

**Proposed Amendments Zoning Article IX (Lakeside District)  
For Public Vote March 11, 2014**

**For the Reader:**

- Proposed additions appear in *blue italics*.
- Items that are proposed for deletion or change appear with line(s) ~~struck through~~.
- Rationale for a proposed change is shown in brackets.

**ARTICLE IX LAKESIDE RESIDENTIAL DISTRICT**  
(adopted March, 1993, amended March 2009)

9.1. The lakeside residential district shall enjoy the following provisions:

9.1.1. Frontage requirements:

9.1.1.1. Each new lot shall have a minimum road frontage of two hundred (200) feet.

9.1.1.2 Each new lot directly on the water shall have a minimum waterline frontage of two hundred (200) feet.

9.1.2. No single family dwelling shall be located on a lot containing less than forty-three thousand, five hundred and sixty (43,560) square feet. ~~No structure shall be located closer than twenty-five (25) feet to the edge of any right-of-way, or to the side or rear boundaries of the lot.~~

**[Rationale:** Structure setbacks are moved to article 9.1.6 below.]

9.1.3. Only single family residences occupied by one family shall be permitted.

9.1.4. No residence in the lakeside district shall be used as a hotel, tourist home, or furnished rooming house.

9.1.5. No trade, business, or commercial use of the land or buildings in the lakeside district shall be permitted.

9.1.6. No dwelling or structure other than docks or fences shall be erected closer than seventy-five (75) feet from the high water mark. In the case of existing non-conforming structures, no additions shall be made which will be closer to the high-water mark than the nearest part of the existing structures. *No structure shall be located closer than fifteen (15) feet to the edge of any right-of-way, or to the side or rear boundaries of the lot. Accessory buildings such as storage sheds and gazebos but excluding automobile garages may be located within the seventy-five (75) feet setback as a special exception provided:*

*9.1.6.1. The location and construction of the structure is consistent with the intent of the ordinance to maintain a vegetated buffer, which would meet the*

*requirements of 15.8.1*

*9.1.6.2. The structure is required as a shelter either for humans, equipment, or firewood.*

*9.1.6.3. The structure is usually customary and incidental to a legally authorized use located within the shoreland district.*

*9.1.6.4. Building placement: Buildings shall be placed in such a manner as to minimize impact on habitat and at such a location as to have the least impact on the watershed.*

**[Rationale:** Changes above of 9.1.6 and 9.1.6.1-4: are minimum standards and are consistent with the form used for other districts. They were moved from Article XV. Structure setbacks are reduced from 25 feet to 15 feet.]

9.2. The lakeside residential district shall be comprised of those areas indicated on the zoning map and described as follows:

9.2.1. The area surrounding Harrisville Pond, starting at the contact of the southern end of the lake with Main, running west, north, east, and south around the lake to the town beach, to a distance of two hundred and fifty (250) feet from the high water mark, except in the southeast section of Harrisville Pond where the existing village residential district lines shall remain unchanged.

9.2.2. The area surrounding the following bodies of water to a distance of two hundred fifty (250) feet from the high water mark:

- 9.2.2.1. *Beaver Pond*
- 9.2.2.2. Chesham Pond
- 9.2.2.3. Childs Bog
- 9.2.2.4. *Dinsmore Pond*
- 9.2.2.5. Howe Reservoir
- 9.2.2.6. Russell Reservoir
- 9.2.2.7. Seaver Reservoir
- 9.2.2.8. Silver Lake
- 9.2.2.9. Skatutakee Lake (North Pond)
- 9.2.2.10. Stanford Pond

**[Rationale:** Beaver Pond and Dinsmore Pond had been omitted in previous 9.2.2. List is alphabetized and renumbered.]

**Proposed Amendments Zoning Article XV (Shoreland Overlay)  
For Public Vote March 11, 2014**

**For the Reader:**

- Proposed amendments appear in *blue italics*.
- Items that are proposed for deletion or change appear with line(s) ~~struck through~~.
- Rationale for a proposed change is shown in brackets.

**ARTICLE XV SHORELAND OVERLAY ORDINANCE**

15.1. AUTHORITY. Pursuant to the authority granted by RSA 483-B:8, and RSA 674:16 this ordinance is adopted by the town of Harrisville in order to protect the public health, safety, and general welfare.

15.2. PURPOSE. This ordinance establishes standards for the subdivision, use, and development of shorelands adjacent to public waters as defined herein for the purpose of minimizing degradation of shorelands and assuring retention of the benefits provided by such shorelands. These benefits include: maintenance of safe and healthy conditions; prevention and control of water pollution; protection of important fish, bird and wildlife habitat; reduction or elimination of flooding and accelerated erosion; protection of wetlands and their important natural functions; maintenance of water quantity and related stream flows during low flow periods; protection of shoreland cover as a means of maintaining water quality; and the conservation and protection of natural beauty and the scenic qualities which are critical attributes of the state.

15.3. DEFINITIONS

15.3.1. "Abutter" means any person whose property is located within two hundred (200) feet, adjoins, or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of notification and giving testimony, abutter also means a municipality and the applicable regional planning commission.

15.3.2 "Accessory structure" means a structure, as defined in paragraph 15.3.25 of this section, on the same lot and customarily incidental and subordinate to the primary structure, as defined in paragraph 15.3.14 of this section, or a use including but not limited to ~~paths, driveways,~~ patios and any other improved surface, pump houses, gazebos, wood sheds, garages or other out buildings.

[**Rationale:** Eliminate redundancy.]

15.3.3. "Basal area" means the cross sectional area of a tree measured at a height of 4-1/2 feet above the ground, usually expressed in square feet per acre for a stand of trees.

15.3.4. "Commissioner" means the commissioner of the Department of Environmental Services or designee.

15.3.5. "Department" means the Department of Environmental Services.

15.3.6. "Disturbed area" means an area in which natural vegetation is removed, exposing

the underlying soil.

15.3.7. "Ground cover" means any herbaceous plant that normally grows to a mature height of four (4) feet or less.

15.3.8 "Impervious surface" means any modified surface than cannot effectively absorb or infiltrate water. Examples of impervious surfaces include, but are not limited to, roofs, decks, patios, and paved, gravel, or crushed stone driveways, parking areas, and walkways unless designed to effectively absorb or filter water.

15.3.9 "Natural ground cover" means any herbaceous plant or any woody seedling or shrub generally less than 3 feet in height. Natural ground cover shall also include naturally occurring leaf or needle litter, stumps, decaying woody debris, stones and boulders. Natural ground cover shall not include lawns, invasive species, exotic species, imported organic or stone mulches, or other artificial materials (refer to RSA 483-B ~~The Comprehensive Shoreland Protection Act~~ for details).

**[Rationale:** To refer precisely to current NH state ordinance.]

15.3.10. "Natural woodland buffer" means a forested area consisting of various species of trees, saplings, shrubs, and ground covers in any combination and at any stage of growth.

15.3.11. "Ordinary high water mark" means the line on the shore, running parallel to the main stem of the lake pond or river, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water mark is not easily discernible, the Department of Environmental Services may determine the ordinary high water mark.

15.3.12. "Person" means a corporation, company, association, society, firm, partnership or joint stock company, as well as an individual, a state, and any political subdivision of a state or any agency or instrumentality thereof.

15.3.13. "Primary building line" means a setback from the reference line.

15.3.14. "Primary structure" means a structure that is central to the fundamental use of the property and is not accessory to the use of another structure on the same premises.

15.3.15. "Protected shore land" means for natural fresh water bodies without artificial impoundments, for artificially impounded fresh water bodies and for coastal waters and rivers, all land located within two hundred and fifty (250) feet of the reference line of public waters.

15.3.16. "Public waters" shall include:

15.3.16.1. All fresh water bodies listed in the official list of public waters published by the department pursuant to RSA 271:20, II, whether they are great ponds or artificial impoundments.

15.3.16.2. Rivers, meaning all year round flowing waters of fourth order or higher, as shown on the current version of the New Hampshire hydrography data set archived by the Granit system at the research center of the University of New Hampshire.

15.3.17. "Reference line" means:

15.3.17.1. For natural fresh water bodies without artificial impoundments, the natural mean high water level as determined by the Department of Environmental Services.

15.3.17.2. For artificially impounded fresh water bodies, the waterline at full pond as determined by the elevation of the top of the impoundment structure.

15.3.17.3. For rivers and streams, the ordinary high water mark.

15.3.18. "Removal or removed" means cut, sawed, pruned, girdled, felled, pushed over, buried, burned, killed, or otherwise destructively altered.

15.3.19 "Repair" means work to restore an existing, legal structure by partial replacement of worn, broken or unsound parts or to fix a specific defect, during which all of the exterior dimensions are intact and remain so during construction.

15.3.20 "Replace in kind" means the substitution of a new structure for an existing legal structure, whether in total or in part, with no change in size, dimensions, footprint, interior square footage, and location, with the exception of changes resulting in an increase in the setback to public waters.

15.3.21. "Residential unit" means a structure, or portion thereof, providing complete and independent living facilities, including permanent facilities for living, sleeping, eating, cooking, and sanitation which are used in common by one or more persons.

15.3.22. "Sapling" means any woody plant that normally grows to a mature height greater than 20 feet and has a diameter of less than six inches at a point 4 ½ feet above the ground.

15.3.23. "Shore land frontage" ~~means a straight line drawn between the points at which the reference line intersects the side lines of the property.~~ *is measured on a straight line drawn between the points at which the high water mark intersects the side lines of the property.*

**[Rationale:** to clarify wording.]

15.3.24. "Shrub" means any multi-stemmed woody plant that normally grows to a mature height of less than twenty (20) feet.

15.3.25 "Structure" means anything built for the support, shelter or enclosure of persons, animals, goods, or property of any kind, as well as anything constructed or erected with a fixed location on or in the ground, exclusive of fences.

15.3.26. "Subdivision" means subdivision as defined in RSA 672:14.

15.3.27. "Tree" means any woody plant which normally grows to a mature height greater than twenty (20) feet and which has a diameter of six (6) inches or more at a point four and a half (4.5) feet above the ground.

15.3.28. "Undisturbed state" means native vegetation allowed to grow without interference.

15.3.29. "Urbanization" means the concentrated development found in the sections of towns or cities where there has been an historic pattern of intensive building for commercial or industrial use, or mixed residential, commercial, and industrial use.

15.3.30. "Water dependent structure" means a dock, wharf, pier, breakwater, beach, boathouse, retaining wall, launching ramp, or other similar structure or any part thereof, built over, on or in the waters of the state.

#### 15.4. SHORELAND PROTECTION DISTRICT

15.4.1. The shoreland protection district is an overlay that is superimposed over the conventional existing zoning and includes within its boundary the protected shorelands set back adjacent to 250 ft. setback from all public waters within the municipality.

**Lakes;**

***Chesham Pond*** 74.2 ac; 1152.03 elev.

***Beaver Pond*** 19.8ac; 955 elev.

***Child's Bog*** 105.4ac; 1375 elev

***Dinsmore Pond*** 19ac; 930 elev.

***Harrisville Pond Upper Pond*** 120ac; 1318 elev.

***Howe Reservoir*** 257.8ac; 1274.5 elev.

***Russell Reservoir*** 26ac; 1160 elev.

***Seaver Reservoir*** 45ac; 1200.25 elev.

***Silver Lake*** 332.7ac; 1318.75 elev.

***Skatutakee Lake*** 260.9ac; 1202 elev.

***Stanford Pond*** 11.4ac; 1245 elev.

**[Rationale:** To make clear the limits of the district and define lakes that are part of and within the district.]

#### 15.5 PERMIT NOT REQUIRED

15.5.1 Many activities within the protected shoreland have been identified as not requiring a shoreland or a Town permit because the activity does not constitute construction, excavation or filling. These activities include, but are not limited to:

- a. Trimming, pruning, and thinning of branches to the extent necessary to protect structures, maintain clearances, and provide views.
- b. Maintenance of legal, existing, altered areas, such as mowing lawns, raking leaves and pine needles, mulching landscaped areas and haying fields.
- c. Planting one or more trees within existing altered areas more than 50 feet from the reference line with mechanized equipment.
- d. Planting of non-invasive vegetation and maintenance of existing gardens.
- e. Hand-pulling or use of hand tools to remove invasive species or other noxious or harmful plants such as poison ivy, including the root systems, provided that any area exceeding 10 square feet without vegetation be replanted with non-invasive, non-harmful species.
- f. Placement of stepping stones provided no root systems are removed to accommodate their placement and that no stone shall be larger than 3 sq ft
- g. Placement or installation of readily moved items such as picnic tables, lawn chairs, and swing sets.
- h. Construction or installation of fences using hand tools.
- i. Maintenance, repair or modification of an existing driveway, including repaving, provided that there is no increase in impervious area.

j. Installing private water facilities such as a well including the trenching associated with connecting the well to a residential dwelling, provided that it is located behind the 50 ft. setback to the lake reference line.

k. Digging test pits for the purposes of determining suitability for wastewater disposal under RSA 485-A:29 relating to subdivisions or septic systems, provided there is no disruption of groundcover within 50 feet of the shoreline and no test pits within 75 feet of the shoreline.

l. Replacing utility poles or guy wires using mechanized equipment, provided that appropriate siltation and erosion controls are used and all temporary impacts are restored.

**[Rationale:** Make clear those activities for which persons do not need any permit. Note this number, 15.5 was formerly titled PERMIT REQUIRED.]

#### 15.56. PERMIT REQUIRED

~~15.5.1~~ 15.6.1. ~~No person shall commence construction, excavation, or filling activity within the protected shore land without obtaining a permit from the Department.~~ *No person shall commence construction, excavation, filling or land disturbance in excess of 900 sq ft within the protected shoreland without obtaining permits from the Department and the Board of Adjustment. Existing photographs of area to be further developed are also required prior to making impacts.*

**[Rationale:** To add the specific requirements for prior approval of all permitted activities from the Town. Photographs help to make clear the original state prior to planned development.]

~~15.5.2.~~ 15.6.2 Within the protected shore land, any person intending to

- a. Engage in any earth excavation activity shall obtain all necessary local approvals in compliance with RSA 155-E.
- b. Construct a water-dependent structure, alter the bank, or construct or replenish a beach shall obtain all permits pursuant to RSA 485-A:17.
- c. Install a septic system as described in RSA 483-B:9, V(c) shall obtain all permits pursuant to RSA 485-A:29
- d. Conducting an activity resulting in a contiguous disturbed area exceeding 50,000 square feet shall obtain a permit pursuant to RSA 485-A:17.
- e. Subdivide land as described in RSA 483-B:9, V(e) and (f) shall obtain approval pursuant to RSA 485-A:29.
- f. Conduct an activity regulated under a local zoning ordinance shall obtain all necessary approvals.

~~15.5.2.~~ 15.6.3. The Commissioner shall have the ~~sole~~ **[Rationale:** no single authority] authority to issue variances and waivers of the provisions of RSA 483-B or its successors. *In addition, variances and waivers of provisions of RSA 483-B ~~the~~ CSPA or municipal ordinance XV must be obtained from the town Board of Adjustment.*

**[Rationale:** Make requirements for Town and DES clearer]

~~15.5.3.~~ **15.6.3.1** No variance, permit or approval issued by the Town shall exempt the owner from obtaining any other necessary permit or approval from the Department as required by **RSA 483-B The Comprehensive Shoreland Protection Act**.

*15.6.3.2. No variance, permit, or approval issued by the Department shall exempt the owner from obtaining any other necessary permit or approval from the Board of Adjustment as required by the Town's Local Ordinances.*

**[Rationale:** These make even clearer that there are usually two permitting processes involved in respect of covered shoreland activities, and that the Department's approval does not supplant the need for Town approval, nor does the Town's approval supplant the need for Department approval.]

#### ~~15.6~~ **15.7. PROHIBITED USES**

~~15.6.1.~~ **15.7.1.** Establishment or expansion of salt storage yards, automobile junk yards, and solid or hazardous waste facilities.

~~15.6.2.~~ **15.7.2.** Bulk storage of chemicals, petroleum products or hazardous materials.

~~15.6.3.~~ **15.7.3** Sand and gravel excavations as defined in RSA 155-E.

~~15.6.4.~~ **15.7.4.** Processing of excavated materials.

~~15.6.5.~~ **15.7.5.** Dumping or disposal of snow and ice collected from roadways or parking areas outside the district **into any water body**

**[Rationale:** Renumbering. Plowed snow may contain salt and other chemicals, sand, gravel and rocks, all of which would negatively affect water quality if put into lakes or streams.]

#### ~~15.7.~~ **15.8 RESTRICTED USES**

~~15.7.1. No fertilizer, except limestone, shall be used within 25 feet of the reference line of any property. Twenty five feet beyond the reference line, low phosphate, slow release nitrogen fertilizer or limestone, may be used on lawns or areas with grass.~~ **15.8.1. No fertilizer shall be used within 25 feet of the reference line of any property. Twenty-five feet beyond the reference line, low phosphate or slow release nitrogen fertilizer may be used on lawns or areas with grass.**

**[Rationale:** This recommendation removes reference to limestone as an exception to the stated rule. This conforms with a recently-effected change in RSA §483-B.]

~~15.7.2.~~ **15.8.2.** Water dependent structure meaning a dock, wharf, pier, breakwater or other similar structure, or any part thereof,, built over, on or in the waters of the state, shall be constructed only as approved by the Department pursuant to RSA 482-A.

~~15.7.3.~~ **15.8.3.** Public water supply facilities as permitted by the commissioner of the Department of Environmental Services. Private water supply facilities shall not require a permit.

~~15.7.4.~~ **The placement of public water and sewage treatment facilities shall be**

~~permitted by the Commissioner as necessary.~~

~~15.7.5. Hydro electric facilities, including, but not limited to dams, dikes, penstocks, and powerhouses, shall be recognized as water dependent, and shall be permitted by the Commissioner as necessary.~~

~~15.7.6. Public utility lines and associated structures and facilities, public roads, and public water access facilities including boat ramps shall be permitted by the Commissioner as necessary.~~

~~15.7.7. An existing solid waste facility which is located within two hundred and fifty (250) feet of the reference line of public waters under this chapter may continue to operate under an existing permit, provided it does not cause degradation to an area in excess of that area under Department of Environmental Services permit.~~

~~15.7.8.~~ 15.8.4. No solid waste facility shall place solid waste within two hundred and fifty (250) feet of the reference line of public waters under this chapter except as expressly permitted under RSA 483-B:9, IV-c. However, any solid waste facility may be allowed subject to permitting conditions under RSA 149-M:9, to erect accessory structures and conduct other activities consistent with the operation of the facility within two hundred and fifty (250) feet of the reference line of public waters under this chapter, such as filling, grading and installing monitoring wells and other drainage structures as is consistent with its solid waste permit as issued by the Department of Environmental Services. Under no circumstances shall the toe of any slope encroach within one hundred and fifty (150) feet of the reference line.

**(Rationale:** Renumbering. Deletions because sections do not apply to Harrisville.)

#### ~~15.8.~~ 15.9. MINIMUM STANDARDS

The following minimum standards shall apply to areas and activities within the protected shoreland with the exception of forest management that is not associated with shoreland development or land conversion, and is conducted in compliance with RSA 227-J:9; forestry conducted by or under the direction of a water supplier for the purpose of managing a water supply water shed; and agriculture conducted in accordance with best management practices as required by RSA 483-B:3, III.

##### ~~15.8.1~~ 15.9.1. MAINTENANCE OF A WATERFRONT BUFFER

~~15.8.1.1.~~ 15.9.1.1. The waterfront buffer shall be those protected shorelands within 50 feet of the reference line. The purpose of this buffer is to protect the quality of public waters while allowing homeowner discretion with regard to water access, safety, viewscape maintenance and lot design.

~~15.8.1.2. Within the waterfront buffer, all of the following prohibitions and limitations shall apply:~~ 15.9.1.2. *Within the waterfront buffer, all of the following prohibitions and limitations shall apply, unless any exception thereto is specifically approved by the Board of Adjustment:*

**[Rationale:** To state in Article XV that the Town has, and must exercise, the authority to

approve exceptions to these two rules, if exceptions are to be permitted. The Department has all the authority provided to it under RSA §483-B, of course, but Art. XV should confer the equivalent authority on the Board of Adjustment. See recommended deletions of final phrases of b. and c. below)]

a. No chemicals, including pesticides of any kind or fertilizers of any kind except those specified in RSA 483-B9.

b. Rocks and stumps and their root systems shall be left intact in the ground ~~unless removal is specifically approved by the Department.~~

c. No natural ground cover shall be removed except as necessary for a foot path to the water as provided under RSA 483.9, cutting those portions that have grown over 3 feet in height for the purpose of providing a view, ~~or as specifically approved by the Department.~~

d. Starting from the northerly or easterly boundary of the property, and working along the shoreline, the waterfront buffer shall be divided into 50 by 50 foot segments. Within each segment a minimum combined tree and sapling score of at least 50 points shall be maintained. If for any reason there is insufficient area for a full segment, the number of points required to be maintained in that partial segment shall be proportional to that required of a full segment.

i. Tree and sapling diameters shall be measured at 4-1/2 feet above the ground and scored as follows: Diameter score 1 inch to 6 inches 1; greater than 6 inches to 12 inches 5, and greater than 12 inches 10.

ii. Dead, diseased, or unsafe trees or saplings shall not be included in scoring.

iii. If the total tree and sapling score in any 50 foot by 50 foot segment exceeds 50 points, then trees and saplings may be removed as long as the sum of the scores for the remaining trees does not total less than 50 points. Trees and saplings may be removed from partial segments provided the sum of the scores for the remaining trees and saplings in that particular segment is equal to or greater than the proportional point requirement.

iv. Owners of lots that were legally developed prior to July 1, 2008 may maintain but not enlarge cleared areas, including but not limited to existing lawns and beaches, within the waterfront buffer. Conversion to or planting of cleared areas with native species of ground cover, shrubs, saplings and trees is encouraged but shall not be required unless to meet requirements of other provisions of the law.

v. Normal trimming, pruning, and thinning of branches to the extent necessary to protect structures, maintain clearances, and provide views is permitted. Trimming, pruning, and thinning of branches for the purpose of providing views shall be limited to the bottom 1/2 of the trees or saplings.

vi. A permanent 6 foot wide path to the water body, configured in a manner that will not concentrate storm water runoff or contribute to erosion, is allowed

vii. When necessary for the completion of construction activities permitted in accordance with RSA 483-B:6, a temporary 12 foot wide access path shall be allowed. The access path shall be completely restored and replanted with native vegetation upon completion of construction except as allowed under vi. above.

#### ~~15.8.2.~~ 15.9.2. NATURAL WOODLANDS BUFFER.

A natural woodland buffer shall be maintained within one hundred and fifty (150) feet of the reference line. The first 50 feet of this buffer is designated as the waterfront buffer and is subject to the additional requirements of 15.8.1.2 above. The purpose of this buffer shall be to protect the quality of public waters by minimizing erosion, preventing siltation and turbidity, stabilizing soils, preventing excess nutrients and chemical pollution, maintaining natural water temperatures, maintaining a healthy tree canopy and understory, preserving fish, bird and wildlife habitat, and respecting the overall natural condition of the protected shore land.

##### ~~15.8.2.1.~~ 15.9.2.1. Within the natural woodland buffer of a given lot

~~15.8.2.1.1.~~ 15.9.2.1.1. At least 50 percent of the area outside of impervious surfaces shall be maintained in an undisturbed state. Owners of lots legally developed prior to July 1, 2008 that do not comply with this standard are encouraged to, but shall not be required to, increase the percentage of area maintained in an undisturbed state, except where permitted by the Department.

~~15.8.2.1.2. Any person applying to the Department for a septic system construction approval or alteration of terrain permit pursuant to RSA 485 A, or an excavating and dredging permit pursuant to RSA 482 A, within the protected shoreland shall include photographic documentation of the natural woodland buffer.~~

~~15.8.2.1.3. Dead, diseased, or unsafe trees, saplings, or shrubs that pose an imminent hazard to structures or have the potential to cause personal injury may be removed regardless of any requirements that pertain to the natural woodland buffer under this section. Such exemptions shall not be used to contravene the intent of the law.~~

**[Rationale:** Neither of above two ordinances are relevant here - moved to other locations in ordinances]

~~15.8.2.1.4.~~ 15.9.2.1.2. Stumps and their root systems that are located within fifty (50) feet of the reference line shall be left intact in the ground.

~~15.8.2.1.5.~~ 15.9.2.1.3. Dead and living trees that provide dens and nesting places for wildlife are encouraged to be preserved.

15.8.2.1.6. 15.9.2.1.4. Native species planting efforts that are beneficial to wildlife are encouraged.

#### ~~15.9.15.10.~~ SUBSURFACE WASTE DISPOSAL SYSTEMS

~~15.9.1. All new lots created within the protected shoreland are subject to subdivision approval by the Department of Environmental Services.~~

**[Rationale:** All new lots created within the shoreland are already subject to subdivision approval by the Planning Board, so this paragraph adds nothing.]

~~15.9.2.~~ **15.10.1.** Adjacent to lakes and ponds, the following conditions, based on the characteristics of the receiving soil as they relate to U.S. Department of Agriculture, Natural Resources Conservation Service drainage classes, shall dictate the setback requirements for all new leaching portions of new septic systems. The soil characteristics shall be based on an Order One soil map or a High Intensity Soil (HIS) map prepared by a certified soil scientist.

~~15.9.2.1~~ **15.10.1.1.** Where the receiving soil downgradient of the leaching portions of a septic system is a porous sand and gravel material with a percolation rate equal to or faster than 2 minutes per inch, the setback shall be at least 125 feet from the reference line.

~~15.9.2.2.~~ **15.10.1.2.** For soils with restrictive layers within 18 inches of the natural soil surface, the set back shall be at least 100 feet from the reference line.

~~15.9.2.3.~~ **15.10.1.3.** For all other soil conditions, the setback shall be at least 75 feet from the reference line.

~~15.9.2.4.~~ **15.10.1.4.** Adjacent to rivers, the setback shall be no less than one hundred (100) feet from the reference line.

#### ~~15.10.~~ **15.11.** EROSION AND SEDIMENTATION CONTROL

~~15.9.2.~~ **15.11.1.** All new structures, modifications to existing structures, and excavation or earth moving within protected Shoreland shall be designed and constructed in accordance with rules adopted by the Department under RSA 541-A for terrain alterations under RSA 485-A:17, to manage stormwater and control erosion and sediment, during and after construction.

~~15.10.2.~~ **15.11.2.** New structures and modifications to existing structures within the protected Shoreland shall be designed and constructed to prevent the release of surface runoff across exposed mineral soils.

~~15.10.3. A permit under RSA 485-A:17, I shall be required to improved, developed, or subdivided land whenever there is a contiguous disturbed area exceeding 50,000 square feet that is either partially or wholly within protected shoreland.~~

**[Rationale:** Delete to remove redundancy.]

#### ~~15.11.~~ **MINIMUM LOT REQUIREMENTS**

~~15.11.1. The minimum lot size for new lots in areas dependent on on-site septic systems shall be determined by soil type, lot determinations, as established by the Department of Environmental Services under RSA 485-A and rules adopted to implement it. See also Article IX.~~

~~15.11.2. New lots requiring on-site water and sewage systems within this district shall have a minimum of shoreland frontage of two hundred (200) feet.~~

~~15.11.3. Setback. No primary structure shall be located within seventy-five (75) feet of the reference line. Accessory buildings such as storage sheds and gazebos but excluding automobile garages may be located within the seventy-five (75) feet setback as a special exception provided:~~

~~15.11.3.1. The location and construction of the structure is consistent with the intent of the ordinance to maintain a vegetated buffer.~~

~~15.11.3.2. The structure is required as a shelter either for humans, equipment, or firewood.~~

~~15.11.3.3. The structure is usually customary and incidental to a legally authorized use located within the shoreland district.~~

~~15.11.3.4. Building placement: Buildings should be placed in such a manner as to minimize impact on habitat and at such a location as to have the least impact on the watershed.~~

**[Rationale:** The above-stricken ordinances 15.11.1 – 15.11.3.4 are moved to Article IX as proposed amendments]

**~~15.12 WATER DEPENDENT USES AND STRUCTURES.~~** The following uses and structures are allowed within the shoreland protection district with permits obtained from the Department.

~~15.12.1. Water dependent structures including, but not limited to, decks, wharves, swimming floats and boat ramps.~~

~~15.12.1.1 The least impacting route and methodology for the use have been selected and represent the best practicable alternative.~~

~~15.12.1.2. Canopies and seasonal covers shall extend only over the boat slips and shall be removed during the non-boating season.~~

**[Rationale:** Delete in entirety because this is regulated by DES, not by the town.]

## 15.12. NONCONFORMING LOTS OF RECORD.

15.12.1 Nonconforming undeveloped lots of record within the protected shore land shall comply with the following restrictions:

15.12.1.1. *Except where otherwise prohibited by law or by action of the Department, present and successive owners of an individual undeveloped lot may, by Special Exception, construct a single family residential dwelling on it, notwithstanding the provisions of this Ordinance. Conditions may be imposed which, in the opinion of the Board of Adjustment, more nearly meet the intent of this Ordinance, while still accommodating as far as possible the applicant's interests.* Building on nonconforming lots shall be limited to single family residential structures and related facilities, including, but not limited to, docks, piers, boathouses, boat loading ramps, walkways, and other water dependent structures, consistent with the law.

**[Rationale:** This states that the Board of Adjustment has authority to approve such development of undeveloped, nonconforming lots. The Department will have all the rights and powers accorded to it by RSA §483-B, which this ordinance does not need to convey upon it. Also, the last phrase was slightly revised to refer to the applicant's possible "interests," rather than his/her "rights."]

15.12.1.2. All leach fields shall meet the setback requirements of Section 15.8. If leach field cannot be located on the lot in conformity with this ordinance, the owner shall be required to acquire additional land or a permanent easement to such land insofar as is practicable. Should additional undeveloped land not be available, allowable sewage loading shall be reduced by decreasing the number of bedrooms, toilet facilities, and other wastewater generating facilities to bring the proposed development as close to compliance with this ordinance as feasible.

#### ~~15.14.~~ 15.13 NONCONFORMING STRUCTURES.

~~15.14.1~~ 15.13.1. Except as otherwise permitted by law, nonconforming structures located within the protected shoreland may be repaired, renovated, or replaced in kind using modern technologies, provided the result is a functionally equivalent use. Such repair or replacement may alter the interior design or existing foundation, but shall result in no expansion of the existing footprint except as authorized by the ~~Department~~ *Board of Adjustment*. ~~An expansion~~ *A change or expansion* that increases the sewage load to an on-site septic system, or changes or expands the use of a septic system shall require approval by the Department. When reviewing requests for the redevelopment of sites that contain non-conforming structures or any expansions of non-conforming structures, the ~~Commissioner~~ *the Board of Adjustment* shall review proposals which are more nearly conforming than the existing structures, and may waive some of the standards specified in ~~RSA 483-B-9, Article XV~~, so long as there is at least the same degree of protection provided to the public waters. See also Article V.

**[Rationale:** This vests authority for approving such changes, or waiving certain requirements, with the Board of Adjustment. The Department will still have whatever authority is conveyed to it by RSA 483-B but this specifies the importance of local authority.]

~~15.14.2.~~ 15.13.2 Open decks as additions to existing *nonconforming structures* and which are proposed within the seventy-five (75) foot setback requirement are permitted

conditioned on:

**[Rationale:** This merely adds the words “nonconforming structures,” which appear to have been left out of the current ordinance as a typographical error.]

~~15.14.2.1~~ 15.13.2.1. Maintaining a minimum setback of fifty (50) feet.

~~15.14.2.2~~ 15.13.2.2 A maximum deck width of ~~10 feet~~ *twenty-four feet parallel to the reference line*

**[Rationale:** 10 feet is restrictive and 24 feet is a more common dimension of a typical indoor living room, which might be extended outward as a deck. “Parallel to the reference line” also clarifies the question of deck “width.”]

~~15.14.2.3~~ 15.13.2.3 Maintaining an open deck.

~~15.14.2.4~~ 15.13.2.4 Utilizing simple foundations such as pier or piling foundations to minimize land disturbance.

~~15.14.2.5~~ 15.13.2.5 Implementing adequate soil erosion control measures.

#### ~~15.15~~ 15.14 NONCONFORMING USES

~~15.15.1.~~ 15.14.1 Existing uses that are nonconforming under this ordinance may continue until the use ceases to be active or is discontinued for a period of one year. An existing non-conforming use may not be changed to another non-conforming use, except as provided in Article V. Existing nonconforming uses shall be required to meet the shoreland natural buffer, drainage, and related water quality protection requirements of this ordinance to the maximum extent feasible.

#### ~~15.16~~ COMMONLY USED WATERFRONT PARCELS OR LOTS

~~15.16.1. Shorefront lots/parcels, which are intended for use for common access by the non-shoreland property owners within the development or subdivision which owns or has control over the common land, shall:~~

~~15.16.1.1. Contain a minimum of two acres.~~

~~15.16.1.2. Have a minimum shoreland frontage of two hundred (200) feet for the first residential unit and an additional thirty (30) feet for each additional unit.~~

~~15.16.1.3. Have no structures other than toilet facilities, picnic shelters and/or recreational facilities. Necessary leach fields shall be located at least one hundred and twenty five (125) feet from the public boundary line.~~

~~15.16.1.4. Half the shoreland frontage shall be designated for swimming and shall be separate from boating areas. Swimming areas shall be separated from boating areas by ropes or appropriate markers, subject to the approval of the Division of Safety Services of the New Hampshire Department of Safety.~~

~~15.16.1.5. Off street parking shall be provided on the basis of three hundred (300) square feet for each residential unit which has use of the common area, and which unit is located one quarter (1/4) mile or more from the common area.~~

~~15.16.1.6. Toilet facilities shall be provided on the basis of one facility each for men and women for each twenty-five (25) residential units.~~

~~15.16.1.7. Impervious cover for roof area, parking lots, access roads, sidewalks, and any other similar cover over or on the parcel or lot shall not exceed ten (10) percent of the area of the parcel or lot.~~

[**Rationale:** This does not apply to any properties or uses in Harrisville.]

#### ~~15.17.~~ 15.15 LAND CLEARING FOR AGRICULTURE PURPOSES

~~15.17.1.~~ 15.15.1 All agricultural activities and operations in the state as defined in RSA 21:34-a and as governed by RSA 430, including the use of animal manure, lime, wood ash, irrigation and the clearing of land for agricultural utilization, and other agricultural technologies, shall be exempt from the provisions of this ordinance, provided such activities and operations are in conformance with the most recent best management practices determined by the United States Department of Agriculture Natural Resources Conservation Service, the United States Department of Agriculture Cooperative Extension Service and the Department of Agriculture, Market and Food. Persons carrying out such agricultural activities and operations in the protected shoreland shall work directly with the local representatives of the above agencies for their particular property.

#### ~~15.18.~~ 15.16 MODEL SHORELAND PROTECTION ORDINANCE

~~15.18.1~~ 15.16.1 This ordinance is substantially based upon the Comprehensive Shoreland Protection Act, prepared by the New Hampshire Department of Environmental Services and in force July 1, 2008.

#### ~~15.19.~~ 15.17 RELATIONSHIP BETWEEN STATE AND LOCAL REQUIREMENTS

~~15.19.1~~ 15.17.1 Where both the state and the municipality have existing requirements, the more stringent shall govern.

#### ~~15.20.~~ 15.18 SAVING CLAUSE

~~15.20.1.~~ 15.18.1 Where any provision of this ordinance is found to be unenforceable, it shall be considered savable and shall not be construed to invalidate the remainder of the ordinance.

#### ~~15.21.~~ 15.19 EFFECTIVE DATE

~~15.21.1.~~ 15.19.1 This ordinance shall be effective upon adoption by the municipal governing body (March, 1993) and amended March 2009 and March 2014.