional measures shall be taken where necessary in order to minimize siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
5. The Code Enforcement Officer is empowered to inspect and identify any existing source of erosion or sedimentation that has the potential to deliver soils or sediment to any water body protected by this Ordinance. Any such sources shall be immediately stabilized to temporarily prevent such erosion and sedimentation. Following temporary stabilization, which must be accomplished within one week of notice of violation, an erosion and sedimentation control plan and maintenance provisions shall be submitted for review within thirty days of notice of violation. The erosion stabilization plan shall demonstrate that the requirements of this Ordinance will be met. The erosion stabilization plan shall be completed within two years of notice of violation.

#### **E. Historical Sites and Structures**

1. Historic sites and structures include man-made structure foundations, stone walls, Town boundary markers, cemeteries, and all buildings over 75 years old. Whether complete, remnants thereof, or in good or poor repair, these are important and irreplaceable features of Sweden's past history and are artifacts of increasing historical value. Their preservation and continued maintenance significantly contribute to the overall aesthetic and rural character of the Town and provide tangible historical evidence.
2. Under no circumstances will stone walls/stone wall traces that define Town boundary lines, cemeteries, or public roads; Town boundary markers; and cemeteries (to include walls, steps, gates and gateways, signs, and individual/group tomb markers) be defaced, dismantled, disrupted, destroyed or removed. Any maintenance, improvement, and/or alteration of these items requires official approval of the Town Selectmen.
3. In order to allow time for the Sweden Historical Society to determine any possible alternatives for preservation and/or salvage of materials (e.g., sale, gift, removal and relocation, in part or total, etc.) it is required that notification be made in writing to the Planning Board at least 60 days prior to any planned destruction, dismantling, or covering over of historic buildings, foundations or stone walls.

4. Under no circumstances will any area with historical and archaeological resource potential as designated by the Maine Historical Preservation Commission (MHPC) be altered or improved without 60-days prior written notice to the Planning Board.
5. The Planning Board and Code Enforcement Officer will seek MHPC verification, survey coordination, and advice prior to any formal subdivision review or issuance of building permits within MHPC-designated historical or archaeological resource potential areas.
6. Wherever possible, shape lot boundary lines along existing stone walls or remnants of walls, in such a manner as to maximize future potential aesthetic landscaping possibilities of all stone walls on the property.

#### **F. Home Occupations**

1. Home Occupations are allowed provided they are carried out by the occupant of the dwelling unit located on the premises. Such occupations are allowed to be carried out in a dwelling unit, a structure accessory to a dwelling unit on the same premises, or on immediately adjacent grounds to the dwelling unit on the same premises. The use shall be clearly incidental to, secondary to, and compatible with the residential use of the property and surrounding residential uses. Where a Home Occupation requires a Conditional Use Permit, as noted below, such a Permit may be issued with such conditions as the Planning Board may require in order to preserve property values and the rural-residential character of the Town.
2. Home Occupations do not require a Conditional Use Permit if they:
  - a. Do not employ any persons outside of the immediate family of the resident occupant;
  - b. Do not display any exterior signs, exterior exhibits, exterior storage of materials, or any other exterior indications of the home occupation that vary from the residential character of the principal dwelling or accessory building; and
  - c. Do not generate any nuisance, waste discharge, offensive noise, vibration, smoke, dust, odors, heat, glare, radiation, fumes, or electrical interference that is detectable to the normal senses, causes interference with normal radio or television reception, or causes other nuisances that extend beyond the limits of the subject property.
  - d. Are not likely to generate a significant increase in regular daily or seasonal traffic.
3. Home Occupations that do not conform with paragraph 2 above, require a Conditional Use Permit, and:
  - a. Shall not employ more than four persons who are not residents of the subject property; and
  - b. Shall not display exterior signs, exterior exhibits, or exterior storage of materials which do not meet the requirements of this Ordinance; and
  - c. Shall not utilize equipment or processes which create any waste discharge, offensive noise, vibrations, smoke, dust, odors, heat, glare, radiation, fumes, electrical interference detectable to the normal senses or which interfere with normal radio or television reception, or cause any other nuisances which extend beyond the limits of the subject property; and
  - d. Shall not be likely to generate traffic exceeding an average of 10 vehicles (20 vehicle trips) during the course of an average day when the premises are open for business; and
  - e. Shall provide sufficient off-road parking space within 100 feet of the premises for customer use without creating any traffic or safety hazards; and

- f. Shall screen or locate all materials stored outdoors so that there is no exterior evidence of the home occupation except for signs or displays in keeping with the requirements of this Ordinance.
  - g. Home occupations (such as, but not limited to, vehicle, engine and motor repair; bed and breakfast facilities; professional offices; day care facilities (not exceeding a capacity of 10 persons); and similar uses) may be granted a Conditional Use Permit which allows up to a 50% increase in the number of non-resident employees and vehicles and vehicle trips if it is determined that such use will not change the rural-residential character of the Town or depreciate the property values of adjacent or nearby properties. Any Conditional Uses allowed under this paragraph shall also conform to any and all Maine State laws governing the use or operation of such facilities. If possible, any necessary state license or permit shall be obtained prior to any action by the Planning Board on the proposed use. The receipt of a State Permit is not a guarantee that a Conditional Permit will be granted by the Sweden Planning Board.
  - h. The permit is automatically terminated with any change in the use of the property, change in ownership of the property, or change in occupancy of the property.
4. Yard Sales (including garage/barn/tag sales, etc.) shall not be considered to be Home Occupations, and therefore do not require a Conditional Use Permit, provided that no more than four days of such sales are conducted on the same premises during any 30-day period.
  5. The sale of farm produce raised on the premises shall not be classified as a Home Occupation requiring a Conditional Use Permit unless a sales stand exceeding 150 square feet in floor area is to be used on the premises.

### **G. Manufactured Housing**

1. **Single Site.** Manufactured housing on a single lot shall meet all of the requirements of this Ordinance for single family dwellings, to include 600 square feet of habitable ground floor living space as required in the Sweden Building Code, and also meet any current State or National standards.
2. **Manufactured Housing Parks (Mobile Home Parks).** Mobile home parks are a Conditional Use in the Residential Zone (see paragraph VIII.D.3). Mobile home parks are subject to Sweden Subdivision Regulations except for the following State Regulations which take precedence:
  - a. The minimum lot size for mobile homes in a park that has individual on-site subsurface wastewater disposal systems is 20,000 square feet.
  - b. The minimum lot size for mobile homes in a park served by a central on-site subsurface waste water disposal system approved by the Department of Human Services is 12,000 square feet; however, the over-all density of the park will be no greater than 20,000 square feet per home.
  - c. A buffer strip of 50 feet in width is required along all park boundaries that abut adjacent lots, if the over-all density exceeds twice the density permitted in the Zone in which the park is located.
  - d. Mobile homes adjacent to a public roadway will meet the roadway setback established for the underlying Zone.
  - e. No development or subdivision which is approved as a mobile home park may be converted to another use without the approval of the Planning Board, and meeting the

appropriate lot size, lot width, setback and other requirements. The plan to be recorded at the Registry of Deeds and filed with the Municipality shall include the following restrictions as well as any other notes or conditions of approval.

- (1) The land within the park shall remain in a unified ownership, and the fee to lots or portions of lots shall not be transferred.
- (2) No dwelling unit other than a manufactured housing unit shall be located within the park.

## **H. Mineral Exploration and Extraction**

### **1. Mineral Exploration**

- a. A permit is not required for mineral exploration accomplished by hand sampling, test boring, or other methods which create minimal disturbance on less than 100 square feet of ground surface in the Shoreland Zone or 500 square feet of ground surface in other zones where permitted.
- b. A Conditional Use Permit shall be required for any mineral exploration that exceeds the above limitations.
- c. All test holes and pits shall be immediately capped, filled, or secured to protect public health and safety.

### **2. Mineral Extraction**

- a. A permit is not required for removal or transfer of less than 750 cubic yards of loam, sand or gravel from one's own property for one's own personal use, on that property only, in any calendar year.
- b. All other earth removal, mineral extraction, processing and storage shall require a Conditional Use Permit in accord with appropriate provisions of this Ordinance.

### **3. Mineral Extraction Conditional Use Permit Requirements**

- a. A performance plan will be submitted per standards set forth in paragraph 4 below.
- b. The plan shall include:
  - (1) Property lines,
  - (2) Abutter names,
  - (3) Location and slope of grades (existing and proposed at completion)
  - (4) Details of proposed fencing, buffer strips, signs, lighting, and loading areas (where appropriate), and
  - (5) Method of proposed rehabilitation and restoration of the site upon completion of the operation.
- c. The Planning Board may request a hydrogeologic study to determine the effects of the proposed activity on groundwater movement within the general area.

### **4. Performance Standards:**

- a. No extraction within 150 feet of any shoreline or stream, 75 feet from the upland edge of a wetland and 75 feet from any property line or road right-of-way. Natural vegetation shall be left and maintained on the undisturbed land.
- b. Accumulated, standing water shall be fenced to protect children.
- c. No slopes steeper than 3:1 (three feet horizontal to one foot vertical) will be permitted unless a six- foot fence is erected
- d. Adequate insurance against liability shall be submitted prior to extraction.

- e. Topsoil shall be stripped and stockpiled for use in restoring after the operation has ceased.
- f. Sediments shall be trapped using accepted engineering methods (diversions, silting basins, terraces, etc.)
- g. The sides and bottoms of cuts, fills, channels, and artificial water courses shall be constructed and stabilized according to the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices* (published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March, 1991).
- h. Lagooning applications shall be submitted to State authorities prior to consideration by the Board.
- i. Hours of operation shall be limited as the Board deems advisable.
- j. All truck routes and methods shall be subject to approval by the Road Commissioner. No accumulation of debris shall be allowed on public roads.
- k. No equipment debris or junk shall be permitted on the site. Any temporary shelters or buildings shall be removed within 30 days following completion of activities.
- l. Within 6 months of completion of extraction operations, ground levels and grades shall be established in accordance with approved plans.

**5. Existing Operations**

- a. Any existing operation of mineral extraction in lawful operation at the time of approval of this section may operate for a period of five years without Planning Board approval, unless conditions to the contrary have been previously established by the Board. Existing operations however, must submit to the Board within 90 days of the effective date of this section, a map indicating the area within which extraction activity is anticipated within the five-year period. Failure to submit the above map within 90 days shall result in the loss of previous approval for that operation.
- b. Within 15 days of the effective date of this section, the Code Enforcement Officer shall notify, by certified mail, return receipt requested, the owners of all property which, to the best of his knowledge, contain existing operations, informing them of the requirements of this section.
- c. Discontinuation of any existing operation for a period of one year shall result in loss of previous approval for that operation. Discontinuation means the excavation, processing or storage of less than 10 cubic yards of material per year.

**I. Multi-Family Dwellings**

- 1. **Two-Family Dwellings.** A two-family dwelling is a building (including accessory structures to that building) used for residential occupancy by two families living independently of each other and shall meet the following criteria:
  - a. Lot area and shoreline frontage shall be equal to that required for an equivalent number of single-family dwellings.
  - b. Road frontage shall exceed by 50% the requirement for a single-family dwelling.
- 2. **Multi-Family Dwellings.** For the purpose of this document, a multi-family dwelling is a building used for residential occupancy by three or more families living independently of each other. Such dwellings shall meet the following criteria:

- a. Lot area and shoreline frontage shall be equal to that required for an equivalent number of single-family dwellings.
  - b. The minimum road frontage shall be 250 feet. An additional 25 feet of frontage shall be required for each unit over three.
  - c. No building shall contain more than five dwelling units.
  - d. All multi-family dwelling units shall be connected to a common water supply and distribution system at no expense to the municipality.
  - e. All multi-family dwelling units shall be connected to a central sewer system in accordance with the sanitary provisions of this ordinance.
  - f. A minimum of two parking spaces per dwelling unit shall be provided.
  - g. There shall be no more than two driveways accessing a multi-family dwelling from a public roadway.
- J. Nuclear Power Facilities.** Nuclear power facilities are prohibited in the Town of Sweden. Such facilities include any type of nuclear power generating facility; nuclear energy center; nuclear powered facility; nuclear fuel enrichment or reprocessing facility; and high/low level nuclear waste storage, transfer, or disposal facility.
- K. Off-Road Parking.** Parking areas shall meet the shoreline setback requirements for structures. Off-road parking space for each dwelling unit shall be provided in the amount of 300 square feet. Public parking space for permitted businesses shall be one space for each employee, and one space for each three people expected to be served. Such space may be accomplished by garage space, driveway space or parking lot.
- 1. **Loading - Unloading.** Where permitted or allowed, commercial uses shall provide, as necessary, off-road loading/unloading facilities located entirely on the same lot as the building or use to be served so that trucks, trailers and containers shall not be located for loading, unloading or storage upon any public roadway.
  - 2. **Landscape Buffering.** Required parking and loading spaces for nonresidential uses, where not enclosed within a building, shall be effectively screened from view by a continuous landscaped area not less than eight feet in width containing evergreen shrubs, trees, fences, walls or any combination thereof forming a visual barrier not less than six feet in height along exterior lot lines adjoining all residential properties, except that driveways shall be kept open to provide visibility for vehicles entering and leaving.
- L. Piers, Docks and Other Shoreland Construction**
- 1. **In a Natural Resource Protection Zone:** No permanent or temporary/floating structures (including but not limited to marinas, wharves, docks, or piers) shall be constructed in, on, over or abutting any great pond or stream.
  - 2. **In other than Natural Resource Protection Zones:**
    - a. Any permanent structure shall require a permit from the Department of Environmental Protection and a Conditional Use Permit from the Planning Board, if:
      - (1) It is to be constructed in, on, over or abutting any great pond; or
      - (2) Any fill is deposited or dredging is performed therein
    - b. Any new temporary/floating structure shall require a Conditional Use Permit if it:
      - (1) Extends more than 10 feet from the high water mark of a pond or a lake (or more than 10% of the width of a stream measured at normal high water elevation), or is wider than four feet; or

- (2) Has any permanent parts located between the banks of any stream or below the normal high water elevation of any lake or pond; or
- (3) Is constructed as part of any commercial use; or
- (4) Requires dredging, filling, draining, removing or displacing of any shoreland soils, sand, vegetation or other materials; or
- (5) Is located where navigation or recreational safety may be imperiled; or
- (6) Is to provide berthing for more than three watercraft, two of which are motorized; or
- (7) Increases the number of structures to more than one per each 100 feet of shoreline of the lot.

**3. Application for Conditional Use Permit:**

- a. For any proposed shoreland construction or alteration requiring a permit from the Department of Environmental Protection, a copy of said permit and all attachments thereto shall constitute the application to the Planning Board.
- b. For all other proposed shoreland construction, application to the Planning Board shall be made in accordance with Section XIII. CONDITIONAL USE.

**4. Conditions of Permit.** In addition to meeting the factors applicable to Conditional Uses, specified in the Section XIII. CONDITIONAL USE, the Planning Board may authorize the issuance of a permit providing the proposed structure and its attendant activity:

- a. Shall not adversely interfere with existing recreational and navigational uses and safety, nor unreasonably alter scenic and aesthetic qualities;
- b. Shall not pollute, interfere with, or harm the natural environs of any lake, pond, tributary, stream or river; or harm any fish or wildlife habitat;
- c. Shall not cause soil erosion or lower the quality of any waters;
- d. Shall not adversely alter the natural flow or storage capacity of any water body; and
- e. Shall not create or cause to be created unreasonable noise or traffic of any nature.
- f. Shall have access from the shore developed on soils appropriate for such use and constructed so as to control erosion.
- g. Shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use and character of the area.
- h. Is constructed in a location approved by the Code Enforcement Officer.

**M. Public Nuisances.** This Ordinance reflects the overwhelming desire of the residents of Sweden to maintain the rural character and natural beauty of their town as expressed in their approval of the Comprehensive Plan dated May 2004.

- 1. The following standards are consistent with the foregoing desire and should not be considered all-inclusive.
  - a. No more than two unregistered or uninspected motor vehicles shall be maintained on any property, and such vehicles shall not be visible from any public or private roadway or from any adjoining property.
  - b. No person shall store, use or dispose of any hazardous, toxic or noxious material in any way that may be dangerous or injurious to the public health or safety.
  - c. No person shall engage in activities which may cause undue disturbance to abutting property owners (abutters) due to unreasonable noise, smoke, vapor, fumes, odors,

glares, stormwater runoff which may destroy or erode property, or other similar conditions which may impinge upon the health, safety, comfort, peace and enjoyment of the community.

- d. No person shall establish a dump or a junkyard in the Town of Sweden.
2. Violations of this ordinance, as determined by the Code Enforcement Officer or upon written complaint of a Sweden resident(s), will be brought before the Planning Board and the Town Health Officer for disposition.

**N. Public Utilities.** Construction of new facilities and the extension or enlargement of present facilities, except for extending consumer services via distribution lines, requires a Conditional Use Permit in accordance with the rules and procedures of this Zoning Ordinance and compliance with the following additional provisions:

1. Evidence that such construction, extension, or enlargement is needed to serve the welfare of the residents of the Town of Sweden.
2. Evidence that such construction, extension, or enlargement cannot be provided by alternate routes, places, and types of construction.
3. Evidence that the proposed use conforms to the stated purpose of the Comprehensive Plan and Zoning Ordinance.

**O. Recreational Vehicles.** One recreational vehicle per lot is permitted in the Limited Residential, Residential and Rural Preservation Zones providing that the following conditions are met:

1. The recreational vehicle shall not be permanently connected to any form of public utility.
2. The recreational vehicle shall not be permanently connected to any type of subsurface waste disposal system; sewage must be dumped at a facility specifically designed and legally authorized for receipt of such sewage.
3. The recreational vehicle shall not be located on any type of foundation, and wheels must remain on the ground.
4. No structure(s) of any kind shall be attached to the recreational vehicle; and
5. If located in the Town of Sweden (except for storage adjacent to a primary residence) for a period in excess of 30 days per year, recreational vehicles shall require a permit issued by the Code Enforcement Officer in accordance with the provisions of this Ordinance, Section XI, paragraph D.
6. The recreational vehicle, in order to be considered a vehicle, and not a structure subject to the Building Code or Federal Manufactured Housing Standards, must be roadworthy and possess a current registration from any State Department of Motor Vehicles, as appropriate.
7. The recreational vehicle shall be utilized in a temporary recreational manner, consistent with its design, and in no way as a permanently located dwelling, occupied or unoccupied; and will be removed from the Town, (unless stored adjacent to a primary residence) upon completion of the temporary occupancy period.
8. The recreational vehicle shall be set back 100 feet from the normal high-water line of a great pond and 100 feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

## **P. Roads and Driveways**

1. Roads in a Shoreland Zone. The following standards established by the State shall apply to the construction and maintenance of roads and/or driveways and associated culverts and drainage systems, and other related features:
  - a. New roads and driveways shall be set back at least 100 feet from the normal high-water line of a great pond, and 75 feet from the upland edge of a wetland or stream unless no reasonable alternative exists as demonstrated by the applicant. If no reasonable alternative exists, the road or driveway shall be set back as far as is practicable, but no less than 50 feet. Upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. 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 20%, road and driveway setbacks shall be increased by 10 feet for each 5% increase in slope above 200 feet. This paragraph shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline due to an operational necessity.
  - b. Existing public roads may be expanded within an existing road right-of-way regardless of its setback from a water body or wetland.
  - c. New roads and driveways are not permitted within a Shoreland Zone along streams as described in the Definitions Section except:
    - (1) To provide access to structures or facilities already existing within the Zone; or
    - (2) In instances where the applicant demonstrated that no reasonable alternative route exists outside the Shoreland Zone. When roads must be located within the Shoreland Zone, they shall be set back as far as practicable from the normal high-water line of a body of water or upland edge of a wetland, and they must be screened from the water by existing vegetation.
  - d. Road or driveway banks shall be no steeper than a slope of two horizontal to one vertical and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section X.D. Erosion and Sedimentation Control.
  - e. Road or driveway grades shall be no greater than 10% except for short segments of less than 200 feet.
  - f. In order to prevent surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed and maintained to empty onto an unscarified buffer strip at least 50 feet, plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water lines of a water body, tributary stream, or upland edge of a wetland. Surface drainage that is directed to an unscarified buffer strip shall be diffused or spread out to permit infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
  - g. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips

before flow in the road, driveway, or ditches gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

(1) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along intervals no greater than indicated in the following table:

Road or Driveway Grade (%)	Spacing (feet)
0 - 2	250
3 - 5	200 - 135
6 - 10	100 - 80
11 - 15	80 - 60
16 - 20	60 - 45
21 +	40

(2) Drainage dips may be used in place of ditch relief culverts only where the road or driveway grade is 10% or less.

(3) On road or driveway sections having slopes greater than 10%, ditch relief culverts shall be placed at approximately a 30-degree angle downslope from a line perpendicular to the centerline of the road or driveway.

(4) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate material.

h. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads or driveways shall be maintained on a regular basis to assure effective functioning.

2. **Public Roads.** Any new public roads must meet the road design specifications listed in the approved Town of Sweden Subdivision Regulations. Contact will be maintained with Regional Transportation Advisory Committee – Region 6 (RTA-6) and the Maine Department of Transportation (MDOT) to address any issues.

3. **Private Ways or Roads.**

- a. All new driveways onto public roadways from private property require a no-fee permit from the Code Enforcement Officer.
- b. Private driveways that exit onto public roads must meet the visibility requirements for the speed zone in which they are located, as specified in the Town's Subdivision Review Regulations.
- c. Private roads or ways may not have to meet all of the standards set forth in the Subdivision Regulations, as determined by the Planning Board. However, such roads or ways will not be considered for acceptance as a public road or way by the Town of Sweden until all subdivision specifications are met.
- d. Responsibility for the maintenance of privately-built roads servicing approved subdivisions will not be undertaken by the town. Private roads will be privately maintained. In addition, all driveways serving more than one residence or lot shall have a road sign that conforms to the Performance Standards stated in Section X.S. Such signs shall be paid for by the property owner.

**Q. Sanitary Provisions.**

1. To promote health, safety and general welfare, and to protect ground waters and public and private water supplies from contamination or nutrient enrichments, all solid waste and subsurface sewage disposal systems shall be installed in conformance with the latest revision of the State of Maine Subsurface Wastewater Disposal Rules. All hazardous waste, industrial and septic sludge shall be handled and disposed of in an appropriate manner in accordance with current state regulations.
2. In addition to the standards contained in the Rules, the following provisions shall be met for the construction of wastewater disposal systems:
  - a. The use of holding tanks for a first-time residential use in the shoreland zone is prohibited.
  - b. The setback from the normal high-water mark of any great pond, river, stream, or the upland edge of a wetland for wastewater disposal systems shall be a minimum of 100 horizontal feet. This setback shall be increased to the most suitable location within the shoreland zone, as determined by a state-certified site evaluator. In making this determination, the evaluator shall consider soil suitability, runoff conditions, and existing land uses.
  - c. Any clearing or removal of woody vegetation necessary to site a new system, and any associated fill extensions, must extend no closer than 75 feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland.
  - d. Expansion of a structure that causes an increase in the volume of wastewater shall not be approved or begun unless it is demonstrated that the structure is, or can be, served by a system that complies with all provisions of this Section and the Rules.
  - e. When a new system is constructed on a lot, old systems that do not meet the standards contained in this Section shall be discontinued.

**R. Shorefront Common Areas.** Shorefront common areas as defined shall meet the following criteria:

1. The shorefront common area shall contain a minimum of two acres and a minimum of 200 feet of shoreline frontage.
2. The shorefront common area shall have a minimum of 25 feet of shoreline frontage for each residential dwelling unit/land owner that has access to the common area and for each right of use granted to the common area.
3. Use of common areas within a subdivision shall be limited to residential dwelling units/land owners contained within the contiguous subdivision property or property within the same ownership and not separated from the shorefront area by a public roadway.
4. Accommodations for motorized watercraft shall be limited to one craft for each 50 feet of shoreline frontage. This limit shall not apply to watercraft or transient visitors that remain at the common area for less than 24 hours.

**S. Signs**

1. **Billboards.** Billboards are prohibited.
2. **Signs Permitted:**
  - a. Name signs and signs indicating the existence of private property and forbidding trespass or other activities on the property.

- b. Public traffic and directional signs, and signs designating public or semi-public activities.
  - c. "For Sale", For Lease", or "Rental" signs erected on the premises.
  - d. Signs relating to goods and services sold on the premises, but not to exceed two signs per premises.
3. **No sign shall:**
- a. Exceed 16 square feet in area; or in the Natural resource Protection Zone, Limited Residential Zone and Stream Protection District exceed six square feet in area.
  - b. Have any visible moving or flashing parts.
  - c. Be located within five feet of a roadway line or any abutter's lot line.
  - d. Be placed in such a position as to endanger traffic or obscure the view.
  - e. Be erected or placed in the Town of Sweden that advertises a business not located in the Town of Sweden.
  - f. Extend higher than 20 feet above the ground.
4. **Road signs.**
- a. Size. Road signs shall consist of a nine-inch-high blade in lengths of 24, 30, 36, or 42 inches.
  - b. Materials. Blades shall be constructed of extruded aluminum with a 0.25-inch flange thickness and a 0.090-inch web or flat sheet aluminum with a minimum thickness of 0.125 inch. Other materials, such as fiberglass may be used if they achieve the same level of visibility and durability.
  - c. Colors. Road signs shall be reflectorized. The background color shall be green for town or public roads and blue for private roads. Lettering shall be white and reflective. Lettering shall be 6-inch high upper case and 4-inch-high lower case. Lettering shall conform to the standard alphabet for highway signs printed for the Federal Highway Administration. Conventional abbreviations are acceptable except for the road name itself.
  - d. Mounting. Road signs shall be mounted with top mounting brackets. Hardware for mounting signs to posts should be subsidiary to other items. The minimum vertical clearance shall be eight feet from ground to the bottom of the sign.
- T. Soils.** All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal shall require a soils report based on an on-site investigation and prepared by state-certified site evaluators. The report shall be based upon an analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data that the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.
- U. Storm Water Runoff.**
- 1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Storm drainage management and construction shall meet all applicable standards.

2. 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.
3. Storm water runoff systems shall be maintained as necessary to ensure proper functioning, and any resultant deposited materials shall be properly disposed of.

**V. Temporary Commercial Structures.** Temporary structures, erected or located, and used in conjunction with logging operations, construction or other activity of a commercial nature, shall require a temporary use permit from the Code Enforcement Officer at the minimum building permit fee, such permit to be issued for a limited period of 90 days. If additional time is required, the applicant may request the Code Enforcement Officer to renew the permit for an additional 90 days. Temporary structures may be placed on the location to suit the convenience of the operation provided that the following conditions shall be met:

1. When operations have ceased, all temporary structures and associated man-made discarded materials shall be removed from the area and disposed of in the proper manner.
2. Temporary structures used for human habitation shall meet all State and local codes and ordinances pertaining to minimum health and safety standards.

## **W. Timber Harvesting**

### **1. Public Roadway Entrance Permit**

- a. Permit required. All new entranceways onto public roadways from private property for the purposes of logging operations and/or "yard" access require a no-fee permit from the Code Enforcement Officer as approved by the Road Commissioner.
- b. No permit is required for continued use of existing entrance ways if constructed so as to provide continued proper drainage and erosion control, and prevent damage to roadway shoulders.

### **2. Harvesting procedures for all areas.**

- a. Harvesting activities shall conform to selective cutting of no more than 65% of the total volume of trees 4 inches or more in diameter, measured at 4½ feet above ground level, and shall not create single openings in the forest canopy greater than 220,000 square feet (approximately five acres), except in a Shoreland Zone where State laws apply as specified in paragraphs 3. and X. below. Larger single openings are permitted for agriculture, pasture, approved roads, and development, and for necessary clearance/salvage operations connected with disaster, blowdowns or disease infestation. Single openings for timber harvesting shall be separated from one-another and from any public roadway by a minimum 100-foot buffer consisting of a well-distributed stand of trees.
- b. In accordance with the Natural Resources Protection Act, a well-distributed stand of trees and woody vegetation shall be maintained along each side of all streams.
- c. All slash and brush resulting from the cutting of the forest growth shall not remain on the ground within 50 feet of a water body; within 50 feet of highways and roads; within 25 feet of electric power, telegraph, telephone and pipe lines; and within 25 feet of adjoining boundary lines.
- d. Harvesting operations shall be conducted in such a manner, and at such time, that minimal soil disturbance results. Adequate provision will be made to prevent soil erosion and significant sedimentation and siltation of streams. Timber harvesting equipment shall not use stream channels as travel routes except when surface waters

and land surfaces are frozen, and the activity will not result in any ground disturbance.

- e. Skid trails and skid road approaches to stream channels shall be located and designed so as to divert water runoff from the trail or road in order to prevent such runoff from directly entering the stream. All crossings of flowing water shall be in accord with the Natural Resources Protection Act, and 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. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
  - f. Where entrance to logging "yards" is from a Town right-of-way, upon completion of the logging operation, total restoration of the Town's right-of-way land to its original pre-operation state must be made in order to correct any damage to road shoulders, ensure continued proper drainage, and prevent future soil erosion.
  - g. For land on which timber harvesting is to be done, the property owner will be responsible for clearly marking the property line if cutting is to be done within 200 yards of the property line.
  - h. No person shall throw, drop, deposit, discard or otherwise dispose of litter upon any public or private property, or in water bodies, or on the ice over such water bodies.
  - i. Any chemical spraying to be conducted in connection with timber harvesting activities is prohibited in the Town of Sweden except for maintenance of cross-country high-power electric transmission line rights-of-way by Central Maine Power Company.
- 3. Timber Harvesting within a Shoreland Area.** Within the strip of land extending 75 feet inland from the normal high-water line in a shoreland area zoned for Natural Resource Protection abutting a great pond there shall be no timber harvesting except to remove safety hazards. In all other shoreland areas, timber harvesting shall conform to the following provisions.
- a. Selective cutting of no more than 40% of the total volume of trees four inches or more in diameter measured at 4½ feet above ground level on any lot in any 10-year period is permitted. In addition:
    - (1) Within 100 feet, horizontal distance, of the normal high-water line of a great pond or a river flowing to a great pond; and within 75 feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no cleared openings created greater than 250 square feet in area and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
    - (2) At distances greater than 100 feet, horizontal distance, of a great pond or a river flowing to a great pond, and greater than 75 feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single cleared openings greater than 10,000 square feet in the forest canopy. Where such openings exceed 5,000 square feet they shall be at least 100 feet apart. Such cleared openings shall be included in the calculation for total volume removal. For the purposes of these standards, volume may be considered to be equivalent to basal area.

- b. No accumulation of slash shall be left within 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 feet above the ground. Any debris that falls below the normal high-water line of a water body shall be removed.
- c. Timber harvesting equipment shall not use stream channels as travel routes except when surface waters and land surfaces are frozen, and the activity will not result in any ground disturbance.
- d. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds that are composed of gravel, rock or similar hard surface that would not be eroded or otherwise damaged.
- e. 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.
- f. 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 75 feet in width for slopes up to 10% 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 10% increase in slope, the unscarified strip shall be increased by 20 feet. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than 25 feet from the normal high-water line of a water body or upland edge of a wetland.

#### **X. Vegetative Clearing Within Shoreland Areas**

1. Within a shoreland area zoned for Natural Resource Protection abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards. Elsewhere, in any area zoned for Natural Resource Protection the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that area.
2. To prevent soil erosion and adverse water quality impact, tree and vegetative cutting in a strip paralleling the shoreline of a water body, tributary stream, or the upland edge of a wetland, and extending 100 feet inland from all points along the normal high water mark shall be limited in accordance with the following:
  - 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 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 the purposes of this section a "well-distributed stand of trees and other vegetation" shall be defined as maintaining a rating score of 12 or more in any 25-foot by 25-foot square (625 square feet) area as determined by the following rating system.

Diameter of tree at 4½ feet above ground level	Points
Less than 2 inches	0
2 to 4 inches	1
4 to 12 inches	2
12 inches or greater	4

- c. Notwithstanding the above provisions, no more than 40% of the total volume of trees four inches or more in diameter, measured at four and one-half feet above ground level may be removed in any ten-year period.
  - d. In order to protect water quality and wildlife habitat, existing vegetation less than three feet in height and all other ground cover, including leaf litter and the forest duff layer shall not be removed, cut or covered except to provide for a footpath as described above. In addition, at least three saplings less than two inches in diameter at 4½ feet above ground level must be retained for each 25-foot by 25-foot square area. If three saplings do not exist, no woody stems less than two inches in diameter can be removed until three saplings have been recruited into the plot.
  - e. Pruning of tree branches, on the bottom one-third of the tree is permitted.
  - f. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.
  - g. The provisions contained above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.
  - h. Cleared openings legally in existence may be maintained, but shall not be enlarged.
3. At distances greater than 100 feet, horizontal distance, from a great pond, or a river flowing to a great pond, and 75 feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, except to allow for the development of permitted uses, there shall be permitted on any lot, in any 10 year period, selective cutting of not more than 40% of the volume of trees four inches or more in diameter, measured 4½ feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the 40% calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area. 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 or 10,000 square feet, whichever is greater, including land previously developed.

**Y. Water Quality Protection.**

- 1. No activity shall result in the deposition on or into the ground, or discharge to the waters of the State, any pollutant that, by itself, or in combination with other activities or substances, will impair designated uses or the water classification of the water body.

2. The washing, bathing, or cleaning of humans, animals, or objects with soaps, detergents, or cleaning agents shall be prohibited in surface waters or in areas adjacent to surface waters if washwater can enter the surface water without absorption into the soils.
3. One of the following methods of phosphorus mitigation must be employed if the footprint of any structure is enlarged within the setback area.
  - a. The existing undisturbed natural wooded buffer strip between the structure and the water body shall be at least 50 feet in depth; or
  - b. A 50-foot natural wooded buffer strip shall be created by allowing a 50-foot strip to revert to natural vegetation. Woody vegetation shall be planted if lacking; or
  - c. An infiltration system designed to accommodate the runoff from the entire structure that would be generated by a 24-hour two-inch rainfall shall be constructed following approval of the Code Enforcement Officer.
4. Wells may be located within the setback area if all of the following provisions are met.
  - a. The access corridor for equipment does not exceed 20 feet in width and must follow any existing or proposed footpath. The Code Enforcement Officer may expand this 20-foot limit to the minimum extent needed where access is difficult.
  - b. All slag shall be removed from the ground, and no erosion or sedimentation shall enter any adjacent water body.
  - c. All areas not covered by the footpath shall be stabilized immediately and fully revegetated within nine months.
5. No provision of this Ordinance shall prohibit the revegetation or stabilization of a disturbed area if a stabilization plan is filed with, and approved by, the CEO. The use of fertilizer containing phosphorus within the buffer area is prohibited except as part of an approved stabilization plan.

**Z. Wireless Communication Facilities**

1. The following are exempt from the requirements stated in paragraphs 2 through 9 below:
  - a. Temporary wireless communication facilities for emergency communications by public officials.
  - b. Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).
  - c. Parabolic antennas less than seven feet in diameter that are an accessory use of the property.
  - d. Antennas that are accessory uses to a residential dwelling unit.
2. Communications towers and antennas are permitted as a conditional use only with the following exception. The placement of antennas and associated equipment onto an existing structure may be allowed without a conditional use permit (except in the Shoreland Zone) when they are designed to be incorporated into the architecture of new or existing buildings or into the fabric of other manmade or natural structures or features so as to be inconspicuous when viewed at any point beyond the limits of the host property.
3. The height of any communication tower shall not exceed the height of the existing vegetation surrounding the base of the tower without a radio frequency analysis prepared by a registered professional engineer indicating the proposed height is the minimum needed to provide reasonable service for the intended purposes. The maximum height of

any tower shall not exceed 190 feet. The height of an antenna shall be included in the total height limitation as allowed for a communications tower.

4. The tower shall be set back from all property lines a minimum of its height.
5. The tower shall not be lit.
6. The tower shall remain unpainted galvanized steel or be painted gray or silver.
7. At its base, the tower shall be no wider than four feet. No individual member of the tower may have a diameter or thickness larger than four inches.
8. The applicant shall present evidence to the Planning Board that there are no existing structures that may be used to support the antenna and associated equipment and provide an equivalent level of service as the proposed facility and tower.
9. Wireless communications facilities that have been abandoned or have remained unused for a period of six months shall be removed. The tower owner shall notify the Code Enforcement Officer on an annual basis regarding the status of the use of the tower. The tower, any associated building used only for sheltering communications equipment, and any fencing or other appurtenances shall be removed at such time as they have no longer been used for a period longer than six months. Prior to approval, the applicant shall submit a guarantee acceptable to the Town in an amount sufficient to pay for the cost of removal of the facility. The guarantee shall be made available to the town upon a finding, including adequate written notice to the applicant, that the facilities have not been used for a six-month period.

## **XI. ADMINISTRATION**

- A. Administering Bodies and Agents.** The Municipal Officers shall appoint a Code Enforcement Officer, create a Board of Appeals in accordance with the provisions of Title 30-A, MRSA, Section 2691, and create a Planning Board in accordance with the provisions of state law.
- B. Building and/or Use Permits.**
1. All applications for Building and/or Use Permits shall be submitted in writing to the Code Enforcement Officer on forms provided for the purpose. These forms are available from the Code Enforcement Officer.
  2. Within seven days of the filing of an application for a Building or Use Permit, the Code Enforcement Officer shall approve, deny or refer to the Planning Board for a Conditional Use Permit all such applications. His decision shall be in writing on a form designed for the purpose, and communicated directly to the applicant. One copy of the Code Enforcement Officer's decision shall be filed in the Municipal Office. In cases where the Code Enforcement Officer deems that a Conditional Use Permit is required, he shall also provide a copy of his decision to the Planning Board.
  3. No building permit for a building or structure on any lot shall be issued except to the owner of record thereof, or his authorized agent, until the proposed construction or alteration of such building or structure shall comply in all respects with the provisions of this Ordinance and the Building Code or with a decision rendered by the Board of Appeals or the Planning Board. Any application for such permit shall be accompanied by a plan, accurately drawn to scale, showing the actual shape and dimensions of the lot to be built upon, an on-site survey in accord with the USDA Soil Conservation Service National Cooperative Soil Survey, the exact location and size of all buildings and structures already on the lot, the location of new buildings to be constructed together with the lines or floor plans within all buildings and structures to be constructed, the existing and intended use of each building or structure, and other information as may be necessary to provide for the execution and enforcement of this Ordinance.
  4. The Code Enforcement Officer shall not issue any building permit if he has knowledge that a particular structure would be located in an unapproved subdivision, and/or if he has knowledge that the structure would be in violation of a particular state law or local ordinance, and/or if he has knowledge of other state or local ordinance violations in existence on the subject property. In denying any permit under these circumstances, the Code Enforcement Officer shall state in writing the reasons for the denial.
  5. Applications for permits, with their accompanying plans and Building or Use Permit, shall be maintained as a permanent record in the Municipal Office..
  6. A Building or Use Permit secured under the provisions of this Ordinance shall expire if the work or change is not commenced within one year of the date on which the permit is granted, and if the work or change is not substantially completed within two years of the date on which the permit is granted. Permit extensions may be issued for a period of one year at the minimum building permit fee.
  7. Refer also to the Sweden Building Code and the Sweden Floodplain Ordinance.
- C. Plumbing Permits Required.** No Building Permit shall be issued for any structure or use involving the construction, installation or alteration of plumbing and/or waste disposal

facilities unless a valid Plumbing Permit has been obtained by the applicant or his authorized agent in conformance with the provisions of this Ordinance and of the Building Code.

**D. Recreational Vehicle Permits.** Unless in storage adjacent to a primary residence, Recreational Vehicles located in the Town of Sweden for a period in excess of 30 days per year shall require a permit issued by the Code Enforcement Officer. The annual fee shall be as established by the Municipal Officers in the Town of Sweden Fee Schedule. Maximum duration of the permit will be 120 days per calendar year, and may be subdivided in increments of 30 consecutive days only.

**E. Requirements for Building Permits.**

1. **New Buildings:** The following shall require a permit: dwellings, garages, barns and any buildings requiring foundations and/or footings; structures requiring excavation; and any buildings in excess of 150 square feet. Household antennas, including satellite dishes, are exempted.

2. **Existing Buildings:** The following shall require a permit: additions (e.g., rooms, decks, porches, dormers) regardless of size; any construction requiring structural changes (e.g., addition, elimination, or alteration of structural load-bearing members).

3. **Building Permit Fees**

a. All applications for a permit, appeal, variance, Site Plan Review, Subdivision approval or other review required by this Code shall be accompanied by a fee as established by the Municipal Officers in the Town of Sweden Fee Schedule. Fees shall be based on the reasonable cost of processing, review, regulation, and supervision of the application by the municipality, its consultants, and the administration of any requirement for a certificate of compliance with any permit conditions per Title 30-A Section 4355. The Municipal Officers are hereby authorized to set and revise fees from time-to-time at a public meeting.

Permit application and application review fees including those for variances and administrative appeals shall be set by the Board of Selectmen. These fees will be non-refundable and submitted by the applicant to the Code Enforcement Officer (CEO) at the time of application. The application will not be considered complete until the appropriate fee is paid.

b. The minimum Building Permit Fee will be as established by the Municipal Officers in the Town of Sweden Fee Schedule.

c. Building permit fees for all residential structures shall be based on a per square foot fee to include all floor areas in living spaces, basements and crawl space areas, lofts, decks, and patios.

d. Building permit fees for all commercial structures shall be based on a per square foot fee to include the same coverage as residential structures.

e. All other construction or alteration of any buildings, including garages and outbuildings, shall be subjected to a separate fee as established by the Municipal Officers in the Town of Sweden Fee Schedule. In order to verify actual costs, the CEO may require invoices from the applicant or contractor and may adjust permit fees accordingly before signing-off on final inspection.

f. The permit fees for structures other than buildings (e.g., swimming pools, etc.) shall be subjected to a separate fee as established by the Municipal Officers in the Town of

Sweden Fee Schedule. The CEO may require written cost estimates from the applicant to justify declared costs.

- g. There shall be no fee for the replacement of a structure destroyed by fire or act of nature provided the replacement structure is in the same location and is no larger in any dimension than the original structure. Reconstruction must be started within one year of destruction.
  - h. If a Building Permit is obtained after the start of construction, the fees will be twice those specified above.
4. **Removal of Buildings:** Demolition, dismantling, removal, and/or relocation of buildings over 150 square feet shall require a permit, the fee to be equal to the minimum Building Permit Fee.

#### **F. Enforcement**

- 1. **Nuisances.** Any violation of this Ordinance shall be deemed to be a nuisance.
- 2. **Code Enforcement Officer (CEO)**
  - a. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If qualified, the Code Enforcement Officer may also act as Building and/or Plumbing Inspector. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the Planning Board and be maintained as a permanent record.
  - b. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also make periodic surveys of the Town, and investigate all complaints of alleged violations of this Ordinance.
  - c. The Code Enforcement Officer shall keep a complete record of all essential transactions ( including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected) in the Municipal Office. He shall also make a monthly (written and oral) report to the Planning Board, and submit a copy to the Selectmen. On an annual basis, a summary of this record shall be submitted to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection.
- 3. **Legal Actions.** When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice of the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality.
- 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, MRSA, Subsection 4452.

**G. Installation of Public Utility Services.** No Public Utility, Water District, Sanitary District or any Utility Company of any kind may install services to any new structure located in the Shoreland Zone unless written authorization attesting to the validity and currency of all local permits required under this, or any previous ordinance, has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials indicating that the installation has been completed.

## **XII. APPEALS, BOARD OF APPEALS, AND APPEAL PROCEDURE**

### **A. Powers and Duties of the Board of Appeals**

#### **1. Administrative Appeals.**

- a. The Board of Appeals will hear and decide administrative appeals on an appellate basis where it is alleged that there is an error in an order, requirement, decision or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance.

In a review on an appellate basis, the Board of Appeals at a public hearing duly noticed and conducted in accordance with the provisions appearing below, shall review only the record developed before the Planning Board, including but not limited to, exhibits, recorded testimony, argument of counsel or other representatives, and minutes, findings, or rulings. The Board of Appeals shall not receive or consider any new evidence not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings or application record is inadequate, the Board of Appeals 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.

- b. The Board of Appeals will hear and decide administrative appeals on a *de novo* basis where it is alleged that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of, and action on, a permit application under this Ordinance.

In a *de novo* review, the Appeals Board may consider new evidence or information, new testimony, or hear new witnesses, and may conduct the review as if the application is being newly presented. The Board of Appeals may reverse the decision of the Code Enforcement Officer based upon its *de novo* investigation and deliberations by a concurring vote of at least three members.

#### **2. Variance Appeals.**

- a. The Board of Appeals will hear and decide appeals resulting from the denial of a permit by the Code Enforcement Officer due to not being able to meet one or more dimensional standards of this Ordinance.
- b. 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 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.
- c. A variance may be granted by the Board of Appeals only where strict application of the Ordinance, or a provision thereof, to the petitioner and his property would cause undue hardship. Variances are not easily or lightly granted, but only as special exceptions to the Ordinance, not as a rule. "Undue hardship", as used in this subsection, exists if:
  - (1) The land in question cannot yield a reasonable return unless a variance is granted;
  - (2) The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

- (3) The granting of a variance will not alter the essential character of the locality; and
- (4) The hardship is not the result of action taken by the applicant or prior owner.
- d. Regarding subparagraph (1) above, such hardship may be found by the Board of Appeals where the Zoning Ordinance, as applied to the applicant's property, substantially destroys or decreases the value of the property in question for any permitted use to which the land or property can reasonably be put. Mere inconvenience to the property owner shall not satisfy this section. Neither financial hardship alone, nor pleading that a greater profit may be realized by the applicant's property were a variance granted, shall be sufficient evidence of "undue hardship".
- e. The Board of Appeals shall grant a variance only when all four of the above criteria are met by a concurring vote of at least four members, and in so doing may prescribe conditions and safeguards as are appropriate under this Ordinance.
- f. A variance under the provisions of this Ordinance secured by vote of the Board of Appeals shall expire if the work or change involved is not commenced within one year of the date on which the appeal is granted; and, if the work or change is not substantially completed within two years of said date.

## **B. Board of Appeals**

1. **Establishment of Board of Appeals.** There shall be a Board of Appeals consisting of five members and two alternate members elected by the Town of Sweden. The five regular members shall be elected for terms of five years each, and the terms of the members shall be such that one term expires each year. Alternate members shall be elected annually and shall act on said Board in place of any member unable to act due to interest, absence or physical incapacity. Alternate members shall also be called upon, in order of seniority, to fill regular Board member vacancies as they occur. All members of the Board shall continue to serve until their successors have been elected as provided. A Chairman and a Secretary shall be elected by the Board from among its members annually.
2. **The Chairman of the Sweden Board of Appeals Shall:**
  - a. Call meetings of the Board as required, and as requested by a majority of the Board members or by the Municipal Officers;
  - b. Preside at all meetings of the Board; and
  - c. Serve as official spokesman of the Board.
3. **The Secretary of the Sweden Board of Appeals shall:**
  - a. Maintain a permanent record of all Board meetings and of each individual vote. The final disposition of appeals shall be recorded by resolution indicating the reason(s) for such final decision;
  - b. Maintain a file containing all correspondence of the Board;
  - c. Be responsible for maintaining those records that are required as part of the various proceedings that may be brought before the Board. These records are deemed public, shall be filed in the office of the Municipal Officers, and may be inspected at reasonable times; and
  - d. Also serve as Vice Chairman of the Board.
4. **A quorum** of the Board necessary to conduct an official Board meeting/hearing shall consist of at least three regular and/or alternate members.

5. **The Board of Appeals may provide by rule**, which shall be recorded by the Secretary, for any matter relating to the conduct of any hearing, provided that any rule may be waived by the Chairman upon good cause shown.

### **C. Appeal Procedure**

1. Any person aggrieved by a decision of the Code Enforcement Officer shall commence his appeal within 30 days after such decision has been reported to him in writing by the Code Enforcement Officer, and after being published in a newspaper of general circulation in the Town of Bridgton, or within 60 days of such written notice by the Code Enforcement Officer if not so published.
2. The appellant will contact the Chairman of the Board of Appeals, receive an information/procedure document, and acquire an application form to be resubmitted to the Board with the appropriate fee. The application must indicate whether the appeal is an Administrative Appeal or a Variance Appeal or both. In each case the fee shall be 100% of the costs incurred by the Town of Sweden or its officials but not less than \$25, which minimum must be submitted with the application. The appellant shall set forth in his applications the specific grounds for his appeal.
3. The Secretary of the Board of Appeals shall schedule a Public Hearing within 45 days following the Board's receipt of the appellant's application.
4. The Secretary of the Board of Appeals shall, on receipt of any appeal, forthwith, send or hand deliver notice of the time and place of the Public Hearing, and the nature of the appeal, to the Selectmen of the Town of Sweden, the Code Enforcement Officer and the Chairman of the Planning Board.
5. The Secretary of the Board shall, at least 20 days prior to the Public Hearing, send a copy of any variance appeal in the Shoreland Zone to the Department of Environmental Protection for comments.
6. The Secretary of the Board of Appeals shall, at least 20 days prior to the Public Hearing send (certified mail, return receipt requested) notice of the time and place of the Public Hearing, and the nature of the appeal, to the appellant, and to all abutting property owners and/or parties with a vested interest in the appeal. For the purpose of determining ownership of the subject and/or abutting properties the records of the Town Assessors shall be conclusive.
7. The Secretary of the Board shall, at least 10 days prior to the Public Hearing, place a Notice of Appeal in a newspaper of general circulation in the Town of Bridgton stating the nature of the appeal, the location of any property involved and the time and place of the Public Hearing.

### **D. Hearing Procedure**

1. At any appeal hearing the appellant may appear in person, by agent, or by attorney or both. The Board of Appeals may receive any oral or documentary evidence, but shall provide as a matter of policy for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. Every party shall have the right to present its case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross examination as may be required for a full and true disclosure of the facts.
  - a. The Sweden Planning Board and Code Enforcement Officer, as well as their designated technical and/or professional advisors, may appear at all hearings and may

present plans, photographs or other material which they deem appropriate to an understanding of the appeal.

- b. The appellant's side of the case shall be heard first. To maintain orderly procedure each side shall proceed without interruption. Questions may be asked through the Chairman. All persons at the hearing shall abide by the order and direction of the Chairman.
  - c. Hearings shall not be continued to other times except for good causes.
  - d. The Board of Appeals may provide by rule, which shall be recorded by the Secretary, for any matter relating to the conduct of any hearing, provided that any rule may be waived by the Chairman upon good cause shown.
2. The transcript of testimony and/or tape recording of proceedings, if any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record. All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reason(s) or basis therefore, upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial thereof.
  3. The Board of Appeals shall render a decision within 20 days after a Public Hearing. Notice of any decision shall be mailed or hand delivered to the appellant or his agent, the Selectmen of the Town of Sweden, the Sweden Code Enforcement Officer, and the Chairman of the Sweden Planning Board within seven days of such decision. However, Board of Appeals members have 30 days in which to reconsider their decision.
  4. An appeal may be taken, within 30 days after the decision is rendered, by any party, to Superior Court, from any order, relief or denial in accordance with Maine Rules of Civil Procedure. The hearing before the Superior Court shall be without a jury.
  5. Upon notification by the Board of Appeals of the final disposition of an appeal, the Code Enforcement Officer shall take whatever action is appropriate and/or directed. A variance granted must be recorded by the appellant in the Registry of Deeds within 90 days to be valid.

### **XIII. CONDITIONAL USE**

The proposed use of land or buildings that is permitted only after review and approval by the Planning Board is called a CONDITIONAL USE. (See Section VIII, Zone Requirements, Section IX, Non-Conformance, and Section XIV, Definitions)

#### **A. Establishment of Conditional Uses**

1. The Planning Board is hereby authorized to hear and decide upon applications for Conditional Use Permits in accordance with State law and the provisions of this Ordinance.
2. An application for a Conditional Use is required when the Code Enforcement Officer determines, after inspection, that the proposed use is not a permitted use but may be allowed as a Conditional Use as outlined in Section VIII and Section IX of this Ordinance. The Code Enforcement Officer must notify the Planning Board in writing after making this determination.
3. The Planning Board shall hear and approve, approve with conditions and/or modifications, or disapprove all applications for Conditional Use Permits.
4. No Conditional Use Permit shall be authorized unless specific provisions for such Conditional Use are made in this Ordinance.

#### **B. Application for Conditional Use**

1. A person, or his agent, informed by the Code Enforcement Officer that he requires a Conditional Use Permit shall apply to the Planning Board in writing for the permit. No Conditional Use shall be commenced until the property owner of record, or his agent (who must be legally designated by the property owner), shall have received the required permit.
2. The fee for Conditional Use Permits will be 100% of the costs incurred by the Planning Board in considering the Application, but in no case less than as established by the Municipal Officers in the Town of Sweden Fee Schedule, which minimum fee must be submitted with the application. This fee is intended to cover the cost to the town of the administrative processing of the application, including notification, advertising, mailings, and similar costs. In addition to the application fee, the applicant may also be required to pay a technical review fee to defray the town's legal and technical costs of the application review. The technical review fee may be used by the Planning Board to pay reasonable costs incurred by the Board, at its discretion, which relate directly to the review of the application pursuant to the review criteria. Such services may include, but need not be limited to, consulting, engineering or other professional fees, and attorney fees.
3. In order to secure the information upon which to base its decision the Planning Board may require the applicant to furnish the following in addition to any other information required for a complete Conditional Use Permit application:
  - a. Plan of the area showing contours at intervals determined by the Planning Board and reference to Mean Sea Level, high water elevation, ground water conditions, bedrock slope and vegetative cover.
  - b. High intensity soil survey with the soils information superimposed on the plot plan in accord with the USDA Soil Conservation Service National Cooperative Soil Classification. This survey is to be done by a State approved Soil Scientist.

- c. Location of existing and proposed buildings, parking areas, traffic access, driveways, piers, open spaces and landscaping;
  - d. Plans of buildings, sewerage disposal facilities and water systems; and
  - e. Any other pertinent information necessary to determine if the proposed use meets the provisions of this Ordinance.
4. The permit is automatically terminated with any change in use of the property, change in ownership of the property, or change in occupancy of the property.

**C. Hearing Procedure Pertaining to Conditional Use Requests**

1. The Secretary of the Planning Board shall schedule a Public Hearing within 45 days following the Board's receipt of a complete Conditional Use Permit application.
2. The Secretary of the Board shall, on receipt of any such application, forthwith, send or hand deliver notice of the time and place of the Public Hearing and the nature of the Conditional Use request, to the Selectmen of the Town of Sweden, the Code Enforcement Officer and the Chairman of the Sweden Board of Appeals.
3. The Secretary of the Board, shall, at least 20 days prior to the Public Hearing, send (certified mail, return receipt requested) notice of the time and place of the Public Hearing and the nature of the Conditional Use request, to the applicant, and to all abutting property owners. For the purpose of determining ownership of the subject and/or abutting properties, the records of the Town Assessors shall be conclusive.
4. The Secretary of the Board shall, at least 10 days prior to the Public Hearing, place a notice of Conditional Use Request in the newspaper of general circulation in the Town of Bridgton stating the nature of the Conditional Use Request, the location of any property involved and the time and place of the Public Hearing.
5. The Chairman of the Planning Board shall preside at all such meetings and shall serve as official spokesman of the Board. The Secretary shall serve as Vice-Chairman of the Board.
6. At any hearing the applicant may appear by agent or attorney. Hearings shall not be continued to other times except for good cause.
7. The Sweden Code Enforcement Officer, as well as designated technical and/or professional advisors to the Planning Board, may appear at all hearings and may present plans, photographs or other material that they deem appropriate to an understanding of the application. Members of relevant committees (e.g., the Historical Society, Conservation Committee) shall be encouraged to attend hearings and comment as appropriate.
8. The applicant's side of the case shall be heard first. To maintain orderly procedure each side shall proceed without interruption. Questions may be asked through the Chairman. All persons at the hearing shall abide by the order and direction of the Chairman.
9. The Planning Board may receive any oral or documentary evidence but shall provide, as a matter of policy, for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party shall have the right to present its case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

10. The Planning Board may provide by rule, which shall be recorded by the Secretary, for any matter relating to the conduct of any hearing, provided that any rule may be waived by the Chairman upon good cause shown.

**D. Administrative Procedures Pertaining to Conditional Use Applications**

1. The Secretary of the Planning Board shall:
  - a. Maintain a permanent record of all such Board meetings and of each individual vote. The final disposition of the Conditional Use Requests shall be recorded by resolution indicating the reason(s) for such final decision.
  - b. Maintain a file containing all relevant correspondence.
  - c. Be responsible for maintaining those records that are required as part of the Conditional Use Request proceedings. The transcript of the testimony and/or tape recording of the proceedings, if any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record. All decisions shall become part of the record and shall include a statement of finding and conclusions as well as the reason(s) or basis therefore, upon all material issues of fact, law or discretion presented and the appropriate order, relief or denial thereof.
2. All records to be maintained or prepared by the Secretary are deemed public, shall be filed in the Municipal Office, and may be inspected at reasonable times.
3. A quorum of the Board necessary to conduct an official Board meeting for the purpose of considering a Conditional Use Request shall consist of at least three regular and/or alternate members.

**E. Factors Applicable to Conditional Uses.** It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. The Board shall approve the application unless it makes written findings that one or more of these criteria have not been met.

1. The use will not have an adverse impact on the spawning grounds, fish, aquatic life, bird or other wildlife habitat.
2. The use will conserve shore cover and visual, as well as actual, access to water bodies.
3. The use is consistent with the Comprehensive Plan.
4. The need for a particular location for the proposed use.
5. Traffic access to the site meets the standards contained in this Ordinance, and traffic congestion has been minimized in accordance with performance standards in this Ordinance.
6. The site design is in conformance with all municipal flood hazard protection regulations.
7. Adequate provision for the disposal of all wastewater and solid waste has been made.
8. Adequate provision for the transportation, storage and disposal of any hazardous materials has been made.
9. A storm water drainage system capable of handling a 25-year storm without adverse impact on adjacent properties has been designed, and will be put into effect and maintained.
10. Adequate provisions to control soil erosion and sedimentation have been made.
11. There is adequate water supply to meet the demands of the proposed use, and for fire protection purposes.

12. The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development such as, but not limited to, noise, glare, fumes, dust, odor and the like.
13. All performance standards in this Ordinance applicable to the proposed use will be met.
14. The proposed use will be compatible with all uses permitted in the underlying Zone and on abutting properties.
15. The proposed use will not have unreasonable impact upon Municipal facilities.

**F. Conditions Attached to Conditional Use Permits.** Upon consideration of the factors listed above, the Planning Board may attach such conditions, in addition to those required elsewhere in this Ordinance, that it finds necessary to further the purpose of this Ordinance. Violation of any of these conditions is a violation of this Ordinance. Such conditions may include, but are not limited to:

- Periodic review of use
- Duration/limitation of use
- Specifications for types of vegetation
- Increased setbacks and yards
- Specified sewerage disposal and water supply facilities
- Period of operation
- Operational controls
- Sureties
- Deed restrictive covenants
- Location of piers, docks, parking
- Construction specifications, size/height limitations
- Any other conditions necessary to fulfill the purpose of this Ordinance

**G. Decisions.**

1. The Planning Board shall render a decision within 30 days after a Public Hearing. Notice of any decision shall be mailed or hand delivered to the applicant or his agent, the Selectmen of the Town of Sweden, the Code Enforcement Officer, and the Chairman of the Board of Appeals within seven days of such a decision.
2. Upon notification by the Planning Board of the final disposition of a Conditional Use Request, the Code Enforcement Officer shall issue, issue with conditions and/or modifications, or deny such Permit.
3. A Conditional Use Permit secured under the provisions of this Ordinance by vote of the Planning Board shall expire if the work, change, or use is not commenced within one year of the date on which the Conditional Use is authorized, or if the work is not substantially completed within two years of said date.

**H. Appeals.** An appeal may be taken, within 30 days after any decision rendered, by any party to Superior Court, from any order, approval or denial in accordance with Maine Rules of Civil Procedure. The hearing before Superior Court shall be without a jury.

#### **XIV. DEFINITIONS**

In this Ordinance the following terms shall have the following meanings. Terms not defined shall have the customary dictionary meaning.

**Abutter:** Any person whose property adjoins or is directly across the street or stream from the land under consideration or is located within 200 feet of the land under consideration.

**Accessory Use or Structure:** A use or structure of a nature customarily incidental and subordinate to those of the principal use or structure.

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

**Alteration:** Any change, addition, or modification in construction involving any change in the structural members of a building, such as foundations, bearing walls, columns, beams or girders.

**Basal Area:** The area of cross-section of a tree stem at 4½ feet above ground level, inclusive of bark.

**Buffer Strip:** An area of land comprised of existing vegetation, or which is landscaped with grass or bark mulch and shrubs or trees. Crushed rock or materials such as concrete or asphalt and green paint are not acceptable materials for the development of a landscaped green strip.

**Building:** A structure for the support, shelter or enclosure of persons, animals, goods or property of any kind.

**Campground:** Any area or tract of land to accommodate two or more parties in temporary living quarters, including but not limited to tents, recreational vehicles or other shelters.

**Code Enforcement Officer (CEO):** A person appointed by the Municipal Officers to administer and enforce this Ordinance. Reference to the Code Enforcement Officer (CEO) may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector and the like where applicable.

**Clearcut:** In timber harvesting the non-selective cutting of trees that leaves less than 35% of the original volume of trees four inches or more in diameter, measured at 4½ feet above ground level and creating a single opening in the forest canopy greater than 220,000 square feet (approximately five acres).

**Conditional Use:** A use permitted only after review and approval by the Planning Board. A Conditional Use is a use that would not be appropriate without restriction, but which, if controlled under the provisions of this Ordinance, would promote the purpose of this Ordinance.

**Condominium:** An apartment house, office building, or other multiple unit complex, the units of which are individually owned, each owner receiving a recordable deed to the individual unit purchased, including the right to sell, mortgage, etc.

**Conforming Use:** A use of buildings, structure or land that complies with all applicable provisions of this Ordinance.

**Constructed:** Includes built, erected, altered, reconstructed, moved upon or any physical operation on the premises that are required for construction. Excavation, fill, drainage and the like shall be considered a part of construction.

**Deck:** Any open platform, constructed above the ground attached to or detached from a building, and not containing any roofed-over portion.

**Driveway:** An area located on a lot, tract, or parcel of land, and built for access to a garage or off-road parking space, serving not more than six lots.

**Dump:** Any area wherein garbage, building debris, stumps, household or commercial waste, and any of the other items listed under "junkyard" are discarded.

**Dwelling:** A fixed structure containing one or more dwelling units. This includes the word "residence".

**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, including provisions for living, sleeping, cooking and eating. The term shall include rental units that contain cooking, sleeping, and toilet facilities regardless of the time period rented. The term shall include mobile homes but shall not include trailers or recreational vehicles.

**Excavation:** Any removal of earth or earth material from its original position.

**Family:** One or more persons occupying a premises and living as a single housekeeping unit.

**Filling:** Depositing or dumping any matter on or into the ground or water.

**Flood Hazard Areas:** Lands adjacent to a water body that have been or may be covered by the Regional Flood (either the 100-year frequency or the flood of record.)

**Forest Conservation District:** A floating overlay district comprised of separate important forest parcels of the Residential, Rural Preservation, and Natural Resource Protection Zones, voluntarily joined by participating property owners.

**Forest Duff:** The natural state of a forest floor, undisturbed and uneven terrain with its natural organic debris and ground vegetation.

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

**Grade:** In relation to buildings, the average of the finished ground level at the center of each wall of a building.

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

**Hazardous Waste:** Any discarded substance whose chemical or biological nature makes it potentially dangerous to humans. Categories include explosive, corrosive, toxic, infectious, radioactive and ignitable.

**Height of a Structure:** The vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure including chimneys, steeples, and similar appurtenances.

**Home Occupation:** An occupation or profession that is customarily conducted on or in a dwelling unit or structure accessory to a dwelling unit by the occupant on the same premises; and clearly incidental to, secondary to, and compatible with the residential use of the property and surrounding residential uses.

**Junkyard:** A yard, field, or other outside area used to store, dismantle, or otherwise handle: discarded, worn-out or junked plumbing, heating supplies, electronic or industrial equipment, household appliances or furniture; discarded, scrapped and junked lumber; and old or scrap copper, brass, rope, rags, batteries, paper trash, rubber or plastic debris, waste and all scrap iron, steel and other scrap ferrous or non-ferrous material.

**Lot:** A parcel of land in single ownership described on a deed, plot or similar legal document.

**Lot Area:** The total horizontal area within the lot lines.

**Lot Lines:** The lines bounding a lot as defined below:

**Front Lot Line:** On an interior lot, the line separating the lot from the road. On a corner lot or through lot, the line separating the lot from either road;

**Rear Lot Line:** The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten feet long and lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension.

**Side Lot Line:** Any lot line other than the front or rear lines.

**Lot Width:** The horizontal distance between the side lot lines measured at the setback line.

**Lot of record:** A parcel of land, a legal description of which, or the dimensions of which, are recorded on a document or map on file with the County Register of Deeds; or, in common use by the City or County Officials.

**Manufactured Housing Unit:** Structures, transportable in one or two sections, which were constructed in a manufacturing facility and are transported to a building site and designed to be used as dwellings when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein.

**Mineral Exploration:** Hand sampling, test boring, or other methods of determining the nature and 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 calendar year which removes more than 50 cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, minerals, metals or other like material from its natural location and to transport the product removed, away from the extraction site.

**Mobile Home:** A structure designed as a dwelling unit, and constructed on a permanent chassis, for location on a permanent foundation containing sleeping accommodations, a toilet, a tub or shower and kitchen facilities, including major appliances and furniture, with plumbing and electrical connections provided for attachment to outside systems, and designed to be transported after fabrication on its own wheels.

**Mobile Home Park:** A parcel of land under unified ownership designed and/or used to accommodate three or more manufactured housing units, in a non-transient status.

**Modular Home:** A residential dwelling unit that is constructed in a manufacturing facility and then transported to a site in one or more sections that are not constructed on a permanent chassis. A modular home is constructed in compliance with the State of Maine's manufactured housing act and regulations.

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

**Patio:** Any prepared surface area, not above ground level, not enclosed or roofed, often adjacent to a building and used in conjunction with outdoor living.

**Permanent Pier or Dock:** Structure that remains in/over the water for seven months or more in any calendar year.

**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.

**Phosphorus Control Buffer Area:** An area which is retained in a stable and fully-vegetated state, or which is revegetated, to serve as treatment for phosphorus control.

**Porch:** Any open or enclosed roofed-over area on the outside of a building, not considered as part of the primary living space.

**Premises:** One of more lots that are in the same ownership and are contiguous, or separated only by a road or body of water including all buildings, structures and improvements.

**Principal Dwelling:** A principal structure or building that is used for dwelling purposes by one or more persons.

**Principal Structure:** A building other than one used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

**Principal Use:** A use other than one that is wholly incidental or accessory to another use on the same premises.

**Recreational Vehicle:** A vehicle or attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, which is not a dwelling, and which may include a pick-up camper, travel trailer, tent 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.

**Road/Roadway:** 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.

**Road Frontage:** The horizontal distance between the intersections of the side lot lines and the front lot lines.

**Setback:** The minimum horizontal distance from the nearest part of a structure to the lot line.

**Setback from Water:** The nearest horizontal distance from the normal high-water line to the nearest part of a structure, road, parking space or other regulated object or area.

**Shore Frontage:** The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline or wetland at normal high-water elevation.

**Shorefront Common Area:** Any land area having shoreline frontage on any water body regulated by this Ordinance and intended for use by more than one residential dwelling unit or family, excluding visitors and guests. This definition shall also include areas for which easements, rights-of-way, or other use rights are granted or sold.

**Shoreland Zone:** The land area located within 250 feet, horizontal distance of the normal high-water line of any great pond, river, or saltwater body; within 250 feet of the upland edge of a coastal or freshwater wetland; or within 75 feet of the normal high-water line of a stream.

**Sign:** A name, identification, description, display or illustration which is affixed to, painted or represented, directly or indirectly, upon a building, structure, parcel or lot; and which relates to an object, product, place, activity, person, institution, organization or business on the premises.

**Single Opening:** An opening in the forest canopy containing less than a random distribution of trees (six inches or more in diameter measured at 4½ feet above ground level) which total 10 square feet of basal area per acre.

**Stream:** A free-flowing body of water from the outlet of a great pond or the confluence of two perennial streams as depicted on the most recent edition of a USGS 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.

**Stream Crossing:** Any project extending from one bank to the opposite bank of a river or stream, whether under, through, or over the watercourse. 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.

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

**Subdivision:** As defined by Title 30-A MRSA Sec. 4401, as amended. The division of a tract or parcel of land into three or more lots within any five year period, which period begins after September 22, 1971, whether accomplished by sale, lease, development, buildings or otherwise. The term also includes the division of a new structure or structures on a tract or parcel of land into three or more dwelling units within a five-year period, the construction or placement of three or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into three or more dwelling units within a five-year period.

In determining whether a tract or parcel of land is divided into three or more lots, the first dividing of the tract or parcel is considered to create the first two lots, and the next dividing of either of these first two lots, by whomever accomplished, is considered to create a third lot, unless:

- Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least five years immediately preceding the second division; or
- The division of the tract or parcel is otherwise exempt under this subchapter.

The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to these requirements, do not become subject to these requirements by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously-created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

A lot of 40 or more acres must be counted as a lot.

**Timber Harvesting:** The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction.

**Trail:** A route or track, less than six feet in width, clear of vegetation for, or created by, repeated passage of foot traffic, cross country skiing, wildlife, bicycles, and/or small off-road motorized vehicles.

**Tributary Stream:** A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

**Upland Edge:** The boundary between upland and wetland.

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

**Variance:** A relaxation of the terms of this Ordinance where such variance would not be contrary to the public interest; and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship. A financial hardship shall not constitute grounds for granting a variance. The crucial points of variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case.

**Vegetation:** All live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4½ feet above ground level.

**Vernal Pool:** A seasonal forest pool, which is a natural, temporary to semi-permanent body of water occurring in a shallow depression that typically fills during the spring or fall and may dry during the summer.

**Water Body:** Any great pond, river, or stream.

**Wetland, Freshwater:** Freshwater swamps, marshes, bogs and similar areas which are of ten or more contiguous acres; or of less than ten 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 inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

**Wetlands Associated with Great Ponds and Rivers:** Wetlands contiguous with or adjacent to a great pond or river, and which, during normal high water, are connected by surface water to the great pond or river. Also included are wetlands that are separated from the great pond or river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below the normal highwater line of the great pond or river. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river.

**Wireless Telecommunications Facility:** Any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange phone services, common carrier wireless exchange access services, and personal communications service (PCS) or pager services. The Federal Telecommunications Act exempts amateur “ham” radio station antennas from municipal regulation.

**Zone:** A specified portion of the municipality, delineated on the official Zoning Map, within which certain regulations and requirements, or various combinations thereof, apply under the provisions of this Ordinance.