

SHORELAND ZONING ORDINANCE
FOR THE
TOWN OF SHIRLEY

PRESENTED BY THE
SHIRLEY PLANNING BOARD

REGISTRY OF DEEDS

JUNE 25, 1974

BK 420 PG 120

Kathrine C. Green, Register

MINIMUM SHORELAND ZONING ORDINANCE

Shoreland Zoning Ordinance for the Town of Shirley

Section 1. Purposes

The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitat; control building sites, placement of structures and land uses; and conserve shore cover, visual as well as actual points of access to inland waters and natural beauty.

Section 2. Applicability

The Ordinance applies to all land areas within 250 feet, horizontal distance, of the normal high water of any pond, or river as defined.

Section 3. Effective Date

The effective date of this Ordinance is **June 30, 1974**. A certified copy of this Ordinance shall be filed with the County Register of Deeds, according to the requirements of State law.

Section 4. Validity

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.

Section 5. Amendments

This Ordinance may be amended by a majority vote of the governing body. The State Planning Office shall be notified by Certified Mail, of amendments to this Ordinance, prior to the effective date of such amendments. A file of return receipts from such mailings shall be maintained as a permanent record.

Section 6. Districts and the Zoning Map

The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map:

1. Resource Protection District
2. General Development District
3. Limited Residential-Recreational District

The Official Shoreland Zoning Map, and all future amendments thereto, is hereby made part of and incorporated into this Ordinance.

Section 7. Interpretation of District Boundaries

Unless otherwise set forth in the Official Shoreland Zoning Map, District boundary lines are property lines, the centerlines of Streets, roads and rights of way, and boundaries of the shoreland area as defined herein. Where uncertainty exists as to exact location of District boundary lines, the Board of Appeals shall be the final authority as to location.

Section 8. Non-Conforming Uses

- A. Any lawful use of building, structures, premises, land or parts thereof existing at the effective date of this Ordinance or amendments thereto and not in conformance with the provisions of this Ordinance shall be considered to be a non-conforming use.
- B. Any non-conforming use may continue and may be maintained, repaired and improved. No such non-conforming use may be expanded, or renewed after it has been discontinued for a period of 12 calendar months or more, without a permit from the Planning Board in accordance with the provisions of Section 12-B subsection 6, paragraphs a-i of this Ordinance.
- C. Any non-conforming lot of record existing before the effective date of this Ordinance and not adjoined by other land of the same ownership may be used in accordance with State law and section 10 of this Ordinance.

Section 9. Criteria for Establishing Districts

A. Resource Protection District

The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biotic systems, or scenic and natural values. This district shall include:

- 1. Inland wetlands as defined in Section 13, and specifically areas rated as moderate to high-value water fowl areas by the Department of Inland Fisheries and Game, as of January 1, 1973.
- 2. Flood plains as defined by the 100 year flood or the flood of record or, in the absence of these, by soil types identifiable as recent flood plain soils.
- 3. Areas having sustained slopes greater than 25%, or unstable soil subject to slumping, mass movement, or severe erosion, when these areas are two acres or more in size.

This District may also include:

4. Other significant wildlife habitat;
5. Natural sites of significant scenic or esthetic value.
6. Outdoor conservation and recreational uses.
7. Piers, docks and floats for recreational purposes provided they are capable of seasonal removal.
8. Other significant areas which should be included in this district to fulfill the purposes of this Ordinance.

B. General Development District

The general development district includes the following types of areas:

1. Areas serviced by public sewer and water
2. Areas of two acres or more devoted to intensive residential, recreational, commercial or industrial activities or combinations of such activities, including, but not limited to:
 - a. Transportation rights of way;
 - b. Communication and utility rights of way;
 - c. Areas devoted to; manufacturing, fabrication, wholesaling, warehousing or other commercial activities.
 - d. Areas devoted to retail trade and service activities.
 - e. Areas devoted to intensive recreational development and activities.
 - f. Areas devoted to residential dwelling units at a density of 3 or more per two acres.

C. Limited Residential - Recreational District

The Limited Residential - Recreational District includes areas other than those included in the Resource Protection District, and which are used less intensively than those included in the General Development District.

Section 10. Uses

Land Uses permitted in each District, in conformance with the land use standards of this Ordinance, are shown below:

- Key: Yes -Allowed (No permit required)
 No -Prohibited
 PB Permit -Requires permit issued by the Planning Board
 CEO Permit -Requires permit from Code Enforcement Officer
 * - Subject to specific Land Use Standards, Section II
 DEP Permit -Requires permit from the Department of Environmental Protection
 HW Permit -Requires State Department of Health and Welfare permit

<u>Land Uses</u>	<u>Resource Protection</u>	<u>Limited Residential-Recreational</u>	<u>General Development</u>
1. Non-intensive recreational uses not required structures, such as hunting, fishing and hiking	Yes	Yes	Yes
2. Motorized vehicular traffic on roads and trails, and snowmobiling	Yes	Yes	Yes
3. Forest management activities except for timber harvesting	Yes	Yes	Yes
4. Timber harvesting*	CEO permit	Yes	Yes
5. Fire prevention activities	Yes	Yes	Yes
6. Wildlife Management practices	Yes	Yes	Yes
7. Soil & Water conservation practices	Yes	Yes	Yes
8. Emergency operations as defined	Yes	Yes	Yes
9. Principal structures* Residential dwelling units Commercial structures Industrial structures	PB permit No No	PB permit No No	PB permit PB permit PB permit
10. Hospitals and clinics	No	PB permit	PB permit

<u>Land Uses</u>	<u>Resource Protection</u>	<u>Limited Residential-Recreational</u>	<u>General Development</u>
11. Churches, schools, and libraries	No	PB permit	PB permit
12. Municipal uses	PB permit	PB permit	PB permit
13. Home occupations	No	PB permit	Yes
14. Mobile Home parks	No	PB permit	PB permit
15. Individually located mobile homes	PB permit	PB permit	PB permit
16. Storage of Oil petroleum products	No	No	PB Permit
17. Warehouses	No	PB permit	PB permit
18. Structures accessory to permitted uses	CEO permit	CEO permit	Yes
19. Small non-residential facilities for educational, scientific or nature interpretation purposes	PB permit	PB permit	Yes
20. Public and private parks and recreational areas involving minimal structural development	PB permit	Yes	Yes
21. Campgrounds	No	PB permit	PB permit
22. Dumps, junkyards, and automobile graveyards	No	No	No
23. Piers, docks, wharves, breakwaters, causeways, marinas, bridges over 20 ft in length, and uses projecting into water bodies.			
Temporary	PB permit	PB permit	PB permit
Permanent	DEP permit	DEP permit	DEP permit

<u>Land Uses</u>	<u>Resource Protection</u>	<u>Limited Residential-Recreational</u>	<u>General Development</u>
24. Public and Private sewage disposal systems	HW permit	HW permit	HW permit
25. Public utilities	PB permit	PB permit	PB permit
26. Signs*	PB permit	yes	yes
27. Filling or other earthmoving activity of less than 10 cubic yards	CEO permit	yes	yes
28. Filling or other earthmoving activity of more than 10 cubic yards	PB permit	CEO permit	CEO permit
29. Other uses	PB permit	PB permit	PB permit

Section 11. LAND USE STANDARDS

All land use activities shall conform to the following land use standards.

A. Clearing

Clearing of trees and conversion to other vegetation is permitted for approved construction and landscaping. Where such clearing extends to the shoreland, a cleared opening or openings not greater than 30 feet in width for every 100 feet of shoreline (measured along the normal high water mark) may be created in the strip extending 30 feet inland from the normal high water mark and paralleling the shoreline. Where natural vegetation is removed, it shall be replaced with other vegetation that is equally effective in retarding erosion and preserving natural beauty.

B. Residential Lot Standards

1. Lots shall meet or exceed the following minimum requirements:
20,000 square feet
2. If more than one residential dwelling unit is constructed on a single parcel, the minimum lot size requirement shall be met for each additional dwelling unit.
3. A lot abutting a lake, pond, river, or stream shall have a minimum shore frontage of 100 feet, measured in a straight line between the points of intersection of the side lot lines with the shoreline at normal high water elevation.

C. Sanitary Standards

1. Subsurface Sewage Disposal

A. Soil Conditions

1. All subsurface sewage disposal systems shall be located in areas of suitable soil of at least 1,000 square feet in size.
2. All subsurface sewage disposal systems shall be located in soils having characteristics allowing them to be rated as having "slight" or "moderate" limitations for the proposed use in the current "Statewide Set of Maine Soil Descriptions and Interpretations" published by the U.S. Department of Agriculture, Soil Conservation Service.
3. The determination of soil suitability shall be based on a soils report prepared by a state-certified soil scientist or geologist, based on an on-site investigation and soil observation to a minimum depth of five feet. Suitability considerations shall be based primarily on criteria employed in the National Cooperative Soil Survey as modified by on-site factors such as depth to water table and depth to refusal.

B. Setbacks

The minimum setback for underground sewage disposal facilities from the normal high water mark of a water body shall be no less than 100 horizontal feet.

2. Privies

Privies may be permitted in areas not served by community sewer facilities under the following conditions:

- A. No plumbing of any kind shall be connected to or discharged into the privy pit.
- B. The privy shall be located at a minimum horizontal distance of 100 feet from the normal high water mark of a water body.
- C. The bottom of the privy pit shall be at least two feet above bedrock and the ground water table at its highest point during the year or have a water-tight vault.
- D. Privies shall not be permitted on recent flood plain soils.

3. Other Systems

Other systems of sanitary waste disposal may be permitted after approval by the Maine Department of Health and Welfare and after a permit has been issued by the Planning Board.

D. Signs

The following provisions shall govern the use of signs in the Resource Protection and Limited Residential-Recreation Districts:

1. Signs and billboards relating to goods and services sold on the premises shall be permitted, provided such signs shall not exceed six (6) square feet in area, and shall not exceed two (2) signs per premises. Billboards and signs relating to goods and services not rendered on the premises shall be prohibited.
2. Name signs shall be permitted, provided such signs shall not exceed two (2) signs per premises.
3. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
4. Signs relating to trespassing and hunting shall be permitted without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
5. No sign shall extend higher than twenty (20) feet above the ground.
6. Signs may be illuminated only by shielded, non-flashing lights.

E. Structures

1. All principal structures in the resource Protection and Limited Residential-Recreational Districts shall be set back at least 75 feet from the normal high water mark of any pond or river as defined.
2. The first floor elevation or openings of all buildings and structures shall be elevated at least two feet 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 identifiable as recent flood plain soils.

F. Timber Harvesting

1. No substantial accumulation of slash shall be left within fifty (50) feet of the normal high water mark of any pond or river as defined. At distances greater than fifty (50) feet from the normal high water mark of such waters and extending to the limits of the area covered by this Ordinance, all slash shall be disposed of in such a manner that it lies on the ground and no part thereof extends more than four feet above the ground.

2. Skid trails, log yards, and other sites where the operation of logging machinery results in the exposure of substantial areas of mineral soil shall be located such that an unscarified filter strip is retained between the exposed mineral soil and the normal high water mark of any pond or river as defined. The width of this strip shall vary according to the average slope of the land as follows:

<u>Average Slope of Land Between exposed Mineral Soil and Normal High Water Mark (percent)</u>	<u>Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet along Surface of the Ground)</u>
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

3. Harvesting operations shall be conducted in such a manner and at such a time that minimal soil disturbance results. Adequate provision shall be made to prevent soil erosion and sedimentation of surface waters.
4. Harvesting operations shall be conducted in such a manner that a well-distributed stand of trees is retained.
5. Harvesting activities shall not create single openings greater than seven thousand five hundred (7,500) square feet in the forest canopy.
6. In any stand, harvesting shall remove not more than forty (40) percent of the volume, of trees in any ten (10) year period. For the purposes of these standards, a stand means a continuous group of trees, sufficiently uniform in species, arrangement of age classes, and conditions, to be identifiable as a homogeneous and distinguishable unit.
7. Timber harvesting operations not in conformance with 2, 4, 5, and 6 above may be allowed by the Planning Board upon approval of a permit granted in accordance with the provisions of Section 12-B subsection 6, paragraphs a-i upon clear showing by the applicant that such an exception is necessary for proper timber management.

G. Water Quality Protection

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that turn off, seep, percolated, or wash into surface or ground waters so as to contaminate, pollute, harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged

debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

Section 12. ADMINISTRATION

A. Creation of Administering Bodies and Agents.

1. Code Enforcement Officer

A Code Enforcement Officer shall be appointed by the municipal officers.

2. Board of Appeals

There is hereby created the Board of Appeals of the Town of Shirley pursuant to the provisions of State Law.

B. Permits.

1. Permits Required

After the effective date of this Ordinance no person shall engage in any use of land requiring a permit in the district in which it would occur, or expand or change an existing non-conforming use, or renew a discontinued non-conforming use without first obtaining a permit.

2. Permit Application

Applications for permits shall be submitted in writing. The Code Enforcement Officer or Planning Board may require the submission of whatever information is necessary to determine conformance with the provisions of this Ordinance.

3. Plumbing Permit Required Prior to Building Permit

No building permit shall be issued for any structure or use involving the construction, installation or alteration of plumbing facilities unless a permit for such facilities has been secured by the applicant or his authorized agent, according to the requirements of this Ordinance.

4. Approval of Permits

Permits shall not be denied if the proposed use is found to be in conformance with the provisions of this Ordinance. All permits shall either be approved or denied within 60 days of receipt of a completed application, including all information requested.

5. Permits Issued by Code Enforcement Officer

The Code Enforcement Officer shall approve or deny those applications on which he is empowered to act as shown in Section

10. Approval shall be granted only if the proposed use is in conformance with the provisions of this Ordinance.

6. Permits Issued by Planning Board

The Planning Board shall approve or deny those applications on which it is empowered to act as stated in this Ordinance. The Planning Board may, after the submission of a complete application including all information requested, grant a permit if it makes a positive finding based on the information presented to it that, except as specifically exempted in this Ordinance, the proposed use:

- a. Will not result in unsafe or unhealthful conditions;
- b. Will not result in erosion or sedimentation;
- c. Will not result in water pollution;
- d. Will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;
- e. Will conserve shoreland vegetation;
- f. Will conserve visual points of access to waters as viewed from public facilities;
- g. Will conserve actual points of public access to waters;
- h. Will conserve natural beauty;
- i. Will avoid problems associated with flood plain development and use; and
- j. Is in conformance with the provisions of Section 11, Land Use Standards.

7. Conditions

Permits granted under this Section may be made subject to reasonable conditions to ensure conformity with the purposes and provisions of this Ordinance.

C. Appeals and Variances

1. Variances

A copy of all variances granted by the Board of Appeals shall be submitted to the State Planning Office. The Board of Appeals may, upon written application of the affected landowner, grant a variance from the strict application of the Ordinance under the following conditions:

- a. The strict application of the terms of this Ordinance would result in undue hardship to the applicant;
- b. The hardship is not the result of action taken by the applicant or a prior owner; and

- c. The Board of Appeals, based on clear and convincing evidence presented to it, makes a finding that the proposed use would meet the provisions of Section 12-B, subsection 6, paragraphs a-i.

2. Appeals to Board of Appeals

The Board of Appeals may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Planning Board or Code Enforcement Officer in the administration of this Ordinance. Such hearings shall be held in accordance with State law. Following such hearing, the Board of Appeals may reverse the decision of the Planning Board or Code Enforcement Officer only upon a finding that the decision is clearly contrary to specific provisions of this Ordinance.

3. Appeal to Superior Court

An appeal may be taken within thirty days after any decision is rendered by the Board of Appeals, by any party to Superior Court in accordance with State law.

- D. Enforcement

1. Nuisances

Any violation of this Ordinance shall be deemed to be a nuisance.

2. Code Enforcement Officer

It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he 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, structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be maintained as a permanent record.

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 from the Code Enforcement Officer, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fine, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Municipality.

4. Fines

Any person who continues to violate any provision of this Ordinance after receiving notice of such violation shall be guilty of a misdemeanor subject to a fine of up to \$100.00 for each violation. Each day such a violation is continued is a separate offense.

Section 13 Definitions

Terms not defined herein shall have the customary dictionary meaning. As used in this Ordinance, the following definitions shall apply:

Water Related Terms

A. Pond

Any inland body of water which has a surface area in excess of 10 acres, except where such body of water is man-made and in addition is completely surrounded by land held by a single owner, and except those privately owned ponds which are held primarily as waterfowl and fish breeding areas or for hunting and fishing.

B. River

Any free flowing body of water from that point at which it provides drainage for a watershed of 25 square miles to its mouth.

C. Normal High Water Mark of Inland Waters

That line on the shores and banks of non-tidal waters which is apparent because of the contiguous different character of the soil or the vegetation due to the prolonged action of the water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (by way of illustration, aquatic vegetation includes but is not limited to the following plants and plant groups- water lily, pond lily, pickerelweed, cattail, wild rice, sedges, rushes, and marsh grasses; and terrestrial vegetation includes but is not limited to the following plants and plant groups - upland grasses, aster lady slipper, wintergreen, partridge berry, sasparilla, pines, cedar, oaks, ashes, alders, elms, and maples). In places where the shore or bank is of such character that the high water mark cannot be easily determined (rock-slides, ledges, rapidly eroding or slumping banks) the normal high water mark shall be estimated from places where it can be determined by the above method.

Forest Management Terms

D. Forest Management Activities

Timber cruising and other forest resources evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, timber harvesting, regeneration of forest stands, and other similar associated activities, but not the construction or creation of roads.

E. 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.

Wetland Terms

F. Inland Wetland

Areas enclosed by the normal high water mark of inland waters and areas otherwise identified on the basis of soils, vegetation, or other criteria as inland wetlands including but not limited to swamps, marshes, or bogs.

G. Structure

Anything built for the support, shelter, or enclosure of persons, animals, goods or property of any kind.

H. Principal Structure

The structure in which the primary use of the lot is conducted

I. Accessory Structure

A structure of a nature customarily incidental or subordinate to that of the principal structure or the primary use to which the premises are devoted

J. Residential Dwelling Unit

A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family. The term shall include mobile homes.

K. Piers, Docks, Wharves, Breakwaters, Causeways, Marinas, Bridges Over 20 feet in length, and Uses Projecting into water bodies

Temporary: Structures which remain in the water for less than seven months in any period of twelve consecutive months

Permanent: Structures which remain in the water for seven months or more in any period of twelve consecutive months.

L. Aggrieved Party

A person whose land is directly or indirectly affected by the grant or denial of a permit or variance under this Ordinance, a person whose land abuts land for which a permit or variance has been granted, or a group of

five or more citizens of the municipality who represent an interest adverse to the grant or denial of such permit or variance.

M. Emergency Operations

Emergency operations shall include 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 and livestock from the threat of destruction or injury.

N. Privy

A pit in the ground into which human excrement is placed.

O. Essential Services

Gas, electrical communication facilities, steam, fuel, or water supply, transmissions, or distribution systems

P. Governing Body

Residents of the town of Shirley in a special or regular town meeting

Approximate Location of Zoning District Boundaries

Resource Protection District

All of the shorelands of the following bodies of water to the extent that they fall within the town limits.

West Shirley Bog
West Branch Piscataquis
East Branch Piscataquis
Little Wilson Dead Water
Bell Pond
Big Bunker
McClellan Pond

Limited Resource Protection Districts

Little Ordway
Ordway
Lily Pond

General Development District

Shirley Pond

