

SUBDIVISION ORDINANCE
OF THE
TOWN OF CASTINE, MAINE



**ENACTED BY THE TOWN IN MEETING ASSEMBLED THE 6TH DAY OF
NOVEMBER 2012 AND AS THEREAFTER AMENDED.**

ATTEST: THIS IS A TRUE DOCUMENT. THE *ZONING ORDINANCE OF THE TOWN OF CASTINE, MAINE*, HAS BEEN
IN EFFECT WITHOUT CHANGE FROM 6 NOVEMBER 2012 TO THE DATE HEREOF, EXCEPT AS AMENDED.

DATED: SEPTEMBER 23, 2013

SIGNATURE: _____

AFFIX SEAL

SUSAN M. MACOMBER
CASTINE TOWN CLERK

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SUBDIVISION ORDINANCE OF THE TOWN OF CASTINE

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• Amendment 1	September 23, 2013
Article amended: 8.	

ARTICLE 1: PURPOSE

The purposes of this Ordinance are:

- 1.1** To promote the development of an economically sound and stable Town;
- 1.2** To assure that new development in the Town of Castine meets the goals and conforms to the policies of the current Comprehensive Plan of the Town of Castine;
- 1.3** To provide for an expeditious and efficient process for the review of proposed subdivisions;
- 1.4** To protect the environment and conserve the aesthetic, natural and cultural resources of the Town; and
- 1.5** To assure a minimal level of service and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting proposed uses and structures.



ARTICLE 2: AUTHORITY AND ADMINISTRATION

2.1 AUTHORITY

- A.** This Ordinance is adopted pursuant to the home rule authority of municipalities as provided in Article VIII, part 2, section 1 of the Maine Constitution and with the provisions of Title 30-A MRSA §§4401-4408.
- B.** This Ordinance shall be known as and may be cited as the “Subdivision Ordinance of the Town of Castine, Maine.” Applications pending at the time of adoption of this Ordinance shall be governed by Title 1 MRSA §302.

2.2 ADMINISTRATION

- A.** The Planning Board of the Town of Castine, hereinafter called the Board, shall administer this ordinance.
- B.** The provisions of this ordinance shall pertain to all land and buildings proposed for subdivisions within the boundaries of the Town of Castine, hereinafter called the Town or Castine.

2.3 SEVERABILITY

Should any section or provision of this Ordinance be declared to be invalid by a court, such decision shall not invalidate any other section or provision of this Ordinance.

2.4 CONFLICT

Should any section or provision of this Ordinance be found to be in conflict within this Ordinance or in conflict with other local, state or federal statutes, ordinances or regulations, the more stringent section or provision shall prevail.

2.5 AMENDMENTS

- A.** This ordinance may be amended by a majority vote at a Town meeting.
- B.** A public hearing shall be held prior to the adoption of any amendment. Notice of the hearing shall be provided at least seven days in advance of the hearing.

2.6 EFFECTIVE DATE AND REPEAL OF OTHER ORDINANCES

- A.** This Ordinance shall take effect upon its adoption by a majority of the voters at a Town meeting.
- B.** The Subdivision Ordinance in effect at the time this Ordinance is adopted is repealed. That repeal does not affect or prevent any pending or future prosecution for violations or abatement of violations of the repealed ordinance.



ARTICLE 3: ADMINISTRATIVE PROCEDURE

3.1 WRITTEN AGENDA

In order to establish an orderly, equitable and efficient procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the Board shall have a written agenda prepared by the Code Enforcement Officer, hereinafter called the CEO, after consultation with the Chairman of the Board for each regularly scheduled meeting. The agenda shall be prepared no less than ten (10) days in advance of the meeting, distributed to the Board members, abutters of any proposed subdivision and any applicants appearing on the agenda and posted at the Town office

3.2 AGENDA REQUEST

Applicants shall submit a written request to the CEO that they be placed on the Board's agenda at least fourteen (14) days in advance of a scheduled meeting. Applicants who attend a meeting but are not on the agenda may be heard after all agenda items have been completed, but only if a majority of the Board so votes. However, the Board shall take no action on any application not appearing on the agenda.



ARTICLE 4: PREAPPLICATION MEETING, SKETCH PLAN & SITE INSPECTION

4.1 PURPOSE

The purpose of the preapplication meeting and site inspection is for the applicant to present general information regarding the proposed subdivision to the Board and receive the Board's comments prior to the expenditure of substantial sums of money on surveying, soils identification and engineering by the applicant.

4.2 PROCEDURE

- A.** The applicant shall present the sketch plan and make a verbal presentation regarding the site and the proposed subdivision.
- B.** Following the applicant's presentation the Board may ask questions and make suggestions to be incorporated by the subdivider into the application, and the applicant may ask questions of the Board.
- C.** The date of the on-site inspection is selected.

4.3 SUBMISSION

The preapplication sketch plan shall show, in simple sketch form, the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The sketch plan, which need not be elaborate or professionally done, should be supplemented with general information to indicate the applicable zone, describe or outline the existing conditions of the site and the proposed development. It will be especially helpful to the Board and the subdivider for site conditions such as steep slopes, wet areas, tree and vegetative cover be identified in a general manner. The sketch plan should be superimposed on or accompanied by a copy of the Tax Assessor's Map(s) on which the property is located. The sketch plan shall be accompanied by:

- A.** A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision.
- B.** A copy of that portion of the Hancock County Soil Survey covering the subdivision showing the outline of the proposed subdivision.
- C.** Any requests to relax the normal density standards of the Castine Zoning Ordinance in order to create dwelling units that are affordable, in accordance with the provisions of the Zoning Ordinance.

4.4 CONTOUR INTERVAL AND ON-SITE INSPECTION

On-Site Inspection. Within thirty (30) days after the preapplication meeting the Board shall hold an on-site inspection of the property. The applicant or a designated representative shall be present to answer questions and must have placed "flagging" at the centerline of any proposed street(s), at the approximate intersections of streets and at lot corners prior to the site inspection. The Board may choose not to conduct on-site inspections when a foot or more of snow is on the ground, when site amenities

may be or are obscured or during inclement weather. During hunting season, the Board may delay on-site inspections for reasons of safety. Notice of the on-site inspection shall be made as required by Title 1 MRSA §401-410 (Public Right to Know Law), and the public shall be allowed to accompany the Board. Minutes shall be taken in the same manner as for regular meetings.

Next Meeting. At its next scheduled meeting, the Board shall discuss the on-site inspection and record various conditions or features found. The Board shall then notify the applicant in writing of the highlights of its findings and also the contour interval required.

4.5 RIGHTS NOT VESTED

The preapplication meeting, the submittal or review of the sketch plan or the site inspection shall not be considered the initiation of the review process for the purposes of bringing the Plan under the protection of Title 1 MRSA §302 (Construction and Effect of Repealing and Amending Acts).

4.6 ESTABLISHMENT OF A FILE

Following the preapplication meeting the Board shall establish a permanent file for the proposed subdivision. All correspondence and submissions regarding the preapplication meeting(s) and all subsequent applications, correspondence, record of meetings and proceedings shall be maintained in the file.



ARTICLE 5: FINAL PLAN

5.1 PROCEDURE

- A. Application Submittal.** Within six months after the on-site inspection by the Board, the subdivider shall submit an application to the Board for approval of a final plan. Applications shall be submitted to:

Castine Planning Board
Attn: C.E.O.
P.O. Box 204; 67 Court Street
Castine, ME 04421-0204

or delivered by hand to the Town office. Failure to submit an application within six months may require the resubmission of the sketch plan to the Board. The final plan shall approximate the layout shown on the sketch plan plus any recommendations made by the Board. The Board shall not accept or approve final plans not sealed and signed by a professional land surveyor. [Title 30-A MRSA §4403(3)(D)]

- B. Fees.** All applications for final plan approval shall be accompanied by a non-refundable application fee of \$50 per lot or dwelling unit for the first 10 lots or dwelling units, and \$25 per lot or dwelling unit in excess of 10 lots or dwelling units, payable by check to the Town. Should the Board determine it needs advice from independent consulting or legal services, the applicant shall pay into the special account the estimated costs of those services. If the balance in the special account is drawn down by 75%, the Board shall notify the applicant of the amount necessary to replenish the account and the applicant shall deposit funds necessary to replenish the account in the required amount.
- 1. Advertising and Posting.** An additional fee of \$100.00 shall be required to cover the costs of advertising and postal notification of a public hearing.
 - 2. Account Balance.** If any balance remains in the account the applicant shall request a refund. In response, the Town will provide an accounting of any portions spent and the balance within thirty (30) days.
- C. Escrow Account.** A single Planning Board "special account" held by the Town treasurer shall be used for all escrow fees.
- D. Meeting Attendance.** The applicant, or a duly authorized representative, shall attend the meeting of the Board to present the final plan. Failure to attend the meeting to present the final plan shall result in a delay of the Board's receipt of the plan until the next meeting, which the applicant attends.
- E. Application Receipt and Notifications.** Upon receipt of an application for final plan approval the Board shall:
- 1.** Issue a dated receipt to the applicant.

2. Notify by regular mail to the addresses shown on assessment records all owners of abutting property that an application for subdivision approval has been submitted specifying the location of the proposed subdivision and a general description of the project.
 3. Notify the Town Clerk of Penobscot if any portion of the subdivision includes or crosses their Town boundary, is in the watershed of their public water supply or can be accessed only by a local road leading from Penobscot.
- F. Determination of Complete Application.** Within thirty days of the receipt of the final plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
- G. Receipt for Complete Application.** Upon determination that a complete application has been submitted for review, the Board shall notify the applicant in writing of that determination.
- H. Public Hearing.** The Board shall hold a public hearing within thirty days of determining it has received a complete application and shall publish a notice of the date, time and place of the hearing in a local newspaper at least two times. The date of the first published notice shall be at least 14 days prior to the hearing. A copy of the notice shall be sent to the applicant by certified mail, return receipt requested or hand-delivered. A copy of the notice shall also be posted at the Town office and on the Town's website.
- I. 30-Day Decision on Application.** Within thirty days following the public hearing the Board shall make findings of fact and conclusions relative to the criteria contained in Title 30-A MRSA §4404 and the standards in this Ordinance. If the Board finds that all the criteria of the Statute and the standards of this Ordinance have been met, they shall approve the final plan. If the Board finds that any of the criteria of the Statute or the standards of this Ordinance has not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the criteria and standards will be met by the subdivision. The reasons for any denial or conditions shall be stated in the records of the Board. Conditions shall either appear on the plan or in a separate document recorded in the registry of deeds under the name of the applicant and property owner at the time of approval.
- J. Land Surveyor to Seal and Sign.** The Board shall not accept or approve a plan that is not sealed and signed by a professional land surveyor. [Title 30-A MRSA §4403(3)(D)]

5.2 SUBMISSION

Subdivision plans shall consist of two reproducible, stable based transparencies (to be recorded at the Registry of Deeds and filed at the Town office) and five copies of one or more maps or drawings drawn to a scale of not more than 200 feet to the inch. Plans

shall be no larger than 24 by 36 inches in size and shall have a margin of two inches outside of the border lines on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board and for any conditions of approval. Five copies of all information accompanying the plan shall be submitted. In addition, one copy of the plan(s) reduced to a size of 8 ½ by 11 inches or 11 by 17 inches along with all accompanying information shall be mailed to each Board member by the applicant no less than seven days prior to the meeting. The Board may also require additional information to be submitted where it finds necessary to determine whether the criteria of Title 30-A MRSA §4404 are met. The following items shall be submitted as part of the application for Final Subdivision Approval unless the applicant submits a written waiver request, and is granted a waiver from one or more of the submission requirements pursuant to Article 10.

A. Application form.

B. Location Map. A location map drawn at a scale adequate to show the relationship of the proposed subdivision to the adjacent properties and to allow the Board to locate the subdivision within the Town. The location map shall show:

1. existing subdivisions in the proximity of the proposed subdivision;
2. location and names of existing and proposed streets;
3. boundaries and designations of zoning districts; and
4. an outline of the proposed subdivision and any remaining portion of the owner's property if the final plan submitted covers only a portion of the owner's entire contiguous holding.

C. Final Plan and Related Information. The Final Plan shall include the following information.

1. **Name.** Proposed name of the subdivision or identifying title, the name of the Town plus the Tax Assessor's Map and Lot numbers.
2. **Condominium Declaration.** For condominiums, a copy of the condominium declaration.
3. **Road Association Articles.** For subdivisions involving common road maintenance, a copy of the road association articles of incorporation and by-laws, which shall include enforceable provisions ensuring common road maintenance.
4. **Boundary Survey.** A standard boundary survey of the parcel giving complete descriptive data by bearings and distances and certified by a registered land surveyor. (All contiguous land in common ownership must be included.) The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set at each lot corner.

5. **Right, Title or Interest.** Verification of right, title or interest in the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest. A copy of all deed restrictions, easements, rights-of-way or other encumbrances currently affecting the property.
6. **Deed Restrictions.** A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
7. **Sewage Disposal.** Indication of the type of sewage disposal to be used in the subdivision.
 - a. **Utility Board.** The Utility Board will provide a written statement indicating that adequate capacity to collect and treat the waste water is available and shall be provided and approving the design and plans for extensions and connections if sewage disposal is to be accomplished by connection to the public sewer,
 - b. **Test Pit.** If a sewage disposal is to be accomplished by subsurface wastewater disposal systems, a map of sites tested and test pit analyses prepared by a licensed site evaluator shall be provided. The map shall indicate all passing or failed test pits dug on the site.
8. **Water Supply.** Indication of the type of water supply system(s) to be used in the subdivision.
 - a. **Public Water.** If water is to be supplied by public water supply, a written statement from the Utility Board shall be submitted indicating there is adequate supply and pressure for the subdivision and approving the design and plans for extensions and connections. A written statement from the Fire Chief stating approval of the location of fire hydrants, if any, shall also be submitted.
 - b. **Private Wells.** Since adequate ground water resources to support one and two family homes in both quantity and quality are generally available throughout the Town, only a general statement from a well driller or hydrogeologist attesting to an adequate water supply shall be submitted. However, if the subdivision is located near an identified potential source of pollution, the results of a primary inorganic water analysis performed upon a well on the parcel to be subdivided or from wells on adjacent parcels between the parcel to be subdivided and the potential contamination source shall be provided.
9. **Date, North Arrow, Scale.** The date the Plan was prepared, North arrow and graphic map scale.
10. **Names.** The names and addresses of: the owner of record; subdivider; individual or company who prepared the plan; and all adjoining property owners.
11. **Soil Survey.** A soil survey identifying wetland areas regardless of size.

- 12. Physical Features.** The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features. The location of any trees larger than 42 inches in diameter at breast height shall be shown on the plan. On wooded sites, the plan shall indicate the area where clearing for lawns and structures shall be permitted and any restrictions to be placed on clearing of existing vegetation.
- 13. Affordable Housing.**
 - a. Location of any lots or dwelling units intended for affordable housing.
 - b. A copy of all documents to be utilized to ensure the sustained affordability of these lots or dwelling units.
- 14. Rivers.** The location of all rivers, streams and brooks within or adjacent to the proposed subdivision.
- 15. Zoning.** The location of any zoning boundaries, i.e. Watershed, Resource Protection, Shoreland, effecting the subdivision.
- 16. Utilities.** The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- 17. Streets, Easements, Buildings, Open Spaces.** The location, names and present widths of existing streets and highways, existing and proposed easements, building lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line and boundary line to be readily determined and be reproduced on the ground. These lines shall be tied to reference points previously established.
- 18. Unique/Natural Features.** The location of any open space, scenic views, historical or archaeological sites to be preserved and a description of proposed improvements and their future management.
- 19. Dedications.** All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the Town of all public open spaces shown on the plan and copies of agreements or other documents showing the manner in which open spaces to be retained by the subdivider or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the Town, written evidence that the Town officers are satisfied with the legal sufficiency of the written offer to convey title shall be included. No conveyance can be made unless first approved by the voters at Town meeting.
- 20. Flood Plains.** If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as

depicted on the Town's Flood Insurance Rate Map shall be delineated on the plan.

- 21. Wildlife Habitat.** Areas within or adjacent to the proposed subdivision identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries.
- 22. Financial and Technical Capacity.** Evidence of a financial and technical capacity to complete the project.
- 23. Contour Lines.** Contour lines at the interval previously specified by the Board after the on-site inspection (see Article 4) and showing elevations in relation to Mean Sea Level.
- 24. Traffic Impact Analysis.** Commercial or Industrial Subdivisions shall require a traffic impact analysis.
 1. The analysis shall contain an estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours.
 2. If 40 or more parking spaces will be provided or the subdivision is projected to generate more than 400 vehicle trips per day, a traffic impact analysis shall be prepared and submitted by a Registered Professional Engineer with experience in traffic engineering. The analysis shall indicate the expected average daily vehicular trips, peak-hour volume, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site, neighboring streets which may be effected, and recommended improvements to maintain the safe desired level of service on all effected streets.

5.3 REQUIRED SUBMISSIONS FOR WHICH A WAIVER MAY BE GRANTED

The following items shall be submitted as part of the Final Plan Application unless the applicant submits a written waiver request, and is granted a waiver from the submission requirement by the Planning Board.

- A. Hydrogeologic Assessment.** A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer experienced in hydrogeology shall be submitted when the subdivision is not served by a public sewer and
 1. Any part of the subdivision is located over a sand and gravel aquifer as shown on a map entitled "Hydrogeologic Data for significant Sand and Gravel Aquifers", by the Maine Geological Survey, current edition; or
 2. The subdivision has an average density of more than one dwelling unit per 80,000 square feet.

Other. The Board shall require a hydrogeologic assessment in other cases where site considerations or development design indicate greater potential of adverse

impacts on ground water quality. These cases include extensive areas of shallow to bedrock soils; cluster developments in which the density of the developed portion is more than one dwelling per 80,000 square feet; and any proposed use of a shared or common subsurface waste water disposal system. Hydrogeologic assessments shall be conducted in accordance with the provisions of Article 8.

- B. Storm Water Management Plan.** A storm water management plan prepared by a Registered Professional Engineer shall be prepared in accordance with the most recent edition of Stormwater Management for Maine: BMPS Technical Design Manual, published by the Maine Department of Environmental Protection, 2006, if the proposed subdivision involves road construction or grading which changes drainage patterns or if the addition of impervious surfaces such as roofs, driveways and streets is more than 10% of the area of the subdivision. The plan shall be reviewed and approved by the Hancock County Soil and Water Conservation District.
- C. Erosion and Sedimentation Control Plan.** An erosion and sedimentation control plan shall be prepared in accordance with the *Environmental Quality Handbook*, current edition, published by the Maine Soil and Water Conservation Commission. If street, driveway or house construction will occur on sites with slopes steeper than 10%; the plan shall be reviewed and approved by the Hancock County Soil and Water Conservation District.
- D. Archaeological Survey.** An archaeological survey by a state certified archaeologist shall be conducted of properties identified by the Maine Historic Preservation Commission or the Castine Comprehensive Plan as containing historical or archaeological sites.

5.4 FINAL APPROVAL AND FILING

- A. Approval and Filing.** Upon findings of fact and determination that all standards in Title 30-A MRSA §4404 and of this Ordinance have been met, and upon voting to approve the subdivision, no fewer than three members of the Board voting in the affirmative, the Board shall sign the final plan. The Board shall specify in writing its finding of facts and reasons for any conditions or denials. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. In accordance with Title 30-A MRSA §4406(1)(B) a required variance or Title 38 exemption not recorded in the Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall cause the subdivision to become null and void.
- B. Phased Development.** At the time the Board grants final plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to ensure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the plan to be divided into two or more sections subject to any conditions the

Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. If the expansion, addition or purchase of the needed facilities is included in the municipality's capital improvements program, the time period of the phasing shall be no longer than the time period contained in the capital improvements program for the expansion, addition or purchase.

- C. Plan Modifications.** No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless a revised final plan is first submitted and the Board approves any modifications, in accordance with Article 6. The Board shall make findings that the revised plan meets the criteria of Title 30-A MRSA §4404, and the standards of these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.
- D. Limitations of Approval.** The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- E. Expiration of Approval.** Except in the case of a phased development plan, failure to complete substantial construction of the subdivision within five years of the date of approval and signing of the plan shall render the plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.



ARTICLE 6: REVISIONS TO APPROVED PLANS

6.1 PROCEDURE

If a proposed change requires the revision of an approved plan for any reason including creating additional lots or dwelling units or relocating rights-of-way or property boundaries, the procedures for final plan approval shall be followed. If a proposed change does not require a revision to the approved plan, the CEO is authorized to issue written approval and shall transmit a copy of the approval to the Board.

6.2 SUBMISSION

The applicant shall submit a copy of the approved plan as well as three copies of the proposed revisions. The application shall also contain enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of this Ordinance and the state statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the book and page or cabinet and sheet upon which the original plan is recorded at the Registry of Deeds.

6.3 SCOPE OF REVIEW

The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed, unless the change affects other parts of the approved plan



ARTICLE 7: INSPECTION AND ENFORCEMENT

7.1 INSPECTION OF REQUIRED IMPROVEMENTS

- A. Subdivider Responsibilities.** At least five days prior to commencing construction of required infrastructure improvements, the subdivider or builder shall:
- 1. Notification to Town.** Notify the Code Enforcement Officer (CEO) in writing of the time the subdivider or builder proposes to commence construction of such improvements so inspections can be made. The purpose of the inspections is to assure that all Town specifications, requirements and conditions of approval are met during construction of required improvements and to assure the satisfactory completion of improvements and utilities required by the Board.
 - 2. Payment to Town.** Deposit with the Town Manager a check for the amount of 2% of the estimated costs of the required improvements to pay for all costs of inspection. If funds remain after satisfactory completion of construction and cleanup, the surplus shall be refunded within 30 days to the subdivider or builder as appropriate. Whenever the inspection account is drawn down by 90%, the subdivider or builder shall deposit an additional 1% of the estimated costs of required improvements.
 - 3. Special Municipal Account.** A single Planning Board "special account" held by the Town Treasurer shall be used for all escrow fees.
- B. Notification of Non-compliance.** If the inspector finds that any of the required improvements have not been constructed in accordance with the approved plans and specifications, the inspector shall notify the CEO, the Board, subdivider and builder. The selectmen shall take any legal or equitable steps necessary to preserve the Town's rights.
- C. Pre-winter Inspection.** At the close of the construction season of each year during which construction was done on the site, the CEO shall inspect the site and submit a report to the Board indicating whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed and appear to be adequate. The report shall discuss any problems encountered and contain recommendations to correct those problems.
- D. Monuments.** Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a registered land surveyor stating that all monumentation shown on the plan has been installed.
- E. Street Construction Certification.** Upon completion of street construction and prior to a vote by the Town selectmen to submit a proposed public way to a Town meeting for acceptance, a written certification signed by a registered professional engineer selected by the Town shall be submitted to the selectmen at the expense of the applicant, certifying that the proposed public way meets the design and construction requirements of the approved plan and this Ordinance. Upon completion underground utility construction and prior to a vote by the Board of

Selectmen to accept the utility, a written certification signed by a registered professional engineer selected by the Town shall be submitted to the Selectmen at the expense of the applicant, certifying that the utility meets the design and construction requirements of the approved plan and this Ordinance. "As Built" plans of streets and all utilities shall be submitted to the Town prior to acceptance.

- F. Maintenance of Improvements.** The subdivider shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the Town or their control is placed with a lot owners association.

7.2 VIOLATIONS AND ENFORCEMENT

- A. No recording prior to Approval.** No plan of a division of land within the Town which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Board in conformance with this Ordinance.
- B. Sales and Building Prohibited.** A person shall not convey, offer or agree to convey, sell, lease, develop or build upon any land or dwelling unit in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- C. Sales Restricted to Lots Shown.** No person shall sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot. This restriction shall apply to new lots created within the five year period following the approval of the original plan. This restriction does not apply to areas marked as "reserved" on the plan.
- D. Utility Prohibitions.** No public utility, water or sewer district, Utilities Board or any utility company of any kind shall serve any lot in a subdivision which has not been approved by the Board.
- E. Development without Approval.** Development of a subdivision without Board approval shall be a violation of this Ordinance. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a plan approved as provided for in this Ordinance and recorded in the Registry of Deeds.
- F. Construction Prohibition.** No lot in a subdivision may be sold, leased or otherwise conveyed before the street upon which the lot fronts is completed in accordance with this Ordinance up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with this Ordinance.
- G. Violations.** Violations of the above provisions of this section or of any other provision of this Ordinance are a nuisance and shall be punished in accordance with the provisions of Title 30-A MRSA §4452, Enforcement of Land Use Laws and Ordinances.



ARTICLE 8: PERFORMANCE STANDARDS

Note: Statutory review criteria are shown in italics and can only be changed by act of the Legislature.

In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance standards and make findings that each has been met before approving a subdivision plan. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have or will be met.

8.1 BASIC SUBDIVISION LAYOUT

A. Lots

1. **Perpendicular to the Street.** Wherever possible, side lot lines shall be perpendicular to the street.
2. **Prohibition of Further Division.** The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the subdivision statute, the standards of these regulations and conditions placed on the original approval.
3. **Lots on Opposite Side of a Water Body.** If a lot on one side of a stream (as defined in the DEP Minimum Shoreland Zoning Guidelines), tidal water, or road fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.
4. **Lot Length to Width Ratio.** The ratio of lot length to width, outside of the shoreland zone, shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38 MRSA §480-B, none of the lots created within the subdivision shall have a lot depth to shore frontage ratio greater than 5 to 1.
5. **Lot Numbering.** In areas served by a postal carrier, lots shall be numbered in such a manner as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the street, and odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing street or street approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers. The lot numbering shall be reviewed by the E-911 Addressing Officer and the comments shall be considered by the Board.

6. Suitable Soil. Each lot shall contain a minimum of 20,000 contiguous square feet of soil suitable for the installation of a subsurface wastewater disposal system in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.

B. Utilities to be Underground. Utilities serving subdivisions in areas designated by the comprehensive plan as growth areas shall be installed underground. Utilities serving lots with a street frontage of 125 feet or less shall be installed underground. The Board may approve overhead utilities when the applicant proposes reserved affordable housing and provides evidence that the increased costs of underground utilities will raise the costs of the housing beyond the targets for affordable housing in the comprehensive plan.

C. Monuments

- 1. Standard.** All survey monuments shall meet the requirements of the Maine Board of Registration of Land Surveyors.
- 2. Location on Streets.** Survey monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves, intersections or lot corners.
- 3. Location on Subdivision Boundaries.** Survey monuments shall be set at all corners and angle points of the subdivision boundary

8.2 POLLUTION

The proposed subdivision will not result in undue water or air pollution. In making this determination, it (the Board) shall at least consider:

- 1. The elevation of land above sea level and its relation to the flood plains;*
 - 2. The nature of soils and subsoils and their ability to adequately support waste disposal;*
 - 3. The slope of the land and its effect on effluents;*
 - 4. The availability of streams for disposal of effluents; and*
 - 5. The applicable state and local health and water resource rules and regulations.*
- [Title 30-A MRSA §4404(1)]*

A. Erosion Plan. An erosion and sedimentation plan shall be prepared by the subdivider, approved by the Planning Board, and implemented prior to construction.

8.3 SUFFICIENT WATER

The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision. [Title 30-A MRSA §4404(2)]

A. Connection to Public Supply. Any subdivision within 1,000 feet of an existing municipal water supply and which has sufficient property interest to connect to

the municipal water supply shall connect to the municipal water system at the expense of the subdivider. Connection to the municipal system and the complete water system within the subdivision shall comply with municipal standards and shall be reviewed and approved by a Town Engineer at the expense of the subdivider.

- B. Private Supply.** When a proposed subdivision is not served by the municipal water system, water supply shall be from individual wells or a community water system. The subdivider shall demonstrate there is adequate water on-site to supply the proposed subdivision.

8.4 MUNICIPAL WATER SUPPLY

The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used. [Title 30-A MRSA §4404(3)]

If a Town Engineer determines a proposed subdivision will generate a demand on the municipal water system beyond its current capacity, the subdivider shall be responsible for paying for upgrades necessary to alleviate existing deficiencies.

8.5 EROSION

The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results. [Title 30-A MRSA §4404(4)]

- A. Erosion Prohibited.** The proposed subdivision shall be designed to prevent eroding soil from entering water bodies, freshwater wetlands and adjacent properties.
- B. Erosion Plan.** All provisions of the approved erosion and sedimentation control plan shall be implemented during site preparation, construction and clean-up.

8.6 TRAFFIC

The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by Title 23, Section 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, Section 704 and any rules adopted under that section. [Title 30-A MRSA §4404(5)]

- A. Access and Circulation.** In general, provision shall be made for vehicular access to the subdivision and traffic circulation within the subdivision so as to provide safe and convenient circulation within the subdivision and on existing streets.
- B. Fire Access.** Streets shall be designed to facilitate the provision of access by fire protection and emergency services and approved by the Fire Chief.

- C. Street Names.** Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall be approved by the Board of Selectmen. All traffic safety and control signs shall be installed as directed by the Board at the expense of the subdivider.
- D. Cleanup.** Following street construction, the subdivider shall accomplish a thorough cleanup of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, that site shall be indicated on the plan and suitably covered with fill and topsoil, limed, fertilized and seeded.

8.7 SEWAGE DISPOSAL

The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized. [Title 30-A MRSA § 4404(6)]

- A. Municipal System.** Any subdivision within 1000 feet of an existing municipal sewer main and which has sufficient property interest to connect to the municipal sewer system shall connect to the municipal sewer system at the expense of the subdivider. Connection to the municipal system and the complete system within the subdivision shall comply with municipal standards and shall be reviewed and approved by a Town Engineer and shall be installed at the expense of the subdivider.
- B. System Upgrades.** If a Town Engineer determines a proposed subdivision will generate a demand on the municipal sewer system beyond its current capacity, the subdivider shall be responsible for paying for upgrades necessary to alleviate existing deficiencies.
- C. Private Systems.** When a proposed subdivision is not served by the municipal sewer system, sewage disposal shall be by private subsurface wastewater disposal systems. The subdivider shall demonstrate there are suitable soils on site to support the proposed disposal system in accordance with the State of Maine Subsurface Wastewater Disposal Rules.

8.8 MUNICIPAL SOLID WASTE DISPOSAL.

The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized. [Title 30-A MRSA § 4404(7)]

If the additional solid waste from the proposed subdivision exceeds the capacity or would cause an unreasonable burden on Castine’s Transfer Station, the applicant shall make alternative arrangements for the disposal of solid waste at his expense.

8.9 CULTURAL AND NATURAL VALUES

The proposed subdivision will not have an undue adverse effect on the scenic or natural

beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline. [Title 30-A MRSA §4404(8)]

A. Preservation of natural beauty and aesthetics.

Landscape Plan. The Board may require that the application include a landscape plan that will show the preservation of selected trees, the replacement of trees and vegetation, and graded contours.

B. Retention of open spaces and natural, archaeological or historic features.

- 1. Measures for Protection.** To the maximum extent possible, The subdivision plan shall include appropriate measures for the protection of areas indicated in the Comprehensive Plan as critical areas, or historic and archaeological areas.
- 2. Dedicated to Town.** Reserved open space may be dedicated to the Town of Castine.

C. Preservation of significant wildlife habitat.

- 1. Habitat Areas.** If any portion of a proposed subdivision lies within areas designated in the Comprehensive Plan as significant wildlife habitat, the applicant shall demonstrate that there will be no significantly adverse impacts on those habitat areas.
- 2. Water Rights-of-Way.** Any existing public rights of access to the shoreline of a water body shall be preserved by means of easements or rights-of-way or shall be included in the open space with provisions made for continued public access.

8.10 CONFORMITY WITH LOCAL ORDINANCES AND PLANS

The proposed subdivision conforms with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans. [Title 30-A MRSA §4404(9)]

Lot Size and Performance Standards. Except for cluster developments, as provided for in the Zoning Ordinance, all lots shall meet the minimum dimensional requirements of the Zoning Ordinance for the zoning district in which they are located. The proposed subdivision shall meet all applicable performance standards or design criteria from the Zoning Ordinance.

8.11 FINANCIAL AND TECHNICAL CAPACITY

The subdivider has adequate financial and technical capacity to meet the standards of this section. [Title 30-A MRSA §4404(10)]

- A. Financial capacity.** The applicant shall document having adequate financial resources to construct the proposed improvements and meet the criteria of the Maine Statute and the standards of this Ordinance.
- B. Technical Ability.** The applicant shall document having adequate technical ability to construct the proposed improvements and meet the criteria of the Maine Statute and the standards of this Ordinance.

8.12 GROUND WATER

The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water. [Title 30-A MRSA §4404(12)]

- A. Ground Water Quality.** When a hydrogeologic assessment is submitted, the assessment shall contain the following information:
 - 1. Existing Quality.** Data on the existing ground water quality from test wells in the subdivision or from existing wells on neighboring properties.
 - 2. Impacts.** An analysis of the effects of post development nitrate-nitrogen concentrations at any wells within the subdivision, at the subdivision boundaries and at a distance of 1,000 feet from any potential contamination sources.
- B. Ground Water Quantity.** Ground water withdrawals by a proposed subdivision shall not adversely affect drilled wells beyond the boundaries of the subdivision.

8.13 FLOOD PLAIN MANAGEMENT AREAS

Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. [Title 30-A MRSA §4404(13)]

8.14 FRESHWATER WETLANDS

All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district. [Title 30-A MRSA §4404(14)]

Freshwater wetlands shall be identified in accordance with the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands*, published by the Federal Interagency Committee for Wetland Delineation, current edition.

8.15 RIVER, STREAM OR BROOK

Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9. [Title 30-A MRSA §4404(15)]

8.16 STORM WATER

The proposed subdivision will provide for adequate storm water management. [Title 30-A MRSA §4404(16)]

- A. Storm Water Plan.** Adequate provision shall be made for disposal of all storm water generated within the subdivision. A storm water management plan shall be prepared by the subdivider, approved by a Town Engineer, and implemented prior to construction.

8.17 SPAGHETTI-LOTS PROHIBITED

If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1. [Title 30-A MRSA §4404(17)]

8.18 IMPACT ON ADJOINING MUNICIPALITY

For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located. [Title 30-A MRSA §4404(19)]

8.19 LANDS SUBJECT TO LIQUIDATION HARVESTING

Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If a municipal reviewing authority requests technical assistance from the bureau, the bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal

reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester.

For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, Township or plantation owned by one person or a group of persons in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to Title 12, section 8869, subsection 14. [Title 30-A MRSA §4404(20)]

8.20 RESERVATION OR DEDICATION AND MAINTENANCE OF OPEN SPACE AND COMMON LAND, FACILITIES AND SERVICES

- A. Ownership.** All open space common land, facilities and property shall be owned by:
- 1. Private Owners.** The individual owners of the lots, dwelling units or condominiums by means of a lot-owners association or condominium declaration; or
 - 2. Association.** An association that has as its principal purpose the conservation or preservation of land in essentially its natural state; or
 - 3. Town.** The Town of Castine.
- B. Further Division Prohibited.** Further division of the common land or open space shall be prohibited. When open space is to be owned by an entity other than the Town, there shall be a conservation easement deeded to the Town prohibiting future development.
- C. Notations on the Plan.** The common land or open space shall be shown on the plan with appropriate notations on the plan to indicate that it shall not be used for future building lots; and
- D. Covenants.** The subdivider shall provide the Board with copies of covenants for mandatory membership in the lot-owners association setting forth the owner's rights, interests and privileges in the association and the common property and facilities to be included in the deed for each lot or dwelling.
- E. By-laws.** The subdivider shall provide the Board with by-laws of the proposed lot-owners association specifying responsibilities and authority of the association, and maintenance and replacement of common facilities.

8.21 CLUSTER DEVELOPMENT

- A. Purpose.** To provide flexibility in the design of housing developments, allow for the creation of open space, provide recreational opportunities or protect important natural features from the adverse impacts of development by reducing the minimum lot size, as provided for in the Zoning Ordinance.
- B. Application procedure.** The Board may allow lots within subdivisions to be

reduced in area and width below the minimum normally allowed by this Ordinance where the Board determines that the benefits of the cluster approach will increase recreational opportunities or prevent the loss of natural features. Cluster developments shall be subject to the following:

- 1. Minimum Parcel Size.** Cluster developments may be permitted only on parcels of sufficient size to create a cluster development with at least 4 lots. That portion of the parcel not utilized as a lot or road right-of-way shall be designated as permanent open space.
 - 2. Density Calculation.** Maximum density shall be calculated by:
 - a. Determine the acreage of land suitable for development (suitable land) by subtracting from the parcel the land not suitable for development according to the provisions of Section 6.13 Land Not Suitable for Development, of the Zoning Ordinance;
 - b. Divide the total acreage of suitable land on the parcel to be subdivided by the minimum lot size for the District to determine the maximum number of dwellings to be allowed.
 - 3. Minimum Lot Dimensions.** Each lot in a cluster development shall be in a contiguous configuration of at least 20,000 square feet with a minimum width of 100 feet. All structures constructed on each lot shall meet the minimum setback and lot coverage requirements established for a 20,000 square foot lot by the Zoning Ordinance.
 - 4. Compliance with Other Requirements.** Cluster developments shall meet all requirements of this Ordinance.
 - 5. No Direct Access to Streets.** No individual lot or dwelling unit shall have direct vehicular access onto a public street existing at the time of development.
 - 6. Buffer.** No individual lot shall be located within 100 feet of a public street existing at the time of development.
 - 7. Shorefront Lots.** Shore lot size and frontage shall not be reduced below the minimum required by the Zoning Ordinance.
 - 8. No Further Division of Lots.** A lot for a dwelling unit created as part of a cluster development shall not be further divided, and notations to that effect shall be clearly stated on the plan.
 - 9. No Further Division of Open Space.** A lot or parcel of land designated as open space shall not be further divided, and notations to that effect shall be clearly stated on the plan.
- C.** Pursuant to Title 30-A M.R.S.A., § 4353 (4-C), the Planning Board, in reviewing a cluster subdivision under the applicable provisions of the Castine Subdivision

Ordinance, is allowed to approve development proposals that do not meet the dimensional standards otherwise required by Castine Zoning Ordinance, and such approval is not considered the granting of a variance. This authority does not authorize the reduction of dimensional standards required under the mandatory shoreland zoning laws. This authority does not authorize the reduction of any dimensional standard in the Commercial District. In the Rural, Village I, Village II and Village III Districts, this authority does not authorize the reduction of any dimensional standard to less than the following: 1) minimum lot area – 50% of required area; 2) minimum lot width – 75% of required width; 3) maximum percent lot coverage – 50% of approved lot area; and 4) front, rear or side setback – 10 feet. [Am 1]

8.22 AFFORDABLE CLUSTER DEVELOPMENT

- A. Purpose.** To provide for affordable housing, and provide flexibility in the design of housing developments, allow for the creation of open space, provide recreational opportunities or protect important natural features from the adverse impacts of development by reducing the minimum lot size, as provided for in the Zoning Ordinance. All lots created under this section shall be reserved for “Affordable Housing” as defined by this Ordinance.
- B. Application procedure.** The Board may allow lots within subdivisions to be reduced in area and width below the minimum normally allowed by this Ordinance where the Board determines that the benefits of the cluster approach will provide affordable housing, decrease development cost, increase recreational opportunities or prevent the loss of natural features. Affordable cluster developments shall be subject to the following:
- 1. Minimum Parcel Size.** Affordable cluster developments may be permitted only on parcels of sufficient size to create a cluster development with at least 4 lots. That portion of the parcel not utilized as a lot or road right-of-way shall be designated as permanent open space.
 - 2. Density Calculation.** Maximum density shall be calculated by:
 - a. Determine the acreage of land suitable for development (suitable land) by subtracting from the parcel the land not suitable for development according to the provisions of Section 6.13, Land Not Suitable for Development, of the Zoning Ordinance;
 - b. Divide the total acreage of suitable land on the parcel to be subdivided by the minimum lot size for the District to determine the maximum number of dwellings to be allowed.
 - 3. Density Incentive.** The Planning Board may approve a density incentive of no more than 25%.
 - 4. Minimum Lot Dimensions.** Each lot in an affordable cluster development shall be in a contiguous configuration of at least 20,000 square feet with a minimum width of 100 feet. All structures constructed on each lot shall

meet the minimum setback and lot coverage requirements established for a 20,000 square foot lot by the Zoning Ordinance.

5. Compliance with Other Requirements.

- a. Affordable cluster developments shall meet all requirements of this Ordinance.
- b. Affordable cluster developments created in accordance with this Ordinance shall be subject to rules, restrictions and covenants pertaining to rental, resale, occupancy and income requirements as submitted by the developer to be approved by the Planning Board.

6. No Direct Access to Streets. No individual lot or dwelling unit shall have direct vehicular access onto a public street existing at the time of development.

7. Buffer. No individual lot shall be located within 100 feet of a public street existing at the time of development.

8. Shorefront Lots. Shore lot size and frontage shall not be reduced below the minimum required by the Zoning Ordinance.

9. No Further Division of Lots. A lot for a dwelling unit created as part of a cluster development shall not be further divided, and notations to that effect shall be clearly stated on the plan.

10. No Further Division of Open Space. A lot or parcel of land designated as open space shall not be further divided, and notations to that effect shall be clearly stated on the plan.

C. Pursuant to Title 30-A M.R.S.A., § 4353 (4-C), the Planning Board, in reviewing a cluster subdivision under the applicable provisions of the Castine Subdivision Ordinance, is allowed to approve development proposals that do not meet the dimensional standards otherwise required by Castine Zoning Ordinance, and such approval is not considered the granting of a variance. This authority does not authorize the reduction of dimensional standards required under the mandatory shoreland zoning laws. This authority does not authorize the reduction of any dimensional standard in the Commercial District. In the Rural, Village I, Village II and Village III Districts, this authority does not authorize the reduction of any dimensional standard to less than the following: 1) minimum lot area – 50% of required area; 2) minimum lot width – 75% of required width; 3) maximum percent lot coverage – 50% of approved lot area; and 4) front, rear or side setback – 10 feet. [Am 1]

8.23 STREET DESIGN AND CONSTRUCTION STANDARDS

A. General Requirements.

1. Conformance of Street Designs. The Board shall not approve any

subdivision plan unless proposed streets are designed in conformance with the Town's *Roadway and Infrastructure Specifications and Ordinance* or any other Town ordinance or regulation. Approval of the final plan by the Board shall not be deemed to constitute or be evidence of acceptance by the Town of any street or easement.

- 2. Detailed Construction Drawings.** Subdividers shall submit to the Board, as part of the final plan, detailed construction drawings showing a plan view, profile and cross-section of the proposed streets and existing streets within 300 feet of all proposed intersections, in accordance with the requirements of the Town of Castine Road Construction Ordinance.
- 3. Review of Plans.** Upon receipt of plans for a proposed public street the Board shall forward a copy to the Town selectmen and engineer for review and comment. Plans for streets which are not proposed to be offered for acceptance by the Town shall be sent to a Town Engineer for review and comment.
- 4. Improvements to Existing Streets.** If the subdivider proposes improvements to existing numbered highways or Town streets the proposed design and construction details shall be approved in writing by the Maine Department of Transportation or the Town selectmen as appropriate.
- 5. Private Roads.** If the subdivision streets are to remain private roads, the following words shall appear on the recorded plan.

“All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town of Castine until they meet the Town street design and construction standards.”



ARTICLE 9: PERFORMANCE GUARANTEES

9.1 TYPES OF GUARANTEES

With submittal of the application for plan approval, the subdivider shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements taking into account the time-span of the construction schedule and the estimated inflation rate for construction costs: The conditions and amount of the performance guarantee shall be determined by the Board with the advice of a Town Engineer, Town Manager, Selectmen and a Town Attorney.

- A.** Either a certified check payable to The Town of Castine or a savings account or certificate of deposit naming The Town of Castine as owner to enable the Town of Castine to establish an escrow account.
- B.** An irrevocable letter of credit, approved by the Town Manager, from a financial institution establishing funding for the construction of the subdivision from which the Town of Castine may draw if construction is inadequate.

9.2 CONTENTS OF THE GUARANTEE

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking future inflation into account, provisions for inspection of each phase of construction by the Town of Castine, provision for the release of part or all of the performance guarantee to the developer, and a date after which the developer will be in default and the Town of Castine shall have access to the funds in order to finish construction.

9.3 ESCROW ACCOUNT

A cash contribution to the establishment of an escrow account shall be made by either certified check made out to the Town of Castine, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the developer the Town of Castine shall be named as owner or co-owner and the consent of the Town of Castine shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the developer unless the Town of Castine has found it necessary to draw on the account. In such case the interest earned shall be proportionately divided between the amount returned to the developer and the amount withdrawn to complete the required improvements.

9.4 LETTER OF CREDIT

An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the subdivision and will not be used for any other project or loan.

9.5 PHASING OF DEVELOPMENT

The Board may approve plans to develop a subdivision in separate and distinct phases. This may be accomplished by limiting approval to those lots abutting that section of the proposed subdivision street, which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only after satisfactory completion of all requirements pertaining to previous phases.

9.6 RELEASE OF GUARANTEE

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction from reports of a Town Engineer and whatever other boards, agencies and departments which may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which release is requested.

9.7 DEFAULT

If, upon inspection, a Town Engineer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he shall so report in writing to the CEO, Selectmen, the Board and the developer or builder. The Selectmen shall take any steps necessary to preserve the rights of the Town of Castine.

9.8 IMPROVEMENTS GUARANTEED

Performance guarantees shall be tendered for all improvements required to meet the standards of this Ordinance and for the construction of the streets, storm water management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures.



ARTICLE 10: WAIVERS

10.1 Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, it may waive portions of the submission requirements, unless prohibited by these regulations or Maine law, provided the applicant has demonstrated that the performance standards of the Ordinance and the criteria of the Maine Subdivision Statute have been or will be met, the public health, safety and welfare are protected, and provided that the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Zoning Ordinance or this Ordinance.

10.2 Where the Board makes written findings of fact that due to special circumstances of a particular parcel proposed to be subdivided that the provision of certain required improvements is not requisite to provide for the public health, safety of welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements. This is subject to appropriate conditions and provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Zoning Ordinance or this Ordinance and further provided that the performance standards of this Ordinance and the criteria of the Maine Subdivision Statute have been or will be met by the proposed subdivision. Evidence shall be presented to the Board in each specific case that each of the following conditions is met:

- A.** the granting of the waiver will not be detrimental to the public safety, health or welfare or injurious to other property;
- B.** the conditions upon which the request for waiver is based are unique to the property for which the waiver is sought and not applicable to other property; and
- C.** because of the particular surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience or personal hardship, if the strict interpretation of this Ordinance is followed.

10.3 Before the Board shall consider a waiver, the specific section of this Ordinance shall be cited in writing to the Board for which the waiver is requested together with the reasons for such a waiver. Within the written request the applicant shall agree to a thirty (30) day extension of the established time limits to enable the Board to consider the request. In granting waivers to any portions of this Ordinance in accordance with Sections 10.1 and 10.2, the Board shall require such conditions as will assure that the purposes of this Ordinance are met.

10.4 Waivers shall be shown on the final plan.



ARTICLE 11: APPEALS

An aggrieved party may appeal any decision of the Board under these regulations to the Hancock County Superior Court within 30 days of the date of the vote of the Board.



ARTICLE 12: DEFINITIONS

12.1 For the purpose of interpreting the Subdivision Ordinance and Zoning Ordinance, the following terms, phrases and words, unless their context requires otherwise, shall be defined as follows: first as set forth below, second in accordance with their generally accepted technical meaning within the involved scientific disciplines, third as defined by Maine Statutes, and fourth their common dictionary meaning.

12.2 The present tense when used includes the future; the singular includes the plural; the word “ shall “ means mandatory; the word “may“ is permissive; the words “used” or “occupied” include the words “intended“, “designed“ or “arranged to be used or occupied”; the word “structure” includes the word “building”; and the word “lot” includes the word “plot.”

12.3 The word “dwelling unit” as used in this Ordinance is synonymous to the word “lot.”

12.4 It is intended that this ordinance not be gender specific. Thus, when nouns or pronouns indicate or imply a male or female, such use shall also mean the other gender.

100 YEAR FLOOD: The highest level of flood that, on the average, is likely to occur once every 100 years.

ABUTTER / ABUTTING: Having a common boundary with, including lots which meet only at the corners. Streets, alleys or rights of way shall be deemed not to separate lots, and lots which would otherwise abut except for the width of an intervening street shall be deemed to abut.

ACCESS: A means of approach or entry to or exit from property.

ACCESSORY APARTMENT: The portion of a single-family residence used as separate living quarters by a second household. The accessory apartment will have no more than one thousand (1,000) gross square feet of floor area and will consist of no more than two (2) sleeping rooms, one (1) full bathroom, one (1) half bathroom one (1) kitchen/eating area and one (1) living/sitting room. The accessory apartment will require one (1) additional off-street parking space. The accessory apartment and residence will be served by common utility services.

AFFORDABLE HOUSING: Housing that meets the needs of families and others who wish to live in the Town of Castine, and whose household income is no more than 125% of the median income of Hancock County. This housing will be restricted by means of deed covenants (such as full-time occupancy, rental restrictions and resale restrictions), or other binding, long-term methods.

AGGRIEVED PARTY: An owner of land whose property is directly or indirectly affected by the granting 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 any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

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

ALTERATION: As applied to a building or structure, a change or rearrangement in the structural parts or in the means of egress; or an enlargement, whether by extending on a side or by increasing in height; or by the moving from one location or position to another.

ANIMAL HUSBANDRY: The commercial raising of domestic animals or livestock for agricultural purposes. This term does not include the commercial raising or boarding of domestic animals for domestic purposes such as kennels; these domestic uses shall be deemed home occupations.

APPEAL: A means for obtaining review of a decision, determination, order or failure to act pursuant to the terms of this Ordinance as expressly authorized by the provisions of this Ordinance.

APPLICANT: The person, partnership, trust, fiduciary, business entity, agent of the owner or corporation applying for CEO or Planning Board approval. It may also be a proposed purchaser or an agent of a proposed purchaser whose purchase and sales agreement gives him the right to apply as a condition of sale.

AQUACULTURE: The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

ATTIC: That part of a building which is immediately below, and wholly or partly within, the roof framing.

AUTO SERVICE STATION / FILLING STATION: A commercial establishment open to the public, supplying engine fuel at retail, direct to the customer; the sale of lubricants, minor accessories and minor services for automobiles may be included.

AUTO REPAIR GARAGE: A commercial establishment open to the public where, with or without the attendant sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame, or fender straightening and repair; overall painting and undercoating of automobiles.

AUTOMOBILE GRAVEYARD: An "automobile graveyard" as defined in Title 30-A MRSA §3752 as amended.

AVERAGE DAILY TRAFFIC (ADT): The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

BASAL AREA: The area of cross-section of a tree stem at 4 ½ feet above ground level and inclusive of bark.

BASEMENT: The substructure of a building with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level_ which may or may not be used for living space.

BED AND BREAKFAST: A facility in which breakfast is the only meal served and in which there are seven (7) or fewer rooms available for rent.

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.

BUFFER AREA: Units of land, together with a specified type and amount of vegetative planting thereon and any structures which may be required between land uses to eliminate or minimize conflicts between them.

BUILDING: Any roofed structure maintained or intended for use as shelter or enclosure of persons, animals, goods or property of any kind. Where independent units with separate entrances are divided by walls, each unit is a building.

BULK STORAGE: The storage of liquids, solids or gases which are received by tank vessel, pipelines, tank car, or tank vehicle and are stored or blended in bulk.

CAMPGROUND: Any land area used to accommodate two (2) or more parties in temporary living quarters including, but not limited to tents, recreational vehicles and/or towed travel trailers. Accessory uses, subject to Site Plan Review, include camper services and facilities such as shower and laundry facilities, electricity, fresh water, propane and gas sales, ice, outlet for camping supplies and equipment, recreational services, etc.

CAMPSITE, INDIVIDUAL PRIVATE: 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 ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

CANOPY: The more or less continuous cover formed by tree crowns in a wooded area.

CERTIFICATE OF COMPLETION: An official document issued by the CEO pursuant to Article 10 of the Zoning Ordinance, certifying completion of the project for which a permit was obtained. A Certificate of Completion is not otherwise a certificate of fitness, safety or suitability.

CERTIFICATE OF OCCUPANCY: An official document issued by the CEO pursuant to Article 10 of the Zoning Ordinance upon compliance with all necessary provisions of the Zoning Ordinance, allowing the property owner to occupy the premises. A Certificate of Occupancy is not otherwise a certificate of fitness, safety or suitability.

CHURCH: A building, together with its accessory buildings and uses, where people regularly assemble for religious worship and which buildings, together with its accessory buildings, and uses, is maintained and controlled by a religious body organized to sustain public worship.

CLUSTER HOUSING: A subdivision (neighborhood) in which the required density and open spaces are maintained in combination with a group of residences in close proximity.

CLUSTER SUBDIVISION: A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space.

CLUSTER SUBDIVISION, AFFORDABLE: A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located and which may qualify for a density incentive in return for the provisions of permanent open space and lots reserved for affordable housing.

COASTAL WETLAND: All tidal and sub-tidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest annual high tide level as identified in tide tables published by the National Ocean Service. **Note:** All areas below the highest annual tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows.

CODE ENFORCEMENT OFFICER (CEO): A person appointed by the Town Manager and confirmed by the Board of Selectmen to enforce this Ordinance and to assist the Planning Board in its administration.

COMMERCIAL USE: The use of lands, buildings, or structures, other than a "home occupation," defined below, the intent or result of which activity is the generation of revenue from the buying and selling of goods and/or services and the use of golf courses and other recreational facilities for which a payment is due from users; does not include rental of residential buildings and/or dwelling units other than boarding houses, bed & breakfasts, inns and hotels.

COMMON OPEN SPACE: Common elements or land within or related to a subdivision, not individually owned, which is designated & intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, which are typically used for maintenance and operation of open space or for outdoor recreation.

COMPLETE APPLICATION: An application shall be considered complete upon submission of the required fee and all information required by this Ordinance or by a vote by the Board to waive the submission of required information.

COMPLETE SUBSTANTIAL CONSTRUCTION: The construction of no less than thirty percent of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a planned unit development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

COMPREHENSIVE PLAN: A document or interrelated documents containing the elements established under Title 30-A M RSA §4326, Sub-Sections 1 - 4, including the strategies for

an implementation program which are consistent with the goals and guidelines established under Title 30-A MRSA, Sub-Chapter II.

CURRENT EDITION: The most recent version of the cited regulation, technical manual or other publication.

DAY CARE FACILITY: As defined in Title 22 MRSA §1673, as a house or other place in which a person or combination of persons maintains or otherwise carries out a regular program, for consideration, for any part of a day, providing care and protection for three (3) or more children under the age of sixteen (16) unrelated to the operator, not to include nursery schools, summer camps, formal public or private schools, and further defined by the Department of Human Services as follows:

a. Day Care Center: A Day Care Facility as defined in State statutes for thirteen (13) or more children on a regular basis; and

b. Day Care Home: A Day Care Facility as defined in State statutes for three (3) to twelve (12) children on a regular basis.

DBH: The diameter of a standing tree measured 4 ½ feet from ground level.

DECK: An accessory attachment to a principal structure with no roof or framed or screened walls. It may contain railings with screening and gates to enclose pets or children.

DEDICATION: The transfer of property interests from private to public ownership for a public purpose. The transfer may be fee-simple interest or of a less-than-fee-simple interest, including an easement.

DEER FENCES: Fences specially constructed to prevent deer from attacking gardens or orchards. Such fences may be constructed of vertical posts of wood, steel or other suitable material and of horizontally strung wire or coarse wire mesh between such posts. No vegetation shall be allowed to grow upon and no other material may be attached to such wire or wire mesh, and no solid material such as wooden planking or woven matting may be fastened to or strung between posts at a height greater than six (6) feet.

DENSITY: The number of dwelling units per acre or square foot of land.

DEVELOPED AREA: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas and streets.

DEVELOPMENT: A change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

DIMENSIONAL REQUIREMENTS: Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

DRAINAGE: The removal of surface or ground water from land by drains, grading or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development, and includes the means necessary for water supply preservation and prevention or alleviation of flooding.

DRIVEWAY: A vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling.

DWELLING: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters and containing cooking, sleeping and toilet facilities. The term shall include single-family, two-family and multiple-family dwellings, mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

- **Dwelling, Single Family:** A room or group of rooms designed and equipped exclusively for use as living quarters for only one (1) family at a time.
- **Dwelling, Two-Family:** A detached or semi-detached building used as living quarters by two (2) families living independently of each other.
- **Dwelling, Multi-Family:** A building or portion thereof used as living quarters by three (3) or more families living independently of each other and doing their own cooking in the building, including apartments, group houses and row houses.

EARTH MOVING: Any displacement, addition or subtraction of earth (including loam, clay, gravel, stone, etc.) from or to a given location.

EASEMENT: Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of the property.

EASEMENT, CONSERVATION: An easement for the purpose of including, retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

ENGINEER, PROFESSIONAL: An individual licensed by the State of Maine to engage in the practice of professional engineering pursuant to Title 32 MRSA, Chapter 19, as amended.

ENGINEER, TOWN: Any Maine registered professional engineer employed or retained by the Town either as staff or as a consultant.

ENGINEERED SUBSURFACE WASTEWATER DISPOSAL SYSTEM: A subsurface wastewater disposal system designed, installed, and operated as a single wastewater unit to treat 2,000 gallons per day or more; or any system designed to treat wastewater with characteristics significantly different from domestic wastewater. All such systems shall be reviewed and approved by the Department of Health and Human Services prior to the issuance of a permit by the Local Plumbing Inspector.

ENLARGEMENT: An addition to the height, floor area or the volume of an existing building, an increase in the size of any other structure, or an increase in that portion of a tract of land occupied by an existing use.

ESSENTIAL SERVICES: 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.

EXPANSION OF A STRUCTURE: An increase in the height, floor area or volume of a structure, including all extensions such as, but not limited to attached decks, garages, porches, and greenhouses. To be attached the extension must abut a common wall with the original structure.

EXPANSION OF USE: The use of more volume, floor area or ground area devoted to a particular use. In the Shoreland Overlay District, expansion of a use shall include the addition of four (4) or more weeks to the operating season of a use.

FAMILY: Two or more persons occupying a residence, who are related either by marriage, domestic partnership or consanguinity.

FENCE: An above-ground structure, including stone or brick walls, constructed for the purpose of dividing, defining or enclosing a lot or portion of a lot.

FLOODPLAIN: Either riverine or inland depression areas. Riverine floodplains are those areas contiguous to a river, stream, or stream bed whose elevation is greater than the normal waterpool elevation but equal to or lower than the projected one hundred (100) year flood elevation. Inland depression floodplains, not associated with a stream system, are low points to which surrounding lands drain.

FLOODWAY: The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100 year flood without cumulatively increasing the water surface elevation by more than one foot in height.

FLOOR AREA: The sum of the horizontal surface areas of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

FLOWING WATER: Surface water within a stream channel that has a perceptible flow and is substantially permanent in nature. Such waters are commonly referred to as rivers, streams, and brooks.

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 related activities but not timber harvesting and the construction, creation, or maintenance of roads.

FORESTED WETLAND: A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

FOREST STAND: A contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

FOUNDATION: The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including but not limited to basements, slabs, sills, posts, frostwalls or other base consisting of concrete, block, brick or similar material.

FRESHWATER WETLAND: Freshwater swamps, marshes, bogs, and similar areas, other than forested wetlands, which are:

- a. Of ten (10) or more contiguous acres; or of less than ten (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 ten (10) acres; and
- b. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

FRONTAGE, SHORE: The horizontal distance, measured in a straight line, between the intersections of the side lot lines of a lot bordering on a water body or wetland with the shoreline.

FUNCTIONALLY WATER-DEPENDENT USE: Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that cannot be located away from these waters. These uses include, but are not limited to, commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boatbuilding facilities, marinas, navigational aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot be reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters. Does not include private non-commercial boathouses, storage sheds, etc.

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

GREAT POND: Any inland body of water which in a natural state has a surface in excess of ten (10) acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres, except where the artificially formed or increased body of water is completely surrounded by land held by a single owner.

GREAT POND CLASSIFIED GPA: Any great pond classified GPA, pursuant to Title 38 MRSA, Article 4-A §465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

GROUND COVER: Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

HARVEST AREA: The area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area

affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

HEIGHT: The vertical distance between the mean elevation of the original (prior to construction) grade at the building and the highest point of the roof. For buildings in the Shoreland Overlay District, the vertical distance between the mean elevation of the original grade at the downhill side of the building and the highest point of the roof. For those structures without roofs, the highest point of the structure. For buildings with multiple roofs, each roof shall be considered in relation to the original grade upon which that part of the structure rests.

HIGH INTENSITY SOIL SURVEY: A map prepared by a certified Soil Scientist, identifying the soil types down to one-eighth (1/8) acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils and shall be accompanied by a log of each sample point identifying the textural classification and the depth to a seasonal high water table or bedrock at that point. Single test pits and their evaluation for suitability for subsurface wastewater disposal systems shall not be considered to constitute high intensity surveys.

HOME OCCUPATION: An occupation or profession which can be conducted within the principal residential dwelling unit or an accessory structure on the premises where the applicant resides and: 1) which is clearly incidental to and compatible with the residential character of the property and neighborhood; 2) which employs no more than three (3) persons other than family members residing in the home; and 3) which meets all the requirements of this Ordinance.

HOSPITAL: An institution providing health services, primarily for inpatients, and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices.

HOTEL AND INNS: A facility in which no more than twenty-four (24) rooms are available for rent. Meals may be served.

IMPERVIOUS SURFACE: Surfaces which do not absorb water, specifically all buildings, parking areas, driveways, roads, sidewalks and any areas of concrete or asphalt. In the case of lumber yards, areas of stored lumber constitute impervious surfaces.

INCREASE IN NON-CONFORMITY OF A STRUCTURE: Any change in the structure or property which causes further deviation from the dimensional standard(s) creating the non-conformity such as, but not limited to, reduction in water body or yard setback distances, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which causes no further increase in the linear extent of non-conformity of the existing structure shall not be considered to increase non-conformity. (For example, there is no increase in non-conformity within a setback if an expansion extends no further into the required setback area than does any portion of the existing non-conforming structure.) A structure may expand laterally provided the expansion extends not closer to the point from which the

setback is measured. Included in this allowance are expansions which fill in irregularly shaped structures.

INDUSTRIAL: The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

IN-LAW/CAREGIVER APARTMENT: The portion of a single-family residence used exclusively as separate living quarters by no more than two members of the homeowner's family or by a personal care attendant for the homeowner. The in-law/caregiver apartment will have no more than one thousand (1,000) gross square feet of floor area and will consist of no more than two (2) sleeping rooms, one (1) full bathroom, one (1) half bathroom one (1) kitchen/eating area and one (1) living/sitting room. The in-law/caregiver apartment and residence will be served by common utility services and will require one (1) additional off-street parking space.

INSTITUTIONAL: A non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

JUNKYARD: As used in this Ordinance the term junkyard means either:

- a. An "automobile graveyard" as defined in Title 30-A MRSA §3752 as amended; or
- b. A "junkyard" as defined in Title 30-A MRSA §3752 as amended.

LEVEL OF SERVICE: A qualitative measure that incorporates the collective factors of speed, travel time, traffic interruptions, freedom to maneuver, safety, driving comfort and convenience, and operating costs provided by a highway facility under a particular volume condition, as established by the Institute of Transportation Engineer's *Transportation and Traffic Engineering Handbook*, 2nd edition.

LICENSED FORESTER: A forester licensed under Title 32 MRSA, Chapter 76.

LOADING AREA: An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

LOCAL PLUMBING INSPECTOR (LPI): A person appointed by the Board of Selectmen to enforce the Maine Internal Plumbing Rules and the Maine Subsurface Wastewater Disposal Rules.

LOT: A parcel of land undivided by any street or public road and occupied by, or designated to be developed for, one (1) building or principal use and the accessory buildings or uses incidental to such building, use, or development, including such open spaces and yards as are designed, and arranged or required by this Ordinance for such building, use, or development.

LOT AREA: The area of land enclosed within the boundary lines of a lot, minus land considered not suitable for development under the provisions of this Ordinance including land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

LOT COVERAGE: The maximum combined ground floor area of all principal and accessory buildings on a lot, divided by the area of such lot, the result expressed as a percentile. In the Shoreland Overlay District lot coverage also includes all unvegetated areas.

LOT LINE: A line bounding a lot which divides one lot from another, or from a street or any other public or private space, as defined below:

a. Front Lot Line: That lot line which fronts upon or runs most nearly parallel to the nearest public highway, road or street.

b. Rear Lot Line: That lot line which is parallel to and most distant from the front lot line of the lot; in the case of an irregular, triangular, or gore-shaped lot, a line twenty (20) feet in length, entirely within the lot, parallel to and at the maximum possible distance

from, the front line shall be considered to be the rear lot line. In the case of lots which have frontage on more than one road or street, the rear lot line shall be opposite the lot line along which the lot takes access to a street.

c. Side Lot Line: Any lot line other than a front or rear lot line.

LOT, NON-CONFORMING: A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area or dimensional requirements of this Ordinance.

LOT OF RECORD: A lot the dimensions of which are contained in a deed, instrument or plan recorded in the Hancock County Registry of Deeds.

LOT WIDTH: The horizontal distance between the side lot lines as measured at the road frontage or the site of the principal structure, whichever results in the greater width.

LOT WIDTH, MINIMUM: The closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

MANUFACTURED HOUSING OR HOME: A structural unit or units designed to be used as a dwelling, and constructed in a manufacturing facility and then transported by the use of its own chassis, or placed on an independent chassis, to a building site. For purposes of this Ordinance, three (3) types of manufactured housing will be referred to:

a. Pre HUD Code Mobile Home: A structure constructed prior to June 15, 1976, transportable in one or more sections which is 8 body feet or more in width and is 32 body feet or more in length and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein.

b. HUD Code Mobile Home: A structure constructed after June 15, 1976, which the manufacturer certifies is constructed in compliance with the United States Department of Housing and Urban Development (“HUD”) standard, meaning a structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and

designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, including the plumbing, heating, air-conditioning and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 United States Code 5401, *et seq.*

- c. **State Certified Modular Home:** A structure the manufacturer certifies is constructed in compliance with the State's Manufactured Housing Act and regulations, transportable in one or more sections, that are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating air-conditioning or electrical systems contained therein. Such homes may not be more than one story in height but may have a non-habitable attic space.

MANUFACTURED HOUSING COMMUNITY: A parcel or adjoining parcels of land under single ownership, which has been planned and improved for the placement of three or more manufactured homes as defined above, where no more than 50% of the homes are "State Certified Modular Homes" that are no more than one story in height but may have a non-habitable attic space and where at least 50% of the homes are "Pre HUD Code Mobile Homes" or "HUD Code Mobile Homes", but shall not include a construction camp or a campground. "Manufactured Housing Community" is synonymous with "Mobile Home Park" as used in this Ordinance.

MARINA: A commercial wharf or other business establishment having frontage on navigable water within the town and providing for hire offshore mooring or docking facilities for boats as its principal use, and which may provide accessory services and facilities such as boat and boat-related sales, boat hauling, repair and construction, engine servicing, indoor and outdoor storage of boats and marine equipment, bait and tackle shops, ice, water, and marine fuel.

MARKET: Premises in which produce, foodstuffs and/or manufactured goods are offered for retail sale to the general public.

MARKET VALUE: The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

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 (12) month period which removes more than one hundred (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.

MOBILE HOME PARK: See "MANUFACTURED HOUSING COMMUNITY" above.

MOTOR VEHICLE: Every vehicle which is self-propelled and designed for carrying persons or property or which is used for the transportation of persons.

MOTOR VEHICLE, UNSERVICEABLE: Any motor vehicle which is wrecked, dismantled, cannot be operated legally on any Maine public highway, or which is not being used for the purpose for which it was manufactured.

MULTI-UNIT RESIDENTIAL: A residential structure containing three (3) or more residential dwelling units.

NATIVE: Indigenous to the local forests.

NEIGHBOR / NEIGHBORING: An abutter or a property owner situated within one hundred fifty (150) feet of a lot boundary.

NET RESIDENTIAL AREA: The total area available for the subdivision as shown on the proposed subdivision plan minus the area for streets or access.

NON-CONFORMING LOT: See “**LOT, NON-CONFORMING**” above.

NON-CONFORMING STRUCTURE: See “**STRUCTURE, NON-CONFORMING**” below.

NON-CONFORMING USE: See “**USE, NON-CONFORMING**” below.

NORMAL HIGH-WATER LINE (NON-TIDAL WATERS): That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond. **Note:** Adjacent to tidal waters, setbacks are measured from the upland edge of the coastal wetland.

NORMAL MAINTENANCE AND REPAIR: Any work necessary to maintain an improvement or structure in its original or previously improved State or condition. Normal maintenance and repair shall not include reconstruction, change in design, change in structure, change in uses, change in location, change in size or capacity.

NURSING HOME: A facility for the care of the aged or infirm person, or a place of rest for those suffering bodily disorders; but not including facilities for surgical care or institutions for the care and treatment of mental illness, alcoholism, or narcotics addiction.

OPEN SPACE: Undeveloped natural, wooded or unwooded land.

OPEN SPACE USE: A use which does not disturb the existing state of the land except to restore this land to a natural condition.

OWNER: The person or persons having the right of legal title to, beneficial interest in, or a contractual right to purchase a lot or parcel of land.

PARKING AREA (SHORELAND ZONE): An area for parking motor vehicles excluding the area associated with a driveway used for parking two or fewer vehicles.

PARKING LOT: An open area other than a street used for the parking of more than four motor vehicles and available for public use whether free, for compensation, or as an accommodation for clients or customers.

PERMITTING AUTHORITY: The person or entity responsible for issuing a particular permit or approval under this Ordinance. The permitting authority will be either the CEO or the Planning Board.

PERSONAL WIRELESS SERVICES: Any communications service which, for a fee to the public or a substantial portion thereof, provides for the transmission between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information sent or received, and:

- a. is comprised of for-profit radio communications between mobile and fixed radio stations, and linked to public switched communications networks (example: commercial ship-to-shore radio facilities);
- b. which is transmitted or received by means of devices which do not require individual FCC licenses, but excluding direct-to-home satellite services (example: cellular telephone services); or
- c. which offers access to telephone exchange services or facilities for the purpose of origination or termination of telephone toll services by a common carrier of interstate or foreign radio transmissions.

PERSON: An individual, corporation, governmental agency, municipality, trust, estate, partnership association, two or more individuals having a joint or common interest, or other legal entity.

PESTICIDE: Any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pests, and any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

PIERS, DOCKS, WHARVES, BRIDGES, AND OTHER STRUCTURES OR 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 (7) months in any period of twelve (12) consecutive months.
- b. **Permanent:** Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

PLAN:

- a. **Sketch Plan:** Conceptual maps, renderings and supportive data describing the project proposed by the applicant for initial review by the Board prior to submitting an application for subdivision approval.
- b. **Final Plan:** The final drawings on which the applicant's plan of subdivision is presented to the Board for approval.

c. Recording Plan: An original of the paper and mylar versions of the final plan suitable for recording at the Registry of Deeds.

PLANNING BOARD: The Planning Board established by the Town on March 21, 1960.

PORCH: An accessory attachment to a principal structure having a roof, canopy, or awning. It may have framed or screened walls or railings with screening and gates to enclose pets or children.

PROJECT: Any activity requiring approval by the appropriate Permitting Authority under this Ordinance.

PUBLIC FACILITY: Any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

PUBLIC UTILITY: A firm, person, corporation, municipal department, board or commission authorized by the Maine Public Utilities Commission to furnish gas, steam, electricity, communication facilities, or transportation of water to the public.

RECONSTRUCTION: The restoration, remodeling or rebuilding of a structure, whether necessitated by deterioration, obsolescence, casualty or other occurrence, where the costs of such work equal or exceed the value of the property in its existing condition.

RECREATIONAL FACILITY: A place designed and equipped for the participation in sports, leisure time activities, and other customary and usual recreation activities, including swimming pools, but 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 pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

RESTAURANT: An establishment whose principal business is the sale of food and/or beverages to consumers in a ready-to-consume state, and whose principal method of operation includes one or more of the following characteristics:

- a.** Customers normally provided with an individual menu, are served their food and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed;
- b.** A cafeteria type operation where food and beverages generally are consumed within the restaurant building; or
- c.** A carry-out or delivery service, drive-in service, and service or consumption outside a fully enclosed structure, but excluding catering for off-premises consumption.

RIPRAP: Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

RIVER: A free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth. **Note:** The portion of a river that is subject to tidal action is a coastal wetland.

ROAD OR STREET: A thoroughfare or way consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding driveways as defined above.

a. Private Road or Street: A thoroughfare or way designated for private use and maintained by a property owner or group of property owners.

b. Public Road or Street: A public thoroughfare, way, or easement permanently established for passage of persons or vehicles.

c. Collectors: These roads handle internal traffic movements within a town or between a group of towns and are designed for moderate speed travel. The only collectors in Castine are State Highways, routes 166, 166A and 199.

d. Local: These are lightly traveled streets whose primary purpose is to serve residential areas. They are designed for slow speed travel and to carry low volumes of traffic short distances.

e. Cul-de-sac: A street with only one outlet and having the other end for the reversal of traffic movement.

f. Industrial or Commercial Street: Streets servicing industrial or commercial uses.

g. Private Right-of-Way: A minor residential street servicing no more than eight dwelling units, which is not intended to be dedicated as a public way.

ROOM: A walled or partitioned portion of space within a structure or building as defined below:

a. Unfinished Room: A space only enclosed by open stud walls and/or exposed structural members of the building.

b. Finished Room: A space with any higher level of finish than that of an unfinished room.

SALT MARSH: Areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

SALT MEADOW: Areas of a coastal wetland that 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.

SAND AND SALT PILES: A mixture of salt and sand or salt stored for winter road and yard maintenance.

SETBACK: The nearest horizontal distance from a lot line or from the normal high-water line of a water body or tributary stream or the upland edge of a wetland or from the road right-of-way to the nearest part of a structure, parking space, or other regulated object or area.

- a. Setback, Front:** The setback between the front lot line and the nearest part of a structure or other regulated object or area.
- b. Setback, Rear:** The setback between the rear lot line and the nearest part of a structure or other regulated object or area.
- c. Setback, Side:** The setback between the side lot line and the nearest part of a structure or other regulated object or area.
- d. Setback, Shoreline:** The nearest horizontal distance from the normal high-water line of a water body or tributary stream or the upland edge of a wetland and the nearest part of a structure or other regulated object or area.

SERVICE DROP: Any utility line extension which does not cross or run beneath any portion of a water body provided that:

- a.** In the case of electric service
 - 1.** the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
 - 2.** the total length of the extension is less than one thousand (1,000) feet.
- b.** In the case of telephone service
 - 1.** the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
 - 2.** the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

SHORE FRONTAGE: See FRONTAGE, SHORE

SHORELAND ZONE / SHORELAND OVERLAY DISTRICT: The land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

SHORELINE: The normal high-water line, or upland edge of a freshwater or coastal wetland.

SHORELINE ACCESS: A stairway or similar structure to provide shoreline access in areas of steep slopes or unstable soils and where no reasonable access alternative exists on the property; the structure is limited to a maximum of four (4) feet in width and the structure shall not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Board of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 MRSA §480-C).

SIGNIFICANT RIVER SEGMENTS: See Title 38 MRSA §437, as amended.

SIGHT DISTANCE: The length of unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used herein as a reference for unobstructed road visibility.

SIGN: Any structure, display, logo, device or representation which is designed or used to advertise or call attention to any thing, person, business, activity or place, and which is visible to the public. A sign does not include any flag, pennant or insignia of a nation, State, town or other political entity. Whenever dimensions of a sign are specified they shall include frames. Each visible sign face shall constitute a separate sign, except that a sign with two (2) faces shall be considered one (1) sign so long as the distance between the faces does not exceed twelve (12) inches.

STREAM: A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5-minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river, or flows to another water body or wetland within the Shoreland Area.

STREET: See “**ROAD OR STREET**” above.

STRUCTURE: Anything built for the support, shelter or enclosure of persons, animals, goods, or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, tents in place for ten (10) days or less, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes walls in the Shoreland Zone and structures temporarily or permanently located, such as decks, patios, raised walkways and satellite dishes larger than thirty-nine (39) inches in diameter.

STRUCTURE, ACCESSORY: A structure which is incidental and subordinate to the principal structure. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

STRUCTURE, NON-CONFORMING: A structure that does not meet the minimum setback, maximum height, maximum lot coverage or similar requirements for the zoning district in which it is located.

STRUCTURE, PRINCIPAL: A structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same premises.

SUBDIVISION: The term shall be defined as in Title 30-A MRSA §4401, sub-§4, as amended.

SUBSTANTIAL COMPLETION / SUBSTANTIALLY COMPLETED: Completion of ninety percent (90%) of a permitted structure or use measured as a percentage of estimated total cost.

SUBSTANTIAL COMMENCEMENT: Completion of thirty percent (30%) of a permitted structure or use measured as a percentage of estimated total cost.

SUBSURFACE SEWAGE DISPOSAL SYSTEM: Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under Title 38 MRSA §414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

SUBSURFACE SEWAGE DISPOSAL REPLACEMENT SYSTEM: A system intended to replace: 1.) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2.) any existing overboard wastewater discharge.

SUSTAINED SLOPE: A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

TELECOMMUNICATIONS TOWER: Any structure, antenna, tower or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange access and phone services, and personal communications service (PCS) or pager service, but excluding private ham radio.

TIDAL WATERS: All waters affected by tidal action during the highest annual tide.

TIMBER HARVESTING: The cutting and removal of trees from their growing site for the primary purpose of selling or processing forest products, and the attendant operation of harvesting machinery, but not the construction or maintenance of roads. Timber harvesting does not include the cutting or removal of trees in the Shoreland Zone on a lot that has less than two (2) acres within the Shoreland Zone, the cutting of firewood for the non-commercial use of the property owner, the tipping or pruning of trees, the removal of dead wood, broken limbs or downed or broken trees for the purpose of mitigating a safety hazard, or the clearing of land for approved construction for which a lawful permit has been issued in accordance with State and local codes, ordinances, statutes, rules and regulations.

TIMBER HARVESTING AND RELATED ACTIVITIES: Timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

TOWN: The Town of Castine, Maine.

TRACT OR PARCEL OF LAND: All contiguous land in the same ownership whether or not the tract is separated at any point by an intermittent or non-navigable stream, tidal waters where there exists no flow at low tide, or a private road established by the land owners or the abutting land owners. Lands 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. Private roads created before September 23, 1971 shall be considered the same as public roads.

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 terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock, and which is connected hydrologically with other water bodies. This definition does not include rills or gullies forming because of accelerated erosion in disturbed soils where vegetation has been removed by human activity and does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland. **Note:** Shoreline setback requirements apply to tributary streams within the Shoreland zone.

UPLAND EDGE OF A WETLAND: The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest annual tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

USE: The purpose or activity for which land or any building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

USE, ACCESSORY: A use which is incidental and subordinate to the principal use. Accessory uses, when aggregated shall not subordinate the principal use of the lot.

USE, NON- CONFORMING: A use which is not a permitted use in the zoning district in which it is located.

USE, PRINCIPAL: A use other than one which is wholly incidental or accessory to another use on the same premises.

VEGETATION: All shrubs and other plants including all live trees of four and one-half (4½) feet or more in height, of whatever diameter.

VELOCITY ZONE: An area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

VOLUME OF A STRUCTURE: The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof, including roofed and screened porches.

WATER BODY: Any great pond, river or stream.

WATER CROSSING: Any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include, but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

WALKWAY: A pedestrian access-way six (6) feet or less in width.

a. Private Walkway: A pedestrian access-way designated for private use and maintained by a property owner.

b. Public Walkway: A public thoroughfare, way, or easement permanently established for passage of persons.

WETLAND: A freshwater or coastal wetland.

WOODY VEGETATION: Live trees or woody, non-herbaceous shrubs.

YARD: The area of land on a lot not occupied by buildings.

a. Front Yard: The open, unoccupied space on the same lot with the principal building between the front lot line and the nearest part of any building on the lot, and extending the entire width of the lot.

b. Rear Yard: The open, unoccupied space on the same lot with the principal building between the rear lot line and the nearest part of any building on the lot, and extending the entire width of the lot.

c. Side Yard: The open, unoccupied space on the same lot with the principal building between a side lot line and the nearest part of any building on the lot, extending from the front yard to the rear line.

