

TOWN OF GOULDSBORO, MAINE

LAND USE ORDINANCE

ADOPTED: March 1, 1982

Revisions:

March 1983

May 1987

January 1992

July 1993

June 1995

June 1999

June 2001

June 2005

January 2006

February 2006

June 2008

June 2010

June 2013

June 2015

June 2016

June 2017

June 2019

1. PURPOSE

This Ordinance is designed to comply with Title 30-A M.R.S.A., Section 300 I providing for permits and Title 30-A M.R.S.A., Section 4452 providing penalties for violations.

2. SCOPE

The provisions of this Ordinance shall apply to all new construction or exterior alterations that would increase or change the outside dimensions of any building. This Ordinance also applies to driveways, lighting, signs, unsafe buildings and to the locating or relocating of mobile homes and/or other structures. This does not apply to normal upkeep or maintenance of buildings. Any person or persons who, during the course of construction or other activity on his/her property, directly or indirectly causes damage to a public or private way shall be responsible for all repairs to said way.

3. PERMIT

Before new construction or exterior alterations that would increase the outside dimensions of any building or the addition or alteration of exterior lighting, or before location or relocation of signs, mobile homes and/or other structures, or before the location of any structure intended for occupancy or other use for periods exceeding three months, including but not limited to the placement of recreational vehicles or storage sheds, the owner or duly appointed agent shall obtain the appropriate permit. Prior to issuance of any pennit regarding a pre-owned mobile or modular home, proof of property tax payment from originating community must be provided.

In areas not specifically designated by ordinance and outside the 250-foot shoreland zone the Code Enforcement Officer (CEO) will be empowered to act as issuing agent for all permits. Issuance of the requested permit or notice of refusal shall be given within 30 days upon receipt of a complete application. Notice of refusal shall be in writing and shall state specifically the reasons for refusal.

No permit shall be issued prior to the applicant obtaining all other Local, State and Federal permits required, including an approved State HHE-200 form if plumbing is required. Any work commenced prior to the issuance of the permit shall be considered a violation of the provisions of this Ordinance. A copy of the pennit shall be filed with the tax assessor's office.

Any person or entity under review for or charged with an existing land use, shoreland or similar violation with respect to any property in the Town of Gouldsboro shall be ineligible for any land use or other permit relating to that or any other property, unless and until the violation is resolved by the CEO, Planning Board, or Court.

4. APPLICATION

The application for the permit shall be in writing on the town form. The application shall be filed with the necessary signatures, attachments, and fees at the town office.

A. General Information

1. general description of proposed use or activity.
2. the owner's name, address, and phone number; and the applicant's name, address and phone number if different; the name, address, and phone number of the applicant's authorized agent, if applicable, with Letter of Authorization; and the address of the

proposed activity if available.

3. the tax map and lot number of the parcel or parcels on which the project is located.
4. identification of any Shoreland or Floodplain Zone(s) applicable to the property.
5. present use of property.
6. name of subdivision, if applicable.
7. exterior dimensions, number of floors, total square feet.
8. for pre-owned mobile or modular homes, proof of property tax payment from originating community.
9. start and completion dates.
10. estimated cost of project.
11. E-911 request, if applicable.
12. proof of ownership.
13. names of abutting property owners.
14. names and location of abutting rights of way.
15. list of abutting waterways.

B. Proposed Development Activity

1. complete description of proposed work.
2. plot plan (to scale) showing dimensions and structural locations of current and proposed buildings and structures.
3. distances of proposed structures to nearest lot line.
4. location and type of sewage disposal system.
5. location and type of water supply system.
6. areas of land to be cleared.
7. areas of all earth moving activities.
8. location and type of exterior lighting.
9. location, dimensions, and lighting of any proposed signs.

10. location and height of communication towers.

11. location of proposed driveways.

C. Attachments (if required)

1. copy of plumbing permit.
2. copy of excavators state certification if digging in shore land.
3. copy of subsurface waste water permit.
4. copy of federal, state or local permits and variances regarding the use of this property.
5. copy of building plans and specifications.
6. copy of any driveway permit previously issued.
7. any other information which will assist in the approval of this application.

5. FEE(S)

The application fee for land use permits shall be established by the town's Board of Selectmen subsequent to public hearing. The permit application fee shall be paid to the town. The CEO shall issue no land use permit until the fee is paid. The fee shall not be refundable. Failure to obtain a permit before the start of construction will double the cost of all fees. The permit fee schedule is outlined below:

- A. \$25.00 non-refundable application fee, plus:
 1. \$.10 per square foot for interior (finished) residential or commercial space.
 2. \$.05 per square foot for auxiliary (non-finished) space - usable attics, basements, garages, decks, storage buildings, sheds, carports, etc.
- B. The following fees do not require the \$25.00 application fee in SA above:
 - I. Driveway Fee: \$10.00
 2. Exterior lighting: \$10.003.
Sign: \$10.00
- C. Shoreland Zone: in addition to the fees in (A) and (B) above, there is a mandatory, non-refundable \$25.00 surcharge for processing applications for residential and commercial structures in the Shoreland Zone.
- D. \$15.00 to renew and re-issue a permit.

6. RIGHT OF APPEAL

An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any action or failure to act of the CEO or the Planning Board, except for enforcement-related matters. Such an appeal shall be made within thirty (30) days of the date of the official written decision, which shall be the Planning Board finding of facts, checklist, or CEO permit date.

7. EXPIRATION OF PERMIT

With the exception of permits within the Shoreland Zone, permits shall expire two (2) years from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within two (2) years of the issuance of the permit, the applicant may renew the permit for one (1) additional year, after which time the permit shall expire. For the expiration of permits within the Shoreland Zone, refer to the Town of Gouldsboro Shoreland Zoning Ordinance.

8. DISPLAY OF PERMIT

Every land use permit shall be displayed at the worksite by the owner or duly authorized representative until all work covered by the permit is complete.

9. LOCATION OF STRUCTURE(S)

The placement of principal and accessory structures on lots shall meet or exceed the following minimum requirements, with the exception of communication towers, as discussed in Section 14 below, and structures which require direct access to the water as an operational necessity, such as piers, docks, and retaining walls.

- A. 75-foot setback from the normal high-water line of coastal waters and other waters except as provided below.
- B. 100-foot setback from normal high-water line of great ponds and rivers classified GPA.
- C. 15-foot setback from all abutting properties.
- D. 5-foot setback from edge of right-of-way when right-of-way can readily be established, or 35-foot setback from the centerline of the road when the right-of-way cannot be readily established, unless superseded by Maine DOT setbacks.
- E. For the purpose of fire safety no occupiable building shall have window tops exceeding thirty-six (36) feet in height as measured from the lowest final grade immediately proximate to the building's foundation with final structure height not to exceed forty (40) feet at the peak.

10. LOT SIZE

The minimum lot size is 20,000 square feet as established by Title 12 M.R.S.A., Section 4807-A.

11. DISABILITY VARIANCE

As stated in Title 30-A M.R.S.A., Section 4353-A, installation of temporary access for a disabled person at his or her residence, or one that he or she regularly uses, which needs to be constructed on an emergency basis, or which otherwise would create a hardship, may be considered and approved by the CEO upon application. As necessary, and as determined by the CEO, the strict site and setback requirements of this Ordinance may be temporarily waived and a variance granted for the purpose of accommodating structures necessary for access to or egress from the dwelling, which shall be removed when the need no longer exists. The permit fee may be waived at the discretion of the CEO.

12. EXTERIOR LIGHTING

To preserve enjoyment of the night sky and to reduce light pollution, glare, and offensive lighting, all new residential and commercial outdoor lighting shall be regulated by the following standards.

- A. Pole-mounted lights shall not be placed higher than 15 feet at private residences and not higher than 30 feet in commercial areas and shall be directed downward.
- B. Building-mounted lights shall not be placed higher than 30 feet and shall be directed

downward.

- C. All lights other than residential and commercial motion detectors shall be full cut-offs, with lights pointed downward and substantially confined to the ground surface. Motion detector lights may be semi cut-offs.
- D. Lighting for residential or commercial signs shall be directed downward.
- E. Lighting for public statues, flags, memorials, or other monuments may have upward lighting so long as the light is directed onto the element and does not create a hazard or unintended negative effect.
- F. Exemptions to this Section are extended to lighting required by the Federal Aviation Administration, seasonal lighting between 15 November and 15 January, temporary event lighting (e.g., carnivals and circuses and other events of three or less consecutive days), lights used by police, fire, and medical personnel during an emergency, and lights on residential buildings mounted below the eaves.

13. SIGNS

- A. Identification signs mandated by government agencies such as 911 address, etc. are exempt from this ordinance. Also exempt are signs with names of streets, owner, occupant, property name, home occupation, temporary real estate, business, construction or political yard signs which do not exceed 12 square feet per side.
- B. All other freestanding signs require a permit from the CEO.
- C. Internally illuminated signs that blink, flash, change color or brightness and neon signs are not permissible.
- D. All signs must be maintained in good condition or removed per order of the CEO if not repaired after 30 days' notice.
- E. The maximum square footage of any freestanding sign, or signs when more than one (I) sign is permitted, shall not exceed a total of sixty-four (64) square feet per side.
- F. Signs shall not be placed such that sight distance along a public way is obstructed.

14. COMMUNICATION TOWERS

- A. Communication towers exceeding thirty-six (36!) feet in height may be permitted subject to the following standards:
 - 1. Lot size: the minimum lot size shall be in conformance for lot sizes established in the Town of Gouldsboro for residential structures.
 - 2. The structure is not within a Shoreland Zone.
 - 3. The structure is placed on the lot so that its minimum setback from all lot lines, occupiable structures and rights-of-way is equal to its height.
 - 4. All State and Federal permits have been obtained prior to the issuance of the building permit, including but not limited to FAA and ECC approvals.
 - 5. Confirmation by a registered structural engineer that the structure's design meets the minimum wind and structural loads as established in the Uniform BOCA Code or more stringent Federal, State or local code which appropriately applies to the project.
 - 6. The permit application shall include the construction of lockable security fences around the structure which shall be designed to prohibit unauthorized access to the tower.
 - 7. An antenna may be added to an existing local tower, provided that a permit is issued by the Town, and the applicant presents documentation confirming that the proposed application is in compliance with all State and Federal FCC requirements.
- B. The Planning Board shall advertise and hold a public hearing, and shall inform the known abutting property owners in writing of such meeting, prior to the issuance of any building

permit to allow the public an opportunity to comment on the proposal's conformance to the standards enumerated above.

The Planning Board shall approve the permit when it determines that the applicant conforms to the standards enumerated above unless any person presents factual evidence that the proposal otherwise violates the public health, safety, or welfare.

The applicant shall be given an opportunity to modify the proposal prior to final action by the Planning Board if any such evidence is presented.

15. DRIVEWAY PERMIT

Any property owner wishing to construct an entrance to his / her property from a town road must obtain a land use permit designated "driveway permit" before commencing construction. A minimum five (5) foot setback from the sideline is required. No permit will be issued until all fees have been paid and the property has been inspected and approved by the Road Commissioner. Driveways on State roads require a state permit prior to obtaining a town permit.

16. REQUIRED MAINTENANCE

All buildings, grounds, or parts thereof shall be maintained to prevent unsafe or unsanitary conditions.

17. VIOLATIONS

Any person who violates any provision of this Ordinance shall be subject to civil penalties and costs, which shall be no less than \$100 nor more than \$2,500, as provided under Title 30-A M.R.S.A., Section 4452.

18. FINFISH AQUACULTURE

Finfish Aquaculture in Gouldsboro by any entity, business, or operation that either 1) employes ten (10) or more people, including contractors and sub-contractors, or 2) produces, processes or packages more than 500 tons of catch per year, shall be prohibited. Finfish Aquaculture that is below both thresholds is permitted, subject to meeting all other applicable legal standards.

19. DEFINITIONS

NOTE: Terms not defined shall have the customary dictionary meaning.

Accessory structure or use - a use or structure which is incidental and subordinate to the principal use or structure. 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.

Aggrieved party - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

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.

NOTE: Gouldsboro Floodplain Management Ordinance and Shoreland Zoning Ordinance definitions for "basement" are more restrictive.

Catch – means the total weight of the finfish killed by the act of finfish aquaculture operations. Catch includes all finfish killed by the act of finfish aquaculture operations, not just those processed.

Coastal wetland - all tidal and subtidal lands; 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 that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

NOTE: All areas below the highest annual tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows.

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 of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Communication towers - any structure whose primary use is intended for the reception or transmission of radio, television, internet or telephone signals.

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 education, vocational rehabilitation or related services.

Driveway - a vehicular access-way from a public way to private land.

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

Family - one or more persons occupying a premises and living as a single housekeeping unit.

Finfish Aquaculture – means a commercial operation for the culture, processing or packaging of finfish.

Floor area - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

Foundation - the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frost walls, or other base consisting of concrete, block, brick or similar material.

Freshwater wetland - freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

- (1) Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to

a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and

- (2) Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

Great pond - any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner,

Great pond classified GPA - any great pond classified GPA, pursuant to Title 38 M.R.S.A., Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

Height of a structure - the vertical distance between the lowest final grade immediately proximate to the building's foundation and the highest point of the structure, including signs, but excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

Home occupation - an occupation or profession which is carried out on or in a residential structure, accessory structure or property by the occupants of the dwelling and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses and 2) employs no more than two (2) persons other than family members residing in the home. By way of illustration and not limitation, the term home occupation shall include making foods, such as breads, cookies, or preserves, rugs, birdhouses, fishing flies and quilts. The term "home occupation" shall also include both professional and personal services offered for remuneration.

Non-conforming condition - non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

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-requirements.

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

Normal high-water line (non-tidal waters) - that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

NOTE: Adjacent to tidal waters, setbacks are measured from the upland edge of the "coastal

wetland."

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, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland -

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Principal structure - a structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same lot.

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.

Residential use - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not considered residential use.

River - a free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth.

NOTE: The portion of a river that is subject to tidal action is a coastal wetland.

Road - a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

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 normal high-water line of a water body or tributary stream, or upland edge of a wetland, or 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 or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

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

Shoreline - the normal high-water line, or upland edge of a freshwater or coastal wetland.

Sign - a name identification, description, display or illustration which is affixed to, painted or represented, directly or indirectly upon a building, structure, parcel or lot and which relates to an object, product, place, activity, person, institution, organization or business on the premises.

Stream - a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or area and a channel forms downstream of the water body or wetland as an outlet that channel is also a stream.

Structure - anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind, or anything constructed or erected on or in the ground. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A M.R.S.A., section 420 I, subsection 5; geothermal heat exchange wells as defined in Title 32 M.R.S.A., section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32 M.R.S.A., section 4700-E, subsection 8.

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

Tributary stream - a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

NOTE: This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland. Water setback requirements apply to tributary streams within the shoreland zone.

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

Vegetation - all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4½ feet above ground level.

Water body- any great pond, river or stream.

Wetland - a freshwater or coastal wetland.

20. AMENDMENTS TO THE ORDINANCE

Amendments of this ordinance may be initiated by the Planning Board, or as specified in Title 30-A M.R.S.A. §2522.

No proposed amendments to this ordinance shall be referred to the Town Meeting until the Planning Board has held a public hearing on the proposal, notice of which shall be posted at least fourteen (14) days prior to such hearing and advertised in a newspaper of general circulation in the municipality at least two (2) times with the date of first publication being at least fourteen (14) days prior to the hearing and the second at least seven (7) days prior to the hearing.

The proposed amendments shall be adopted by a simple majority vote of the Town Meeting.

21. VALIDITY AND SEVERABILITY

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

22. CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

Attest

Town Clerk of Gouldsboro