

VOTE (2013-98) Councilor Bickford, seconded by Councilor Garrison moved to adopt the following:

BE IT HEREBY ORDERED THAT THE TOWN COUNCIL OF THE TOWN OF LISBON
HEREBY ADOPTS THE PROPOSED ZONING MAP ALONG WITH ADDING A NEW DIVISION “NUMBER 10” ENTITLED “MUNICIPAL SHORELAND ZONING” IN ARTICLE VI(6) SUPPLEMENTARY DISTRICT REGULATIONS IN CHAPTER 70 “ZONING” AS PRESENTED:

DIVISION 10. MUNICIPAL SHORELAND ZONING

Sec. 70-810. Background

The Mandatory Shoreland Zoning Act, 38 M.R.S.A sections 435-449, requires all municipalities to adopt, administer, and enforce ordinances that regulate land use activities within 250 feet of great ponds, rivers, and freshwater wetlands, and within 75 feet of streams. The Act also requires the Board of Environmental Protection to establish minimum guidelines for such ordinances. The Act requires that municipalities adopt shoreland zoning ordinances consistent with, or no less stringent than, the state minimum guidelines, and that in addition to the ordinances, the municipality establish an official shoreland zoning map. The standards of the shoreland zoning ordinance regulate the land use, buildings, structures, and site work within the designated shoreland area, in conformance with state requirements.

Sec. 70-811. Purpose

Shoreland Zoning regulations are incorporated into the land use Zoning Ordinance Chapter 70 Articles 1 thru 6. The official shoreland zoning map, which illustrates the location and extent of shoreland overlay zones and shoreland districts, is required in order to comply with the Mandatory Shoreland Zoning Act, and is needed for the town's permitting process.

Sec. 70-812. Reference List

Reference list for shoreland zoning regulations within the Land Use Ordinance Chapter 70 Articles 1 thru 6.

Sec. 70-1. Definitions

Sec. 70-4. Basic requirements

Sec. 70-9 - Effective date

Sec. 70-151. Variances authorized

Sec. 70-152. Variance standards

Sec. 70-153. Limitations; conditions

Sec. 70-154 - Variances within shoreline district

Sec. 70-155. Variance limitations

Sec. 70-156. Setback variance for single family dwellings

Sec. 70-157. Disability variance

Sec. 70-159. Limits on variances

Sec. 70-160. Reapplication

Sec. 70-161. Misrepresentation

Sec. 70-162. Prior work
Sec. 70-261. Purpose
Sec. 70-262. Areas
Sec. 70-262. Permitted uses
Sec. 70-264. Conditional uses
Sec. 70-265. Prohibited uses
Sec. 70-266. Dimensional requirements
Sec. 70-267. Performance or land use standards
Sec. 70-601. Accessory buildings
Sec. 70-602. Agriculture
Sec. 70-603. Campgrounds
Sec. 70-604. Filling, grading, lagooning, dredging or other earth-moving activities
Sec. 70-607. Sanitation
Sec. 70-608. Drainage
Sec. 70-610. Water quality
Sec. 70-611. Archaeological sites
Sec. 70-612. Roads and driveways
Sec. 70-613. Essential services generally
Sec. 70-691. Piers, docks and other shoreline construction
Sec. 70-731. Timber harvesting
Sec. 70-732. Clearing or removal of vegetation for activities other than timber harvesting

Sec. 70-813. Shoreland Zoning Map Description

The shoreland zoning map is developed based on the states requirements and definitions on the regulation of (a) all land areas within 250 feet horizontal distance of the normal high-water line of any great pond, river or contiguous wetlands larger than 2 acres, or (b) all land areas within 75 feet horizontal distance of the normal high-water line of a stream.

Sec. 70-814. Shoreland Overlay Zone Districts

The shoreland overlay zone is divided into the following districts which are shown on the Official Shoreland Zoning Map(s), and which are made part of the town's shoreland zoning ordinance:

- (A) Resource Protection
- (B) Limited Residential
- (C) Limited Commercial
- (D) General Development I
- (E) Stream Protection

District boundary lines are property lines, the centerline of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

Sec. 70-815. Overlay Zone District Descriptions

The following describes each of the districts found on the Official Shoreland Zoning Map:

A. Resource Protection District.

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

(1) Floodplains along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

(2) Areas of two or more contiguous acres with sustained slopes of 20% or greater.

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

(4) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement.

Setback from a great pond or river for new buildings and structures*: 250 feet**

** Except for allowed water-dependent uses or structures such as docks or boat ramps.*

*** Structures, roads, parking or other regulated objects specifically allowed in the district may be subject to 100-foot setback.*

Setback from a stream or wetland for new buildings and structures: 75 feet

Max. lot coverage within the shoreland zone (footprint of structures, parking, and non-vegetative surfaces): 20%

No principal land or use structures allowed for: Multi-unit residential, commercial, industrial, government or institutional.

B. Limited Residential District.

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

Setback from a great pond or river for new buildings and structures*: 100 feet

** Except for allowed water-dependent uses or structures such as docks or boat ramps.*

Max. lot coverage within the shoreland zone (footprint of structures, parking, and non-vegetative surfaces): 20%

No principal land or use structures allowed for: Commercial, Industrial

C. Limited Commercial District.

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

Setback from a great pond or river for new buildings and structures*: 100 feet
** Except for allowed water-dependent uses or structures such as docks or boat ramps.*

Max. lot coverage within the shoreland zone (footprint of structures, parking, and non-vegetative surfaces): 20%

No principal land or use structures allowed for: Industrial

D. General Development District I.

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

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

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

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

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

(2) Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.

Setback from a great pond or river for new buildings and structures*: 25 feet

** Except for allowed water-dependent uses or structures such as docks or boat ramps.*

Max. lot coverage within the shoreland zone (footprint of structures, parking, and non-vegetative surfaces): 70%

E. Stream Protection District.

The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two-hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

Setback from a great pond or river for new buildings and structures*: 75 feet

* *Except for allowed water-dependent uses or structures such as docks or boat ramps.*

Max. lot coverage within the shoreland zone (footprint of structures, parking, and non-vegetative surfaces): 20%

No principal land or use structures allowed for: Multi-unit residential, commercial, industrial, government or institutional.

Sec. 70-816. Land Use Requirements

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

LAND USES IN THE SHORELAND ZONE

	LC	GD	SP	RP	LR		
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking			yes	yes	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails			yes	yes	yes	yes	yes
3. Forest management activities except for timber harvesting & land management roads			yes	yes	yes	yes	yes
4. Timber harvesting			yes	CEO	yes	yes	yes
5. Clearing or removal of vegetation for activities other than timber harvesting			CEO	CEO ¹	yes	yes	yes
6. Fire prevention activities			yes	yes	yes	yes	yes
7. Wildlife management practices			yes	yes	yes	yes	yes
8. Soil and water conservation practices			yes	yes	yes	yes	yes
9. Mineral exploration			no	yes ²	yes ²	yes ²	yes ²
10. Mineral extraction including sand and gravel extraction			no	PB ³	PB	PB	PB
11. Surveying and resource analysis			yes	yes	yes	yes	yes
12. Emergency operations			yes	yes	yes	yes	yes
13. Agriculture			yes	PB	yes	yes	yes
14. Aquaculture			PB	PB	PB	yes	yes

15. Principal structures and uses					
A. One and two family residential, including driveways	PB ⁴	PB ⁹	CEO	CEO	CEO
B. Multi-unit residential	no	no	PB	PB	PB
C. Commercial	no	no ¹⁰	no ¹⁰	PB	PB
D. Industrial	no	no	no	no	PB
E. Governmental and institutional	no	no	PB	PB	PB
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB ⁴	PB	CEO	CEO	CEO
16. Structures accessory to allowed uses	PB ⁴	PB	CEO	CEO	yes
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland	CEO	CEO ¹	CEO ¹	CEO ¹	CEO
a. Temporary	1	1	1	1	1
b. Permanent	1	PB	PB	PB	1
	PB				PB
18. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI
19. Home occupations	PB	PB	PB	CEO	yes
20. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI
21. Essential services	PB ⁶	PB ⁶	PB	PB	PB
A. Roadside distribution lines (34.5kV and lower)	CEO ⁶	CEO ⁶	yes ¹²	yes ¹²	yes ¹²
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB ⁶	PB ⁶	CEO	CEO	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB ⁶	PB ⁶	PB	PB	PB
D. Other essential services	PB ⁶	PB ⁶	PB	PB	PB
22. Service drops, as defined, to allowed uses	yes	yes	yes	yes	yes
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO	CEO
24. Individual, private campsites	CEO	CEO	CEO	CEO	CEO
25. Campgrounds	no	no ⁷	PB	PB	PB
26. Road construction	PB	no ⁸	PB	PB	PB
27. Land management roads	yes	PB	yes	yes	yes
28. Parking facilities	no	no ⁷	PB	PB	PB
29. Marinas	PB	no	PB	PB	PB
30. Filling and earth moving of <10 cubic yards	CEO	CEO	yes	yes	yes
31. Filling and earth moving of >10 cubic yards	PB	PB	CEO	CEO	CEO
32. Signs	yes	yes	yes	yes	yes
33. Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO
35. Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB

¹In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

²Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

³In RP not allowed in areas so designated because of wildlife value.

⁴Provided that a variance from the setback requirement is obtained from the Board of Appeals.

⁵Functionally water-dependent uses and uses accessory to such water dependent uses only (See note on previous page).

⁶See further restrictions in Section 15(L)(2).

⁷Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.

⁸Except as provided in Section 15(H)(4).

⁹Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions. Two-family residential structures are prohibited.

¹⁰Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

¹¹Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

Sec. 70-817. Land Use Standards.

All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

A. Minimum Lot Standards

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage
(ft.)		
(1)		
(a) Residential per dwelling unit		
(i) Within the Shoreland Zone Adjacent to Tidal Areas	30,000	150
(ii) Within the Shoreland Zone Adjacent to Non-Tidal Areas	40,000	200

(b) Governmental, Institutional, Commercial or Industrial per principal structure

(i) Within the Shoreland Zone Adjacent to Tidal Areas, Exclusive of Those Areas Zoned for Commercial Fisheries and Maritime Activities	40,000	200
(ii) Within the Shoreland Zone Adjacent to Tidal Areas Zoned for Commercial Fisheries and Maritime Activities	NONE	NONE
(iii) Within the Shoreland Zone Adjacent to Non-tidal Areas	60,000	300

(c) Public and Private Recreational Facilities

(i) Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas	40,000	200
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- (2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.
- (3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
- (4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- (5) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

B. Principal and Accessory Structures

- (1) All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development I District the setback from the normal high-water line shall be at least twenty five (25) feet, horizontal distance, and in the Commercial

Fisheries/Maritime Activities District there shall be no minimum setback. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

In addition:

- (a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
 - (b) All principal structures along Significant River Segments as listed in 38 M.R.S.A. section 437 (see Appendix B), shall be set back a minimum of one hundred and twenty-five (125) feet, horizontal distance, from the normal high-water line and shall be screened from the river by existing vegetation. This provision does not apply to structures related to hydropower facilities.
 - (c) For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.
 - (d) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.
- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
 - (3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that

participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.

- (4) The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed, except in the General Development District adjacent to tidal waters and rivers that do not flow to great ponds classified GPA, and in the Commercial Fisheries/Maritime Activities District, where lot coverage shall not exceed seventy (70) percent.
- (5) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
 - (a) The site has been previously altered and an effective vegetated buffer does not exist;
 - (b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
 - (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
 - (d) The total height of the wall(s), in the aggregate, are no more than 24 inches;
 - (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
 - (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
 - (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - (iii) Only native species may be used to establish the buffer area;

- (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - (v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;
- (6) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

Sec. 70-818 - 70-828. Reserved