

SWAN'S ISLAND
SHORELAND ZONING ORDINANCE

March 4, 2002

Amended March 3, 2003

SHORELAND ZONING ORDINANCE FOR THE TOWN OF SWAN'S ISLAND, MAINE

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SWAN'S ISLAND SHORELAND ZONING ORDINANCE

SECTION 1. TITLE

This Ordinance shall be known and may be cited as the "Swan's Island Shoreland Zoning Ordinance", and will be referred to herein as the "Ordinance".

SECTION 2. AUTHORITY

The Swan's Island Shoreland Zoning Ordinance is enacted in compliance with the Maine Mandatory Zoning (Title 38, Sections 435-449) and Subdivision Control Act (Title 30-A Maine Revised Statutes Annotated Sections 4401-4407).

SECTION 3. PURPOSES

The purposes of this Ordinance are to:

- A. Maintain the unique character of the Swan's Island landscape and shoreline;
- B. Assure the continuance of a viable fishery;
- C. Implement the policies, goals and objectives of the Swan's Island Comprehensive Plan dated January 1994;
- D. Maintain safe and healthful conditions;
- E. Prevent and control water pollution;
- F. Protect spawning grounds, fish, aquatic life, birds, other wildlife and their habitats;
- G. Prevent incompatible land uses and activities;
- H. Control land uses and the placement of structures;
- I. Conserve limited land, water, forest and shore cover resources and protect visual as well as actual points of access to inland and coastal waters and significant natural areas;
- J. Protect buildings and land from flooding accelerated erosion;
- K. Protect freshwater and coastal wetlands;
- L. Protect archaeological and historical resources; and
- M. Anticipate and respond to the impacts of development in shoreland areas.

SECTION 4. SUPERSEURE

The adoption of this Ordinance hereby supersedes and repeals all provisions of the Swan's Island Shoreland Zoning Ordinance enacted September 13, 1974 and revised March 3, 1975, and all amendments and revisions thereof. Structures and uses for which permits have been issued under the prior ordinances shall not be affected by this Ordinance. Permits issued under the prior ordinances for construction or use shall expire unless the construction or use involved is commenced within one (1) year from date of issuance.

SECTION 5. APPLICABILITY

This Ordinance applies to all land areas of Swan's Island which lie between the low tide line and within 250 feet, measured horizontally from the normal high water line of any great pond, coastal or freshwater wetland, salt water body or within seventy-five (75) feet of any stream. In addition, the Ordinance applies to any structure built on, over or abutting a dock, wharf, pier or other structure extending beyond the shoreline boundary of a water body or wetland.

SECTION 6. VALIDITY AND SEVERABILITY

Should any Section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other Section or provision of this Ordinance.

SECTION 7. CONFLICT WITH OTHER ORDINANCES

Should any Section or provision of this Ordinance be found to be in conflict with any other ordinance, regulation or statute, the more restrictive shall prevail.

SECTION 8. AMENDMENTS

This Ordinance may be amended by a majority vote of the citizens of the Town of Swan's Island, Maine at a Regular or Special Town Meeting. Any amendments adopted after January 1, 1989 shall be effective when approved by the Department of Environmental Protection. After January 1, 1989, copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Department of Environmental Protection within fourteen (14) days following adoption by the municipal legislative body and shall not be effective unless approved by the Department of Environmental Protection. If the Department of Environmental Protection fails to act on any amendment within forty-five (45) days of the Department's receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Department.

SECTION 9. EFFECTIVE DATE

The effective date of this Ordinance or any amendments thereto shall be the day immediately following its/their adoption (See Section 21, Certification of Adoption) at a Regular or Special Town Meeting, subject to the approval by the DEP as provided in Section 8, above.

SECTION 10. AVAILABILITY

A certified copy of this Ordinance shall be filed with the municipal clerk and shall be accessible to any member of the public. Copies shall be made available to any member of the public, at reasonable cost, at the expense of the person making the request. Notice of availability of the Ordinance shall be posted.

SECTION 11. DISTRICTS AND THE ZONING MAP

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

1. Fishery District;
2. Resource Protection District;
3. Residential District.
4. Stream Protection District.

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

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

B. Certification of Official Shoreland Zoning Map

The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office or other accessible location.

C. Changes to the Official Shoreland Zoning Map

If amendments, in accordance with Section 9, are made in the district boundaries and/or other matters portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Department of Environmental Protection.

SECTION 12. INTERPRETATION OF DISTRICT BOUNDARIES

Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of roads and rights-of-way, and the boundaries of the shoreland area. Where uncertainty exists as to the exact location of a district boundary line(s), the Board of Appeals shall be the final authority.

SECTION 13. LAND USE REQUIREMENTS

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

SECTION 14. NON-CONFORMANCE

A. Purpose

It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance shall be allowed to continue, subject to the requirements set forth in this section.

B. General

1. **Transfer of Ownership:** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
2. **Repair and Maintenance:** This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations which do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

NOTE: See Section 19 for the definitions of non-conforming structure, non-conforming use and non-conforming lot.

C. Non-conforming Structures

1. **Expansions:** A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below.

Further Limitations:

- a. After January 1, 1989 if any portion of a structure is less than the required setback from the shoreline boundary or normal high water line of a water body or upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by 30% or more, during the lifetime of the structure.
- b. Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided;
 - (l) The structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Code Enforcement Officer, basing his/her decision on the criteria specified in subsection 2. Relocation, below;

(ii) The completed foundation does not extend beyond the exterior dimensions of the structure; and

(iii) The foundation does not cause the structure to be elevated by more than three (3) additional feet.

2. Relocation: A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

3. Reconstruction or Replacement: Any non-conforming structure which is located less than the required setback from the shoreline boundary or normal high water line of a water body or upland edge of a wetland and which is removed, or damaged or destroyed by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within two years of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

Any non-conforming structure which is damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place with a permit, from the code enforcement officer.

4. Change of Use of a Non-conforming Structure

The use of a non-conforming structure may not be changed to another use unless the Planning Board after receiving a written application determines that the new use will have no greater adverse impact on the water body or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

D. Non-conforming Uses

1. Expansions: Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as permitted in Section 14 (C)(1)(a) above.
2. Resumption Prohibited: A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding two years, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant an extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
3. Change of Use: An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in the Fishery district, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 14 (C) (4) above.

E. Non-conforming Lots

1. Non-conforming Lots: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot size and frontage can be met. Variances relating to setback or other requirements not involving lot size or frontage shall be obtained by action of the Board of Appeals.
2. Contiguous Built Lots: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules are complied with.

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

3. Contiguous Lots - Vacant or Partially Built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

SECTION 15. DISTRICT CRITERIA

A. Fishery District

The Fishery District includes areas in which are contained: docks, wharves, piers, assorted buildings and other structures, and storage areas used to serve, maintain and store gear, equipment and consumables in support of commercial fishing and other marine-related activities. Permitted uses include, but are not limited to, those relating to fishing and boats, all to be in accordance with town, State and Federal regulations.

B. Resource Protection District

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

Inland/freshwater and coastal wetlands as defined in Section 19 and which are rated "moderate" or "high"-value by the Maine Department of Inland Fisheries and Wildlife, as of January 1, 1973;

Areas rated as "moderate" to "high-value" waterfowl areas, by the Department of Inland Fisheries and Wildlife, as noted on the attached Official Shoreland Zoning Map;

Areas of two or more contiguous acres with sustained slopes of 20% or greater

Areas of value in conserving sites of significant scenic or aesthetic value;

5. All other significant wildlife habitat(s);
6. Other significant areas designated by the Town, State or Federal government(s) that are to be protected from development.
7. Floodplains as defined by the 100-year flood or the flood of record, or, in the absence of these, by soil types identifiable as recent floodplain soils.
8. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during normal spring high water.

C. Residential District

The Residential District includes areas in which residential dwelling units and accessory structures which are normally associated with single-family dwellings primarily exist. This District also includes areas other than those included in the Resource Protection District and Fishery District.

SECTION 16. USES

Land Use Activities permitted in each district, in conformance with the land use standards of this Ordinance, are scheduled as follows:

- KEY: Yes - Allowed (no permit required)
 No - Prohibited
 PB - Requires permit from the Planning Board
 CEO - Required permit from Code Enforcement Officer
 LPI - Requires permit from Local Plumbing Inspector
 DEP - May require permit from the Department of Environmental Protection
 * - Subject to specific Land Use Standards, Section 17

SCHEDULE OF USES

Land Use Activities	DISTRICTS			
	(F) Fishery District	(R) Residential District	(RP) Resource Protection	(SP) Stream Protection
1. Principal Structures *				
a. Single-family dwelling units	PB	PB	no	no
b. Duplex	no	no	no	no
c. Commercial establishments	PB	no	no	no
d. Churches and places of assembly	PB	PB	no	no
e. Multi-family dwelling units	no	no	no	no
f. Lodging units	no	no	no	no
g. Automobile service stations	PB	PB	no	no
2. Accessory structures and additions *				
a. 250 square feet floor space or larger	PB	PB	PB	PB
b. Less than 250 square feet * floor space	CEO	CEO	PB	CEO
3. Marine related structures *				
a. 250 square feet floor space or larger	PB	PB	no	PB
b. Less than 250 square feet * floorspace	CEO	CEO	PB	CEO
4. Piers, docks, wharves, bridges, and other structures and uses projecting into or over water bodies *	PB/DEP ⁴	PB/DEP	PB/DEP	PB/DEP
5. Marine-related activities *	PB	PB	PB	PB
6. Recreational Boat Storage Building	PB	PB	no	no
7. Road and driveway construction *	PB ⁴	PB	PB	PB
8. Filling or other earth-moving activities * of less than 10 cubic yards	yes	yes	CEO	yes
9. Filling or other earth-moving activities * of more than 10 cubic yards	CEO	CEO	PB	PB
10. Removal of shore material *	PB	PB	PB	PB
11. Clearing for approved construction *	CEO	CEO	CEO ¹	CEO
12. Private sewage disposal systems *	LPI	LPI	no	no
13. Timber Harvesting	yes	yes	no	yes
14. Campgrounds *	PB	PB	no	PB
15. Agriculture *	yes	yes	PB	yes
16. Emergency operations	yes	yes	yes	yes
17. Fire prevention activities	yes	yes	yes	yes

SCHEDULE OF USES

Land Use Activities	DISTRICTS			
	(F) Fishery District	(R) Residential District	(RP) Resource Protection	(SP) Stream Protection
18. Forest management activities such as marking and timber stand improvement, except for timber harvesting	yes	yes	yes	yes
19. Harvesting of wild crops	yes	yes	yes	yes
20. Motorized vehicle traffic on trails, and snowmobiles	yes	yes	yes	yes
21. Non-intensive mineral exploration *	yes ²	yes ²	PB	yes ²
22. Non-intensive recreational uses not requiring structures, such as hunting, fishing and hiking	yes	yes	yes	yes
23. Public and private parks and recreation areas involving minimal structural development	CEO ⁴	CEO	PB	CEO
Mineral extraction including Sand and gravel extraction	PB	PB	PB ³	PB
25. Small non-residential, non-profit * facilities for municipal, educational, scientific, religious, or nature interpretation purposes	PB ⁴	PB	PB	PB
26. Soil and water conservation practices	yes	yes	yes	yes
27. Signs *	yes	yes	yes	yes
28. Surveying and resource analysis	yes	yes	yes	yes
29. Wildlife management practices	yes	yes	yes	yes
30. Sewage collection and treatment facilities serving multiple structures *	PB/DEP	PB/DEP	PB/DEP	PB/DEP
31. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO
32. Uses similar to uses requiring a PB permit	PB	PB	PB	PB
33. Essential services accessory to permitted uses	yes	yes	yes	yes
34. Conversions of seasonal residences to year-round residences	LPI	LPI	no	LPI
35. Home Occupations	yes	yes	PB	yes
36. Individual Private Campsites *	CEO	CEO	CEO	CEO
37. Parking Facilities *	PB	PB	no	PB

- 1* In Resource Protection not permitted within 75 feet of the normal high-water line of great ponds except to remove safety hazards.
- 2* Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.
- 3* In Resource Protection not permitted in areas so designated because of wildlife value.
- 4* Marine related activities and uses accessory to such uses only.

Note: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to Title 38 MRSA, Section 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

- A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- B. Draining or otherwise dewatering;
- C. Filling, including adding sand or other material in a sand dune; or
- D. Any construction or alteration of a permanent structure.

SECTION 17. LAND USE STANDARDS

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

A. Agriculture

1. All spreading or disposal of manure shall be accomplished in conformance with the "Maine Guidelines for Manure and Manure Sludge Disposal on Land", published by the University of Maine and the Maine Soil and Water Conservation Commission, in July 1972.
2. Where soil is tilled in a Resource Protection District, or tilled in excess of 40,000 sq. ft. elsewhere within the shoreland zone, or manure spread stored or disposed of within the shoreland zone, such tillage or placement of manure shall be carried out in conformance with the provisions of a Conservation Plan which meets the standards of the State Soil and Water Conservation Commission, and is approved by the appropriate Soil and Water Conservation District. The number of the plan shall be filed with the Planning Board. Non-conformance with the provisions of such Conservation Plan shall be considered to be a violation of this Ordinance.
3. New manure storage sites must be setback at least 100 feet from a great pond, and 75 feet from other water bodies, tributary streams and wetlands. New tilling and grazing activities must be set back at least 100 feet from great ponds, 75 feet from other water bodies and 25 feet from tributary streams and wetlands.

B. Beach Construction

Beach construction on any great pond, stream, brook or coastal or fresh water wetland shall require an approved permit from the Department of Environmental Protection.

C. Campgrounds

Campgrounds shall conform to the minimum requirements imposed under State license procedures and the following:

1. Camping sites shall contain a minimum of 5,000 square feet of suitable land, not including roads and driveways, for each site; Land supporting wetland vegetation, and land below the shoreline boundary of a water body shall not be included in calculating land area per site.
2. The areas intended for placement of the recreational vehicle, tent, or shelter and utility and service buildings, shall be set back a minimum of one hundred (100) feet from the shoreline boundary of a great pond and seventy-five (75) feet from the shoreline boundary of any other water body, tributary stream, or freshwater wetland.

D. Individual Private Campsites

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

1. One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.

2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back at least 100 feet from great ponds, seventy-five (75) feet from the shoreline boundary of water bodies, tributary streams, or the upland edge of a wetland.
3. Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.
4. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
5. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
6. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

E. Clearing

1. Within a shoreland area zoned for Resource Protection abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 100 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.
2. Within a strip extending 75 feet inland from the shoreline boundary or normal high water line, there shall be no cleared opening or openings, except for approved construction, and a well-distributed stand of vegetation shall be retained.
3. Except in areas as described in Paragraph 1, above, and except to allow for the development of permitted uses, within a strip of land extending 100 feet of a great pond or seventy-five (75) feet, horizontal distance, from any water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
 - a. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten (10) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond, or stream flowing to a great pond, the width of the foot path shall be limited to six (6) feet.
 - b. Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. For the purposes of this section a "well-distributed stand of trees and other vegetation" adjacent to a great pond or stream flowing to a great pond, shall be defined as maintaining a rating score of 12 or more in any 25-foot by 25-foot square (625 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 - 4 in.	1
>4 - 12 in.	2
>12 in.	4

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees and other vegetation" is defined as maintaining a minimum rating score of 8 per 25-foot square area.

Note: As an example, adjacent to a great pond, if a 25-foot x 25-foot plot contains three (3) trees between 2 and 4 inches in diameter, three trees between 4 and 12 inches in diameter, and three trees over 12 inches in diameter, the rating score is:

$$(3 \times 1) + (3 \times 2) + (3 \times 4) = 21 \text{ points}$$

Thus, the 25-foot by 25-foot plot contains trees worth 21 points. Trees totaling 9 points ($21 - 12 = 9$) may be removed from the plot provided that no cleared openings are created.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

- c. Pruning of tree branches, on the bottom 1/3 of the tree is permitted.
- d. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

The provisions contained in paragraph 2 above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.

- 4. At distances greater than 100 feet of a great pond or seventy-five (75) feet, horizontal distance, from the shoreline boundary of any water body, tributary stream, or the upland edge of a wetland, except to allow for the development of permitted uses, there shall be permitted on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area. In no event shall cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate, 25% of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously developed.
- 5. Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted by this Ordinance.

6. Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.
7. Any clearing shall be accomplished in a manner as to retain a well-distributed stand of tree foliage and shall leave sufficient ground coverage and root systems to prevent or control erosion and runoff. Where natural vegetation is removed, it shall be replaced with other vegetation that is equally effective in retarding erosion and preserving natural beauty. All slash shall be properly disposed of within one (1) year.

F. Dimensional Requirements

The placement of principal and accessory structures on all lots shall meet or exceed the following minimum requirements:

Seventy-five (75) foot setback from the shoreline boundary of any salt water body;

Seventy-five (75) foot setback from the normal high-water line of tributary streams, freshwater body, or upland edge of a wetland;

One hundred (100) foot setback from the normal high-water line of a great pond;

4. Sixty (60) foot setback from the centerline of the traveled way of all roads open to the public;
5. Ten (10) foot setback from the centerline of any utility right-of-way;
6. Thirty (30) foot setback from all property lines.
7. The first floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above the elevation of the 100-year flood, the flood of record, or in the absence of these, the flood as defined by soil types identifiable as recent flood plain soils.

Provisions one (1), two (2), three (3), four (4) and seven (7) shall not apply to marine-related structures which require direct access to the water as an operational necessity. Provisions six (6) and seven (7) shall not apply to marine-related structures in the Fishery District.

G. Erosion and Sedimentation Control

1. Filling, grading, lagooning, dredging, earth-moving activities, and other land use activities shall be conducted in such manner to prevent to the maximum extent possible, erosion and sedimentation of surface waters.
2. On slopes greater than 35%, there shall be no grading or filling within 100 feet of the shoreline boundary, except to protect the shoreline and prevent erosion.
3. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the Code Enforcement Officer or Planning Board for approval and shall include, where applicable, provisions for:
 - a. Mulching and re-vegetation of disturbed soil.

- b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - c. Permanent stabilization structures such as retaining walls or riprap.
4. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
 5. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
 6. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 - a. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
 7. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.

Provision two (2) shall not apply to marine-related structures in the Fishery District.

H. Height Restrictions

No principal or accessory structure shall exceed thirty-five (35) feet in height above the average ground level, excluding chimneys, steeples, antennas and similar appurtenances which have no floor area.

I. Lot Standards

1. All lots shall be a minimum of two (2) acres in size and shall contain within its boundaries a rectangle 200' by 300', not including rights-of-way, roads, easements, land not in the same ownership or below the shoreline boundary, except that those lots situated within the Fishery District only, and used for marine-related activities only, shall have no minimum lot size, but shall have a minimum of fifty (50) feet on the shoreland boundary.
2. If more than one principal structure or dwelling structure is constructed on a single parcel, all lot standards and dimensional requirements shall be met for each additional principal structure or dwelling structure.
3. A lot abutting a great pond, stream, upland edge of a wetland or tidal water shall have a minimum shore frontage of 200 feet, measured in a straight line between the points of intersection of the side lot lines with the shoreland boundary.
4. The total area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed, except in the Fisheries District, where there shall be no maximum percentage for marine related activities and uses.
5. A lot is required to have a minimum of two (2) acres and three hundred (300) feet of frontage within the shoreland zone adjacent to non-tidal areas which are to be developed as governmental, institutional, commercial or industrial.
6. Land below the shoreline boundary of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.
7. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.

J. Mineral Exploration and Extraction

Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than 100 square feet of ground surface. A permit from the Planning Board shall be required for mineral exploration which exceeds the above limitations. All excavations, including test pits and holes shall be immediately capped, filled or secured by other equally effective measures, so as to restore disturbed areas and to protect the public health and safety.

All mineral exploration conducted within the Resource Protection District requires an approved permit from the Planning Board.

Mineral extraction may be permitted under the following conditions:

1. A reclamation plan shall be filed with, and approved by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of paragraph 3 below.

2. Unless authorized pursuant to the Natural Resources Protection Act, Title 38, M.R.S.A, Section 480-C no part of any extraction operation, including drainage and runoff control features shall be permitted within 100 feet of great ponds, seventy-five (75) feet of the shoreline boundary of any water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within seventy-five (75) feet of any property line, without written permission of the owner of such adjacent property.
3. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
 - a. All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
 - b. The final graded slope shall be two to one (2:1) slope or flatter.
 - c. Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
4. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

K. Off-Street Parking and Loading

1. Parking areas shall meet the shoreline setback requirements for structures for the district in which such areas are located, except that for parking areas serving marine related structures in the Fisheries District such areas shall have no minimum setback. The setback requirement for parking areas serving public boat launching facilities, in Districts other than the Fisheries District may be reduced to no less than fifty (50) feet from the shoreline boundary or upland edge of a wetland if the Planning Board finds that no other reasonable alternative exists.
2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, and where feasible, to retain all runoff on-site.
3. In determining the appropriate size of proposed parking facilities, the following shall apply:
 - a. Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - b. Internal travel aisles: Approximately twenty (20) feet wide.
4. Off-street parking, either by means of unenclosed suitable spaces each having a minimum area of 200 square feet plus necessary maneuvering space, or by

enclosed garage space, shall be provided in the case of new construction, alterations and changes of use according to the following minimum requirements:

- a. **Single-family dwelling unit** - Two (2) spaces for each dwelling unit.
 - b. **Commercial establishments** –
 - . Restaurant: One parking space for every four (4) seats;
 - . Retail store: One space for each one hundred (100) square feet of retail floor space;
 - . All other commercial establishments: One space for each 300 square feet of floor area.
 - c. **Churches and places of assembly** - One space for each four (4) persons accommodated.
5. Loading spaces shall be provided for every commercial establishment at the rate of one off-street loading space of a minimum area of 400 square feet, plus necessary maneuvering space, for each 5,000 square feet, or fraction thereof, in area of such building. In addition, one off-street parking space for each vehicle used in connection with the business shall be provided.

L. Piers, Docks, Wharves, Bridges and other structures or Uses Projecting into or over Water Bodies or within a wetland.

In addition to Federal or State permits which may be required for such structures and uses, they shall conform to the following:

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
2. The location shall not interfere with the developed beach areas.
3. The facility shall be located so as to minimize adverse affects on fisheries.
4. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing condition, use, and character of the area.
5. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the shoreline boundary of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.
6. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the shoreline boundary of a water body or within a wetland shall be converted to residential dwelling units in any district.
7. Except in the Fisheries District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the shoreline boundary of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

M. Removal of Shore Material

Planning Board approval is required for the displacement or removal of shore (beach) material, including ledge, rock, stones, pebbles, sand, or loam.

N. Road and Driveway Construction

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

1. Roads and driveways shall be located, constructed, and maintained in such a manner that minimal erosion hazard results. Adequate provision shall be made to prevent soil erosion, and sedimentation of surface waters.
2. Roads and driveways shall be set back at least one hundred (100) feet from the shoreline boundary of any great pond and seventy-five (75) feet from the shoreline boundary of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the Planning Board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland. Except that those driveways situated within the Fishery District only, and used for marine related activities, shall have no minimum setback requirement.

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet for each five (5) percent increase in slope above twenty (20) percent. This paragraph shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline due to an operational necessity.

3. New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the shoreline boundary of a water body, tributary stream, or upland edge of a wetland. Except those lots situated within the Fishery District only, and used for marine related activities, shall have no minimum setback requirement.
4. All roads and driveways shall allow emergency vehicle access and shall have a vehicle turn out every 500 feet. Each turnout shall be a minimum of fifteen (15) feet wide, twenty-five (25) feet deep, and shall be approved by the Swans Island Department of Public Safety.
5. In addition to the above, roads shall meet the following standards:
 - a. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.
 - b. Road banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in subsection H.
 - c. Road grades shall be no greater than ten (10) percent except for short segments of less than two hundred (200) feet.

d. In order to prevent road surface drainage from directly entering water bodies, roads shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the shoreline boundary of a water body, tributary stream, or upland edge of a wetland. Road surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

e. Culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road or ditch. To accomplish this, the following shall apply:

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

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

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

(3). On road sections having slopes greater than ten (10) percent, culverts shall be placed across the road at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road.

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

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

g. Additionally, all roads constructed shall conform with the following standards:

(1). Road crossings of watercourses shall be kept to the minimum number necessary;

(2). Bottoms of culverts shall be installed at streambed elevation;

(3). All cut or fill banks and areas of exposed mineral soil shall be re-vegetated or otherwise stabilized as soon as possible;

(4). When road crossings of watercourses are to be used on unfrozen surface waters, bridges or culverts of adequate size and design shall be provided so as to support a Gross Vehicle Weight of 72,000 pounds;

(5). Roads shall have a minimum of:

- A twenty (20) foot wide roadbed;
- A sixteen (16) foot traveled width;
- A height clearance of thirteen (13) feet, six (6) inches;

O. Sanitary Standards

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

P. Signs

1. Signs and billboards relating to goods and services sold on the premises shall be permitted, provided such signs shall not exceed six (6) square feet in area, and shall not exceed two (2) signs per premises. The areas of such signs shall be calculated as either the surface area of the sign, or in the case of letters (or lettering applied to the surface of the building), be calculated as the area of the smallest rectangle enclosing such letters. Billboards and signs relating to goods and services not rendered on the premises shall be prohibited.
2. Name signs shall be permitted, provided such signs shall not exceed two (2) signs per premises.
3. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
4. Signs relating to trespassing and hunting shall be permitted without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
5. No sign shall extend higher than twenty (20) feet above the ground.
6. Signs may be illuminated only by shielded, non-flashing lights.
7. Flashing lights of any kind or color are prohibited.
8. Signs relating to public safety shall be permitted without restriction.

Q. Soils

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report. This report shall be prepared by a State-certified soil scientist or geologist, based on an on-site investigation. Suitability considerations shall be based primarily on criteria established in the National Cooperative Soil Survey as modified by on-site factors such as depth to water table and depth to refusal. The report shall also be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

R. Views

Without the prior consent of the owners of an affected property, no activity is permitted which reduces or impairs the existing views from the principal structure of the affected property by twenty (20) degrees azimuth or more at ten (10) degree elevation from above measuring point.

S. Water Quality Protection

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quality, toxicity, or temperature that run off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or human, animal, plant or aquatic life.

T. Archaeological Sites

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

U. Essential Services

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

V. Storm Water Runoff

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

W. Stairways

Stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

X. Timber Harvesting

1. In a shoreland area zoned for resource protection abutting a great pond, timber harvesting shall be limited to the following:
 - (a) Within the strip of land extending 75 feet inland from the shoreline boundary there shall be no timber harvesting, except to remove safety hazards.
 - (b) Beyond the 75 foot "no-harvest" strip referred to in paragraph a. above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 1 inch in diameter at 4 ½ feet above ground level be reduced to less than 30 square feet per acre.
2. Except in areas described in Paragraph 1 above, timber harvesting shall conform with the following provisions:
 - (a) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4½ feet above ground level on any lot in any ten (10) year period is permitted. In addition:
 - (1) Within one-hundred (100) feet, horizontal distance of the shoreline boundary of a great pond, and within seventy-five (75) feet, horizontal distance, of the shoreline boundary of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
 - (2) At distances greater than(100) feet, horizontal distance of the shoreline boundary of a great pond, and greater than seventy-five (75) feet, horizontal distance, of the shoreline boundary of other water bodies, tributary streams, or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5,000) square feet they shall be at least one-hundred (100) feet apart. Such clearcut openings shall be included in the calculation of total volume removal. For the purpose of these standards volume may be considered to be equivalent to basal area.
 - (b) Timber harvesting operations exceeding the 40% limitation in paragraph a. above, may be allowed by the planning board upon a clear showing, including a forestry management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.
 - (c) No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies upon the ground

and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body shall be removed.

- (d) Timber harvesting equipment shall not use stream channels as travel routes except when:
 - (i) Surface waters are frozen; and
 - (ii) The activity will not result in any ground disturbance.
- (e) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surfaces which would not be eroded or otherwise damaged.
- (f) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil re-vegetated.
- (g) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the shoreline boundary of a water body or the upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet from the shoreline boundary of a water body or the upland edge of a wetland.

SECTION 18. ADMINISTRATION

A. Creation of Administering Bodies and Agents

1. Code Enforcement Officer

The Code Enforcement Officer and his/her assistant shall be appointed or reappointed annually by July 1st by the Board of Selectmen

2. Planning Board

A Planning Board shall be created in accordance with the provisions of State law.

3. Board of Appeals

There is hereby created the Board of Appeals of the Town of Swan's Island pursuant to the provisions of State law. Members shall consist of five (5) persons appointed or re-appointed on staggered three (3) year terms by the Board of Selectmen. A quorum of three (3) members shall be required for the Board to legally transact business or conduct appellate hearings.

B. Permits

1. Permits Required

After the effective date of this Ordinance no person shall engage in any use of land or structure requiring a permit in the district in which it would occur without first obtaining a permit. This includes but is not limited to the expansion, change, or replacement of an existing use or structure. No expansion or change of an existing non-conforming use or renewal of a discontinued non-conforming use may occur.

2. Permit Application

a. Application for permits shall be submitted in writing to all members of the Planning Board and CEO on a form provided by the Town to allow seven days public notice. The Code Enforcement Officer or Planning Board may require the submission of additional information deemed necessary to determine conformance with the provisions of this Ordinance. This may include, but not be limited to, the following information:

- 1) A plan of the area showing: contours (at intervals to be determined by the Planning Board), high water mark, shoreline boundary, ground water conditions, bedrock, slope, and vegetative cover;
- 2) Location of existing and proposed building(s), rights-of-way parking area(s), traffic access, driveway(s), walkway(s), in landscaping;
- 3) Plans of buildings, sewage disposal facilities, and water supply systems;
- 4) A report by a licensed site evaluator indicating the suitability of the soils for a sewage disposal facility.

- b. Application fees shall consist of a non-refundable \$25.00 filing fee. Additional fees shall be set by the Planning Board. Alterations during construction adding to costs shall require a proportionate additional fee. Alterations or additions made after job completion shall require a new filing fee. Fees are payable to the Town of Swans Island and will serve as a source of funds for the administration of this Ordinance.
 - 1. All fees must be paid in full to the Code Enforcement Officer before the permit can be processed.
 - 2. For any permit application received for land uses that have been initiated in any capacity, the above application fees shall be doubled.
 - c. The Code Enforcement Officer shall maintain accurate records of the fees collected and expenses incurred during the performance of his/her duties and shall report all such transactions in the Annual Town Report.
 - d. All applications shall be signed by the owner or owners of the property or other person authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property then that person shall submit a letter of authorization from the owner or lessee.
 - e. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
3. Soil Suitability Test (HHE-200 Form) Required Prior to Planning Board/Code Enforcement Officer Permit

No Planning Board or Code Enforcement Officer permit shall be issued for any structure or use involving the construction, installation or alteration of plumbing facilities, unless a soil suitability test for such facilities has been secured by the applicant or his/her authorized agent, according to the requirements of this Ordinance and the Maine State Plumbing Code.

4. Procedure for Administering Permits

Within thirty (30) days of receiving a written application plus the number of days until the next regular Board meeting, the Planning Board or Code Enforcement Officer, as indicated in Section 16, shall notify the applicant in writing either that the application is a complete application, or if the application is incomplete, the specific additional material needed to make a complete application. All applications shall either be approved or denied in writing within thirty (30) days of receiving a completed application.

5. Approval of Permits

Permits shall not be denied if the proposed construction, use or activity is found to be in conformance with the provisions of this Ordinance. If a permit is denied, the reasons for the denial shall be stated in writing. An appeal to the Board of Appeals from an approval or denial of a permit shall be made within 30 days of the approval

or denial. Permits may be made subject to reasonable conditions to insure conformity.

If a permit is approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or any State law which the municipality is responsible for enforcing.

6. Permits Issued by Code Enforcement Officer

The Code Enforcement Officer shall approve or deny those applications on which he/she is empowered to act as shown in Section 16 and as otherwise stated in this ordinance. Approval shall be granted only if the proposed use or construction is in conformance with the provisions of this Ordinance. The CEO may refer any application, on which he/she is empowered to act, to the Planning Board for action.

7. Permits Issued by Planning Board

The Planning Board shall approve or deny those applications on which it is empowered to act as stated in this Ordinance. In addition they shall review those applications referred to them by the Code Enforcement Officer. The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance. The Planning Board shall, after the submission of a complete application including all information requested, grant a permit if it makes a positive finding of fact, based on the information presented to the Board, except as specifically exempted in this Ordinance, that the proposed use:

- a. WILL not result in unsafe or unhealthful conditions;
- b. WILL not result in erosion or sedimentation;
- c. WILL not result in land, water or air pollution;
- d. WILL not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;
- e. WILL conserve shoreland vegetation;
- f. WILL conserve visual points of access to waters as viewed from public facilities;
- g. WILL conserve actual points of public access to waters;
- h. WILL conserve natural beauty;
- i. WILL avoid problems associated with floodplain development and use;
- j. WILL adequately provide for the disposal of all wastewater;
- k. WILL protect archaeological and historic resources as designated in the comprehensive plan;
- l. WILL not adversely affect existing commercial fishing or maritime activities in the Fisheries district; and
- m. IS in conformance with the provisions of Section 17, Land Use Standards.

8. Expiration of Permit

Except as provided for in Section 4 of this Ordinance, a permit shall no longer be valid if the work or change involved is not commenced and substantially started within one (1) year of the date of issuance.

9. Installation of Public Utility Service

No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the shoreland zone unless written authorization attesting to the validating and currency of all local permits required under this or any previous Ordinance, has been issued by the appropriate municipal officials.

C. Appeals to Board of Appeals

1. Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers

- a. Administrative Appeals: To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration of this Ordinance.
- b. Variance Appeals. To authorize variances upon appeal, within the limitations set forth in this Ordinance.

2. Variance Appeals.

Variances may be permitted only under the following conditions:

- a. Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
- b. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
- c. The Board shall not grant a variance unless it finds that:
 - 1) The proposed structure or use would meet the provisions of Section 17 except for the specific provision which has created the non-conformity and from which relief is sought; and
 - 2) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:
 - a) That the land in question cannot yield a reasonable return unless a variance is granted;
 - b) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - c) That the granting of a variance will not alter the essential character of the locality;

d) That the hardship is not the result of action taken by the applicant or a prior owner.

- d. Disability variance. The board may grant a variance to a dwelling owner for the purpose of making that dwelling accessible to a person with a disability who is living in the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
- e. The Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- f. A copy of all variances granted by the Board of Appeals shall be submitted to the Department of Environmental Protection within fourteen (14) days of the decision.

3. Appeal Procedure

a. Making an Appeal

- (1) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- (2) Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:
- (i) A concise written statement indicating what relief is requested and why it should be granted.
 - (ii) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (3) Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

- (4) The Board of Appeals shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request.

b. Decision by Board of Appeals

- (1) A majority of the board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.
- (2) The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer or Planning Board, or to decide in favor of the applicant on any matter on which it is required to decide under this Ordinance, or to affect any variation in the application of this Ordinance from its stated terms. The board may reverse the decision, or failure to act, of the Code Enforcement Officer or Planning Board only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance.
- (3) The person filing the appeal shall have the burden of proof.
- (4) The Board shall decide all appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
- (5) All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefor, and the appropriate order, relief or denial thereof.

5. Appeal to Superior Court

An appeal by an aggrieved party may be taken within forty-five (45) days after the date of the vote on the original decision is rendered by the Board of Appeals to Superior Court in accordance with State law(s).

6. Reconsideration

The Board of Appeals may reconsider any decision within thirty (30) days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony.

D. Enforcement

1. Nuisances

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

2. Code Enforcement Officer

- a. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer finds that any provision of this Ordinance is being violated, he/she shall notify in writing the person(s) responsible for such violation, indicating the nature of the

violation and ordering the action necessary to correct it. Such actions may include but not be limited to: discontinuance of illegal use of land, building(s), structure(s) or work being done; removal of illegal building(s) or structure(s); abatement of nuisance conditions. A copy of such notices shall be maintained in the Town Office as a permanent record.

- b. The Code Enforcement Officer shall make appropriate on-site inspections prior to issuing any permits and make additional inspections at the following key intervals of the approved land use activities and/or construction:
 - 1) Once the site plan is staked out;
 - 2) Upon completion of footings or foundation construction;
 - 3) Upon completion of the exterior construction.

The applicant or his agent/contractor shall notify the Code Enforcement Officer of required inspections. These inspections shall be completed within forty-eight (48) hours of notification by the owner. Access to the site shall not be denied to the Code Enforcement Officer or Local Plumbing Inspector for inspection purposes;

- c. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
- d. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection.

3. Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Selectmen, upon notice from the Code Enforcement Officer, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Swans Island. The Selectmen, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

4. Fines

Any person including but not limited to a landowner, a landowner's agent or a contractor who orders or conducts any activity in violation of this Ordinance and who continued to violate any provision of this Ordinance, after receiving notice of such violation, shall be subject to a minimum fine of \$100.00 up to a maximum of \$2,500 for each violation (in accordance with provisions of Title 30-A Maine Revised Statutes Annotated, Section 4452). Each day such a violation is continued, it shall be considered a separate offense.

SECTION 19. DEFINITIONS

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

Abandoned - Abandonment is presumed if the use has been discontinued for a period of twenty-four (24) consecutive calendar months.

Aggrieved Party - A person whose land is directly or indirectly affected by the grant or denial of permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted.

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.

Aquaculture - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Basal Area - the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

Basement - any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

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 vehicles and trailers.

Campground - any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

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

Commercial Use - the use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Contractor's Liability - Any contractor involved in any activity regulated by the provisions of this Ordinance may be held liable for violating this Ordinance if the necessary permits for the said activity have not been obtained.

Densely Developed Area - "Densely developed area" means any commercial, industrial or compact residential areas of 10 or more acres with a density of at least one principal structure per 2 acres.

Dimensional Requirements - numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

Disability - any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or, in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special educational, vocational rehabilitation or related services.

Dormitory - A room or group of rooms designed and equipped or use as permanent, seasonal, or temporary sleeping quarters for three (3) or more persons providing or attending group residential training or educational programs.

Driveway - A driveway is a private traveled way serving two lots or less.

Duplex - A building or portion thereof used for residential occupancy by two families living independently of each other.

Dwelling Structure - A single building containing one or more dwelling units.

Dwelling Unit - A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one (1) family or person.

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

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 floor area or volume of a structure, including all expansions such as, but not limited to attached decks, garages, porches and greenhouses.

Expansion of Use - the addition of one or more months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

Family - One or more persons occupying a dwelling unit and living as a single housekeeping unit.

Floodway - "Floodway" means the channel of a river or other water course and the adjacent land areas that must be reserved to allow for the discharge of a 100-year flood without cumulatively increasing the water surface elevation of the 100-year flood by more than one foot.

Floor Area - The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Forest Management Activities - Timber cruising and other forest resource evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, revegetation of forest stands, and other similarly associated activities. Forest management activities shall not include timber harvesting, or construction or creation of roads.

Foundation - the supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frostwalls.

Freshwater Wetlands - "Freshwater wetlands" means freshwater swamps, marshes, bogs and similar areas which are:

- A. Of 10 or more contiguous acres, or of less than 10 contiguous acres and adjacent to a surface waterbody, excluding any river, stream or brook, such that, in a natural state, the combined surface area is in excess of 10 acres; and
- B. Inundated or saturated by surface or groundwater 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 subsection.

Great Pond – "Great Pond" means any inland body of water which in a natural state has a surface area in excess of 10 acres and any inland body of water artificially formed or increased which has a surface area in excess of 30 acres except for the purposes of this article, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

Home Occupation - an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

Increase in nonconformity of a structure - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body or wetland than the closest portion of the existing structure from that water body or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

Individual private campsite - an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to gravel pads, parking areas, fire places, or tent platforms.

Industrial - the assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Lodging Unit - Any structure used in whole or in part in which lodging is offered for compensation to three or more families with or without meals, including, but not limited to, hotel, motel, boarding house, rooming house, or bed and breakfast.

Lot Area - the area of land enclosed within the boundary lines of a lot, minus land below the shoreline boundary of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Low Tide Line, Normal - That line reached by the seaward limit of the fall of the medium tides between the spring and the neap, as determined by the United States Government Tide Tables.

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

Marine-Related Activities - Includes, but is not limited to, commercial and recreational activities associated with maintenance, storage, building and supply of boats or the landing, holding, buying, selling and shipment of fish and shellfish, but may not include recreational boat storage buildings.

Marine-Related Structures – Those uses and structures that require, for their primary purpose and operational necessity, location on submerged lands or that require direct access to, or location in, coastal or inland waters and which cannot be located away from these waters. Marine-related structures may be used primarily for activities associated with the maintenance, storage, building, and supply of boats; or the landing, holding, buying, selling, and shipment of fish and shellfish, but may not include recreational boat storage buildings. A marine-related structure shall be not larger than necessary to carry on the activity(ies) intended, and shall be consistent with existing conditions, uses, and the character of the area. Any change in use of a marine-related structure requires approval by the Planning Board. This definition shall not be construed to allow dwelling units within 75 feet of the shoreline boundary.

Maritime Activities - "Maritime activities" means the construction, repair, storage, loading and unloading of boats, chandlery and other commercial activities designed and intended to facilitate maritime trade.

Market Value - the estimated price a property will bring in the open market and under prevailing market condition in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Minimum Lot Width - the closest distance between the side lot lines of a lot.

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.

Multi-Family Dwelling Unit - A building or portion thereof used for residential occupancy by three or more families living independently of each other.

Non-Conforming Lot - a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Non-Conforming Structure - a structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-Conforming Use - use of buildings, structures, premises, land or parts thereof which is not permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Normal High-water Line for Wetlands, Forested Wetlands, Fresh Water Bodies and Marshes – 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 predominately aquatic and predominately terrestrial land. In the case of wetlands adjacent to rivers and great ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water.

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.

Piers, Docks, Wharves, Breakwaters, Causeways, Marinas, Bridges and Other Structures or Uses Projecting into Water Bodies -

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

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

Principal Use - a use other than one which is wholly incidental or accessory to another use on the premises.

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.

Recent Flood Plain Soils - Recent flood plain soils include the following soils as described and identified by the National Cooperative Soil Survey:

Alluvial	Cornish	Charles
Fryeburg	Haley	Limerick
Lovewell	Medomak	Ondawa
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

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

Recreational Vehicle - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a 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.

Replacement System - a system intended to replace: 1) an existing system which is either malfunctioning or being upgraded with no significant changes of design flow or use of the structure, or 2) any existing overboard wastewater discharge.

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

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.

Road - A traveled way consisting of a bed of exposed mineral soils, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

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

Salt Meadow - areas which support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where at average high tide during the growing season, the soil is regularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

Service drop - any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electric service
 - a. 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
 - b. the total length of the extension is less than one thousand (1,000) feet.
2. in the case of telephone service
 - a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
 - b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback - the nearest horizontal distance from the shoreline boundary to the nearest part of a structure, road, parking space or other regulated object or area.

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

Shoreland Zone - the land area located within two hundred and fifty (250) feet, horizontal distance, of the shoreline boundary of any great pond or saltwater body; or within 250 feet of the upland edge of a coastal or freshwater wetland; or within seventy-five (75) feet of the normal high-water line of a stream.

Shoreline Boundary - That line where continuous terrestrial vegetation and soil ends; then intermittent aquatic vegetation and/or shore material (such as ledge, rocks, stones, pebbles or sand) begins.

Stream – “Stream” means a free-flowing body of water from the outlet of a great pond or the confluence of two perennial streams as depicted on the most recent edition of a United States Geological Survey 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.

Structure - Structure shall mean anything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on or in the ground, exclusive of fences, flagpoles, and driveways including but not limited to: buildings, mobile homes, radio and television receiving and sending equipment, walls, billboards, signs, piers, floats; anything built for the support, shelter, or enclosure of persons, animals, goods, or property of any kind.

Structure, Principal - The structure associated with the primary use of the lot.

Structure, Accessory - A subordinate structure or use, but related to that of the principal structure or use, building, or use of land. Accessory uses, when aggregated shall not subordinate the principal use of the lot. 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.

Substantial Start - completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface Sewage Disposal System - a collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA Section 414, any surface wastewater disposal system licensed under 38 MRSA Section 413 Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 MRSA Chapter 13, subchapter 1.

Sustained Slope - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Timber Harvesting - The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction or cutting for timber stand improvement(s).

Tributary Stream - a channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock and which flows to a water body or wetland as defined. This definition only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

Upland Edge - the boundary between upland and wetland.

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

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.

Water body - any great pond, stream or tidal area.

Water Crossing - any project extending from one bank to the opposite bank of a stream, whether under, through, or over the water course. 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.

Wetland - a freshwater or coastal wetland, including forested wetlands.

SECTION 20. SHORELAND ZONING MAP KEY

RESIDENTIAL

Residential Zone

- R1 Stanley Point to Hero Beach
- R2 Hero Beach to Robertson Beach
- R3 Robertson Beach to Otter Pond
- R4 Otter Pond to Joyce's Beach
- R5 Joyce's Beach to Barbour Beach
- R6 Barbour Beach to Fir Point
- R7 McCandless/Munro property line to Carrying Place
- R8 Grace/Bailey property line to Seal Cove
- R9 Seal Cove to Irish Point Beach
- R10 Irish Point Beach to Fine Sand Beach
- R11 Fine Sand Beach to Toothacher Cove
- R12 Bailey/Nelson property line to Hockamock Head
- R13 Opechee Island
- R15 Eagle Island
- R16 Inner Johns Island
- R17 -----
- R18 Orono Island
- R19 Phinney Island
- R20 Round Island
- R22 Buckle Island
- R23 Hat Island
- R24 Goose Pond
- R25 -----
- R26 -----
- R27 Scrag Island
- R28 Big Baker Island
- R29 Harbor Island
- R30 -----
- R31 West Sister Island
- R32 East Sister Island

Forested Wetland Districts

- R33 Hero Beach Wetland
- R34 Red Point Wetland
- R35 Otter Pond Wetland
- R36 Follis Wetland
- R37 Torrey Wetland
- R38 Stockbridge Meadow
- R39 John Stanley Wetland
- R40 Kent Wetland
- R41 Sprague Meadow
- R42 Crabtree Wetland
- R43 Quarry Wetland
- R44 Lily Pond and Meadow
- R45 Bailey Wetland
- R46 Island Retreat Wetland
- R47 North Wetland

Stream Protection Districts

- S1 Stockbridge Pond Brook
- S2 Goose Pond Brook
- S3 Hero Beach Stream

FISHERY

Fishery Districts

- F1 Burntcoat Harbor, including all islands therein
- F2 Mackerel Cove
- F3 Seal Cove
- F4 Toothacher Cove
- F5 "Yellow Ledge" (Back Cove)

RESOURCE PROTECTION

Resource Protection Zone

- P1 Hero Beach
- P2 Robertson's Beach and Marsh
- P3 Otter Ponds Beach
- P4 Ram Island
- P5 Joyce's Beach and Salt Pond
- P6 Barbour Beach and Marsh - North Trask Point
- P7 Carrying Place Beach
- P8 Crow Island
- P9 The Triangles
- P10 - P12 - Islands in the Vicinity of Phinney and Orono Islands
- P13 - P14 – Buckle Island Harbor
- P15 Duck Island
- P16 Hen Island
- P17 Irish Point Beach
- P18 Fine Sand Beach
- P19 Hockamock Head - Western Side
- P20 Three Bush Island
- P21 Mason Ledge
- P22 High Sheriff
- P23 Black Rocks
- P24 Gunning Rock
- P25 Heron Island
- P26 Green Island
- P27 Garden Island
- P28 Gooseberry Island
- P29 Sheep Island
- P30 John's Island
- P31 Brimstone Island
- P32 Little Baker Island
- P33 Black Island (Little Calf)

SECTION 21. CERTIFICATION OF ADOPTION

I hereby attest that this is a true copy of the Swans Island Shoreland Zoning Ordinance, duly adopted at a Regular or Special Town Meeting held on March 4, 2002 with Amendments dated March 3, 2003.

Swan's Island Town Clerk

Date

<Town Seal>