

City of Bangor, ME
 Thursday, April 6, 2017

Chapter 165. Land Development

Part 2. General Requirements

Article VII. Shoreland Zoning

§ 165-34. Shoreland areas.

[Amended 9-27-1993 by Ord. No. 93-425]

Shoreland areas include those areas within 250 feet of the normal high-water mark of the Kenduskeag Stream and the Penobscot River or within 75 feet, horizontal distance, of the high-water line of a stream or outlet stream or 75 feet, horizontal distance, of the upland edge of a freshwater wetland.

§ 165-35. Land use requirements and standards.

- A. Land use requirements. After the effective date of this article, 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 within any shoreland area except in conformity with all of the following regulations applicable to the district in which the building, structure or lot is located, unless a variance is granted.
- B. Land use standards. All land use activities within the shoreland zone shall conform to the following provisions.

§ 165-36. Minimum lot standards.

[Amended 2-27-1995 by Ord. No. 95-106]

- A. Minimum lot standards shall be as follows:

Use	Minimum Lot Area (square feet)	Minimum Shore Frontage (feet)
Residential, per dwelling unit		
Within the shoreland zone adjacent to tidal areas	30,000	150
Within the shoreland zone adjacent to nontidal areas,not including land adjacent to freshwater wetlands	40,000	200
Within the shoreland zone adjacent to freshwater wetlands	Subject to lot requirements of zoning district	None

Use	Minimum Lot Area (square feet)	Minimum Shore Frontage (feet)
Governmental, institutional, commercial or industrial, per principal structure		
Within the shoreland zone adjacent to tidal areas, exclusive of those areas zoned for the Waterfront Development District and Downtown Development District	40,000	200
Within the shoreland zone adjacent to tidal areas zoned for the Waterfront Development District and Downtown Development District	None	None
Within the shoreland zone adjacent to nontidal areas, not including land adjacent to freshwater wetlands	60,000	300
Within the shoreland zone adjacent to a freshwater wetland	Subject to lot requirements of zoning district	None
Public and private recreational facilities		
Within the shoreland zone adjacent to tidal and nontidal areas	40,000	200

- B. Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two lots shall not be included toward calculating minimum lot area.
- C. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land, unless such road was established by the owner of land on both sides thereof after September 22, 1971.
- D. The minimum width of any portion of any lot within 100 feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- E. If more than one residential dwelling unit or more than one principal commercial or industrial structure is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit or principal structure.

§ 165-37. Principal and accessory structures.

- A. Setback.
[Amended 2-27-1995 by Ord. No. 95-106]
 - (1) All new principal and accessory structures shall be set back at least 75 feet from the normal high-water line of any water bodies or tributary streams, except in the Downtown

Development District and in the Waterfront Development District, where the setback from the normal high-water line shall be at least 25 feet.

- (2) All new principal and accessory structures shall be set back at least 75 feet from the upland edge of a freshwater wetland, regardless of whether the lot adjacent to the freshwater wetland is served by public water and sewer.

[Amended 12-27-2000 by Ord. No. 01-62]

- (3) The water body or wetland setback provision shall apply neither to structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

- (4) The setback for public recreational trails limited to nonmotorized vehicles, such as trails for bicycling, hiking, horse riding, skiing, and snowshoeing, and related accessory structures shall be reduced to 25 feet from a waterbody where the applicant can demonstrate:

[Added 7-9-2007 by Ord. No. 07-231]

- (a) Adequate sedimentation control measures will be utilized;
- (b) No unreasonable adverse impact on the waterbody will be created; and
- (c) The public has a legal right to use the trail.

- B. Principal or accessory structures and expansion of existing structures shall not exceed 35 feet in height, except in the Downtown Development District and Government and Institutional Service District adjacent to tidal waters, where the building height shall not exceed 80 feet. This provision shall not apply to structures such as transmission towers, windmills, antennas and similar structures having no floor area.

[Amended 5-13-1996 by Ord. No. 96-198; 9-9-2002 by Ord. No. 02-323]

- C. The first floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the one-hundred-year flood, the flood of record or, in the absence of these, the flood as defined by soil types identified as recent floodplain soils.

- D. The total area of all structures, parking lots and other nonvegetated surfaces within the shoreland zone shall not exceed 20% of the lot or a portion thereof located within the shoreland zone, including land area previously developed, except in the Downtown Development District and Government and Institutional Service District adjacent to tidal waters and rivers and in the Waterfront Development District, where impervious surface shall not exceed 70%.

[Amended 5-13-1996 by Ord. No. 96-198]

- E. Notwithstanding the requirements stated above, stairways or similar structures may be allowed, with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils, provided that the structure is limited to a maximum of four feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

§ 165-38. Piers, docks, wharves and bridges.

Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line of a water body or within a wetland shall be subject to the following:

- A.

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

- B. The location shall not interfere with existing developed or natural beach areas.
- C. The facility shall be located so as to minimize adverse effects on fisheries.
- D. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the existing conditions, use and character of the area.
- E. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.
- F. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- G. Except in the Downtown Development District and Waterfront Development District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed 20 feet in height above the pier, wharf, dock or other structure.

§ 165-39. Campgrounds.

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

- A. Campgrounds shall contain a minimum of 5,000 square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation and land below the normal high-water line of a water body shall not be included in calculating land area per site.
- B. The areas intended for placement of a recreational vehicle, tent or shelter and utility and service buildings shall be set back a minimum of 75 feet from the normal high-water line of any water bodies, tributary streams or the upland edge of a wetland.

§ 165-40. Individual private campsites.

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

- A. One campsite per lot existing on the effective date of this chapter or 30,000 square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- B. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back 75 feet from the normal high-water line of any water bodies, tributary streams or the upland edge of a wetland.
- C. Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structures except canopies shall be attached to the recreational vehicle.
- D. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to 1,000 square feet.
- E.

A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the local Plumbing Inspector. Where disposal is off site, written authorization from the receiving facility or landowner is required.

- F. When a recreational vehicle, tent or similar shelter is placed on site for more than 120 days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules, unless served by public sewage facilities.

§ 165-41. Parking areas.

- A. Parking areas shall meet the shoreline setback requirements for structures for the district in which such areas are located, except in the Downtown Development District and Waterfront Development District, where parking areas shall be set back at least 25 feet from the normal high-water line or the upland edge of a wetland. The setback requirement for parking areas serving public boat-launching facilities in districts other than the Downtown Development and Waterfront Development Districts may be reduced to less than 50 feet from the normal high-water line or upland edge of a wetland if the Planning Board finds that no other reasonable alternative exists.
- B. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body and, where feasible, to retain all runoff on site.
- C. In determining the appropriate size of proposed parking facilities, the following shall apply: See Article X, Off-Street Parking.
[Amended 2-27-1995 by Ord. No. 95-106]

§ 165-42. Roads and driveways.

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

- A. Roads and driveways shall be set back at least 75 feet from the normal high-water line of any water bodies, tributary streams or the upland edge of a wetland unless no reasonable alternative exists, as determined by the Planning Board. If no other reasonable alternative exists, the Planning Board may reduce the road and/or driveway setback requirement to 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.
 - (1) On slopes of greater than 20%, the road and/or driveway setback shall be increased by 10 feet for each five-percent increase in slope above 20%.
 - (2) This Subsection A shall not apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures nor to facilities located nearer to the shoreline due to an operational necessity.
- B. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.
- C. New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district or as approved by the Planning Board upon a finding that no

reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water mark of a water body, tributary stream or upland edge of a wetland.

- D. Road banks shall be no steeper than a slope of two horizontal to one vertical.
- E. Ditch relief (cross-drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road or ditch. To accomplish this, the following shall apply:

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

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

- (2) Drainage dips may be used in place of ditch relief culverts only where the road grade is 10% or less.
- (3) On road sections having slopes greater than 10%, ditch relief culverts shall be placed across the road at approximately a thirty-degree angle downslope from a line perpendicular to the center line of the road.
- (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 materials.

- F. Ditches, culverts, bridges, dips, water turnouts and other stormwater runoff control installations associated with roads shall be maintained on a regular basis to assure effective functioning.

§ 165-43. Stormwater runoff.

[Amended 6-22-2009 by Ord. No. 09-199; 10-14-2009 by Ord. No. 09-264]

- A. All new construction and development shall be designed to minimize stormwater runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
- B. Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning in accordance with Chapter **268** of this Code.

§ 165-44. Septic waste disposal.

All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules or subsequent revisions thereof.

§ 165-45. Essential services.

- A. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- B. The installation of essential services is not permitted in a Resource Protection District, except to provide services to a permitted use within said district or except where the applicant demonstrates that no reasonable alternative exists. Where permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

§ 165-46. Mineral exploration and extraction.

- A. Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring or other methods which create minimal disturbance of less than 100 square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures so as to restore disturbed areas and to protect the public health and safety.
- B. Mineral extraction may be permitted under the following conditions:
 - (1) A reclamation plan shall be filed with and approved by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Subsection **B(4)** below.
 - (2) Unless authorized pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C, no part of any extraction operation, including drainage and runoff control features, shall be permitted within 75 feet of the normal high-water mark of any water body, tributary stream or the upland edge of a wetland. Extraction operations shall not be permitted within 75 feet of any property line without written permission of the owner of such adjacent property.
 - (3) Within 12 months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than 100 cubic yards of materials are removed in any consecutive twelve-month period, ground levels and grades shall be established in accordance with the following:
 - (a) All debris, stumps and similar material shall be removed for disposal in an approved location or shall be buried on site. Only materials generated on site may be buried or covered on site.
 - (b) The final graded slope shall be 2 to 1 slope or flatter.
 - (c) Topsoil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
 - (4) In keeping with the purposes of this chapter, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.
- C. See Article **VI**, Quarries, Excavations and Earthmoving Activities.

§ 165-47. Agriculture.

- A. All spreading or disposal of manure shall be accomplished in conformance with the Maine Guidelines for Manure and Manure Sludge Disposal on Land published by the University of Maine Soil and Water Conservation Commission in July 1972, or subsequent revision thereof.
- B. Manure shall not be stored or stockpiled within 75 feet, horizontal distance, of water bodies, tributary streams or wetlands. Within five years of the effective date of this chapter, all manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater. Existing facilities which do not meet the setback requirement may remain but must meet the no-discharge provision within the above five-year period.
- C. Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area or the spreading, disposal or storage of manure within the shoreland zone shall require a soil and water conservation plan to be filed with the Planning Board. Nonconformance with the provisions of said plan shall be considered to be a violation of this chapter.
- D. Where soil is tilled in a Resource Protection Zone or where soil in excess of 20,000 square feet is tilled, such tillage shall be carried out in conformance with the provisions of a conservation plan which meets the standards of the State Soil and Water Conservation Commission and is approved by the appropriate Soil and Water Conservation District. The number of the plan shall be filed with the Planning Board. Nonconformance with the provisions of such conservation plan shall be considered to be a violation of this chapter.
- E. There shall be no new tilling of soil within 75 feet, horizontal distance, from any water bodies nor within 25 feet, horizontal distance, of tributary streams and wetlands. Operations in existence on the effective date of this chapter and not in conformance with this provision may be maintained.
- F. After the effective date of this chapter, newly established livestock grazing areas shall not be permitted within 75 feet, horizontal distance, of any water bodies nor within 25 feet, horizontal distance, of tributary streams and wetlands. Livestock grazing associated with ongoing farm activities and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a soil and water conservation plan.

§ 165-48. Timber harvesting.

[Amended 9-14-1998 by Ord. No. 98-339; 7-25-2016 by Ord. No. 16-273]

Timber harvesting in shoreland areas is regulated through the Maine Forest Service and governed by MFS Rule - Chapter 21: Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas.

§ 165-49. Clearing of vegetation for development.

- A. In the Resource Protect District, the clearing of vegetation shall be limited to that which is necessary for the uses expressly authorized in that district.
- B. Except to allow for the development of permitted uses, within a strip of land extending 75 feet, horizontal distance, from any water body, tributary stream or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

(1)

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 10 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.

(2) Selective cutting of trees within the buffer strip is permitted, provided that a well-distributed stand of trees and other vegetation is maintained.

(a) For the purposes of this section, a "well-distributed stand of trees and other vegetation" adjacent to water bodies, tributary streams and wetlands shall be defined as maintaining a rating score of eight or more in any twenty-five-foot by twenty-five-foot square area (625 square feet) as determined by the following rating system:

Diameter of Tree at 4 1/2 Feet Above Ground Level	
Level (inches)	Points
2 to 4	1
Greater than 4 to 12	2
Greater than 12	4

(b) Notwithstanding the above provisions, no more than 40% of the total volume of trees four inches or more in diameter measured at 4 1/2 feet above ground level may be removed in any ten-year period.

(3) Pruning of tree branches on the bottom 1/3 of the tree is permitted.

(4) 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.

C. The provisions contained in Subsection **B** 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.

D. At distances greater than 75 feet, horizontal distance, from the normal high-water mark of any 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 ten-year period, selective cutting of not more than 40% of the volume of trees four inches or more in diameter measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty-percent calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area. In no event shall cleared openings for development, including but not limited to principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate 25% of the lot area or 10,000 square feet, whichever is greater, including land previously developed. This provision shall not apply to the Downtown Development or Waterfront Development District.

E. Cleared openings legally in existence on the effective date of this chapter may be maintained but shall not be enlarged, except as permitted by this chapter.

F. Fields which have reverted to primarily shrubs, trees or other woody vegetation shall be regulated under the provisions of this section.

§ 165-50. Erosion and sedimentation control.

- A. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - (1) Mulching and revegetation of disturbed soil.
 - (2) Temporary runoff control features, such as hay bales, silt fencing or diversion ditches.
 - (3) Permanent stabilization structures, such as retaining walls or riprap.
- B. 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. On slopes greater than 25% there shall be no grading or filling within 100 feet of the normal high-water mark except to protect the shoreline and prevent erosion.
- C. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- D. 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 nine months of the initial date of exposure. In addition:
 - (1) 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.
 - (2) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - (3) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- E. Natural and man-made drainageways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty-five-year storm or greater and shall be stabilized with vegetation or lined with riprap.

§ 165-51. Soils.

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal and commercial or industrial development and other similar intensive land uses shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine certified soil scientists, Maine registered professional engineers, Maine state certified geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum groundwater elevation, presence of ledge, drainage conditions and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

§ 165-52. Water quality.

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

§ 165-53. Archaeological sites.

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment at least 20 days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

§ 165-54. Conditional use standards.

Before the Planning Board shall grant a conditional use permit in the areas of the City of Bangor covered by this article, it shall have determined that the proposed activity:

- A. Will maintain safe and healthful conditions;
- B. Will not result in water pollution, erosion or sedimentation to surface waters;
- C. Will adequately provide for the disposal of all wastewater;
- D. Will not have an adverse impact on spawning grounds, fish, aquatic life and bird and other wildlife habitats;
- E. Will conserve shore cover and visual as well as actual points of access to inland and coastal waters;
- F. Will protect archaeological and historic resources as designated in the City's Comprehensive Plan;
- G. Will not adversely affect fisheries or maritime activities;
- H. Will avoid problems associated with floodplain development and use; and
- I. Is in conformance with the provisions of this article and with § 165-9, Conditional uses.

§ 165-55. Variances.

A copy of all variances granted by the Board of Appeals within the area of the City of Bangor covered by this article shall be submitted to the State Planning Office and the Department of Environmental Protection within 14 days of the decision. A variance shall not be granted to permit a use or structure otherwise prohibited.

§ 165-56. Amendments.

- A. This article may be amended by majority vote of the City Council. Copies of amendments, attested and signed by the City Clerk, shall be submitted to the Board of Environmental Protection

following adoption by the City Council and shall not be effective unless approved by the Board of Environmental Protection. If the Board of Environmental Protection fails to act on any amendment within 45 days of the Board's receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the City within the forty-five-day period shall be governed by the terms the amendment, if such amendment is approved by the Board.

- B. The State Planning Office shall be notified by the City Clerk of amendments to this chapter which affect the areas of the City of Bangor covered by this article.

§ 165-57. Definitions.

As used in this article, the following terms shall have the meanings indicated:

BOAT-LAUNCHING FACILITY

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

CAMPGROUND

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

COASTAL WETLAND

All tidal and subtidal lands; all lands below any identifiable debris line left by tidal action; all lands with vegetation present that is tolerant of saltwater and occurs primarily in a saltwater or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

EMERGENCY OPERATIONS

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

ESSENTIAL SERVICES

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

FORESTED WETLAND

Freshwater wetlands dominated by woody vegetation that is six meters (approximately 19.7 feet) tall or taller.

FOREST MANAGEMENT ACTIVITIES

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

FRESHWATER WETLAND

[Amended 1-11-1993 by Ord. No. 93-59]

- A. Freshwater swamps, marshes, bogs and similar areas other than forested wetlands which are:
- (1) Of 10 or more contiguous acres or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state the combined surface area is in excess of 10 acres; and
 - (2) Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.
- B. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

FUNCTIONALLY WATER-DEPENDENT USES

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

INDIVIDUAL PRIVATE CAMPSITE

An area of land which is not associated with a campground but which is developed for repeated camping by only one group, not to exceed 10 individuals, and which involves site improvements which may include, but not be limited to, gravel pads, parking areas, fireplaces or tent platforms.

MARINA

A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats and which may also provide accessory services, such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, boat and tackle shops and marine fuel service facilities.

MINERAL EXPLORATION

Hand sampling, test boring or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

MINERAL EXTRACTION

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

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. In the case of wetlands adjacent to rivers and great ponds, the normal high-water line is the upland edge of the wetland and not the edge of the open water.

OUTLET STREAM

Any perennial or intermittent stream, as shown on the most recent edition of the seven and one half-minute series or fifteen-minute series or, if not available, a fifteen-minute series topographic map produced by the United States Geological Survey that flows from a freshwater wetland.

[Amended 1-10-1994 by Ord. No. 94-55; 12-27-2000 by Ord. No. 01-62]

PIERS, DOCKS, WHARFS, BRIDGES AND OTHER STRUCTURES AND USES EXTENDING OVER OR BEYOND THE NORMAL HIGH-WATER LINE OR WITHIN A WETLAND

A. **TEMPORARY**

Structures which remain in or over the water for less than seven months in any period of 12 months.

B. **PERMANENT**

Structures which remain in or over the water for seven months or more in any period of 12 consecutive months.

RECREATIONAL FACILITY

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

RECREATIONAL VEHICLE

A vehicle or an attachment to a vehicle designed to be towed and designed for temporary sleeping or living quarters for one or more persons and which may include a pickup 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.

RIVER

A free-flowing body of water, including its associated floodplain wetlands, from that point at which it provides drainage for a watershed of 25 square miles to its mouth.

SALT MARSH

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

SALT MEADOW

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

SHORE FRONTAGE

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

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 75 feet of the upland edge of a coastal or freshwater wetland; or within 75 feet of the normal high-water line of a stream or outlet stream.

[Amended 12-27-2000 by Ord. No. 01-62]

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 United States Geological Survey seven-and-one-half-minute series topographic map or, if not available, a fifteen-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within a shoreland zone.

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.

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 chapter 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.

VEGETATION

All live trees, shrubs, ground cover and other plants, including, without limitation, trees both over and under four inches in diameter measured at 4 1/2 feet above ground level.

WATER BODY

Any great pond, river, stream, outlet stream or tidal area.
[Amended 12-27-2000 by Ord. No. 01-62]

WATER 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, waterlines, sewer lines and cables, as well as maintenance work on these crossings.

WETLAND

A freshwater or coastal wetland.

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 which 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 high-water line of the great pond or river.