

The Bar Harbor Town Council will hold a public hearing August 19, 2025 to hear comments on the following proposed amendment to the Land Use Ordinance and consider placing the amendment on the November 4, 2025 Town Meeting Warrant.

WARRANT ARTICLE

Article XX LAND USE ORDINANCE AMENDMENT – Shoreland Zoning – Shall an ordinance, dated June 4, 2025, and entitled “**An amendment to comply with the Mandatory Shoreland Zoning Act (MSZA)**” be enacted?

SUMMARY

This amendment would modify the shoreland zoning standards to comply with the Maine Mandatory Shoreland Zoning Act (MSZA).

GENERAL EXPLANATION

The amendment would include the following changes:

- *These changes will bring the Land Use Ordinance into compliance with the Mandatory Shoreland Zoning Act (MSZA) for Maine.*
- *The change in Section 22 (f & g) clarifies the use of RVs in the shoreland zone where previous language was vague.*

LUO Amendment #2025-10

Shoreland Zoning

Town of Bar Harbor

An amendment to the Land Use Ordinance

Articles V and XII

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

Article V. Site Plan Review

§125-68 Shoreland standards

- B.** The Planning Board, Code Enforcement Officer or Planning Department, as applicable, must find that the proposed plan will comply with such of the following standards, and all land

use activities within the shoreland zone shall conform to the following standards as are applicable:

- (8) Roads and driveways. All site plans for development, including roads, shall demonstrate that such roads shall be located, constructed and maintained so that minimal soil erosion and sedimentation of surface water results. Further, all roads, driveways, drainage systems, culverts and related features constructed in a shoreland area shall comply with the following:

- (a) Roads and driveways shall be set back at least 100 feet, horizontal distance, from the normal high water line of a great pond classified GPA or a river that flows to a great pond classified GPA; 75 feet, horizontal distance, from the normal high water line of other water bodies, tributary streams, or the upland edge of a freshwater wetland; 25 feet from a significant vernal pool; and 25 feet from the upland edge of a forested wetland, unless no reasonable alternative exists, as determined by the Planning Board, Planning Department or Code Enforcement Officer, as applicable. If no other reasonable alternative exists, the Planning Board, Planning Department or Code Enforcement Officer, as applicable, may reduce the road and/or driveway setback requirement, which shall be to no less than 50 feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. 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. On slopes of greater than 20%, the road and/or driveway setback shall be increased by 10 feet, horizontal distance, for each five-percent increase in slope above 20%. This subsection shall apply neither to approaches to water crossings nor to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of this section, except for that portion of the road or driveway necessary for direct access to the structure.

- (12) Principal and accessory structures. All site plans shall demonstrate that all principal and accessory structures in a shoreland district shall comply with the following:
- (a) All new principal and accessory structures shall be set back at least 100 feet, horizontal distance, from the shoreline of great ponds classified GPA and rivers that flow to great ponds classified GPA and 75 feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, significant vernal pools or the upland edge of a wetland, and for properties located in the Shoreland

General Development III and IV District; except that in the Shoreland General Development I and II Districts, the setback from the shoreline shall be at least 25 feet, horizontal distance. In the Resource Protection District, the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district, in which case the setback requirements specified above shall apply. In the Stream Protection District any structure associated with a "municipal facility or grounds" or with "uses or small structures accessory to permitted uses or structures" be set back 75 feet, horizontal distance, from the shoreline, unless a variance is obtained from the Board of Appeals. In Resource Protection the setback requirement from the shoreline for wind turbines shall be 250 feet horizontal distance unless a variance is obtained from the Board of Appeals. In the Stream Protection District the setback requirement from shoreline for wind turbines or municipal facilities and grounds shall be 75 feet horizontal distance unless a variance is obtained from the Board of Appeals. In addition:

- [2] Principal and accessory structures are exempt from setbacks from a forested wetland of any size on lots in existence prior to or on September 6, 2005, or from a freshwater wetland less than 10 acres in size on lots in existence prior to or on September 6, 2005.

(14) Exemptions to Clearing and Vegetation Removal Requirements. The following activities are exempt from the clearing and vegetation removal standards set forth in Section B(13), provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

- (a) The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section B(13) apply;
- (b) The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section B(13) are not applicable;
- (c) The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
- (d) The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section B(13) are complied with;
- (e) The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a

general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along:

- (1) A coastal wetland; or
- (2) A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.

(f) The removal of non-native invasive vegetation species, provided the following minimum requirements are met:

- (1) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
- (2) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
- (3) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

(15) Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal.

a) Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

- (1) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.
- (2) Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above

the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.

- (3) The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.
 - (4) The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.
 - (5) The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.
- b) Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
- (1) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
 - (a) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
 - (b) Stumps from the storm-damaged trees may not be removed;
 - (c) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
 - (d) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.
 - (2) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.
- (16) Revegetation Requirements. When revegetation is required in response to violations of the vegetation standards set forth in Section B(13), to address the removal of non-native invasive species of vegetation, or as a mechanism to allow for development

that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

- (a) The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
- (b) Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:
- (c) If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
- (d) Revegetation activities must meet the following requirements for trees and saplings:
 - (1) All trees and saplings removed must be replaced with native noninvasive species;
 - (2) Replacement vegetation must at a minimum consist of saplings;
 - (3) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
 - (4) No one species shall make up 50% or more of the number of trees and saplings planted;
 - (5) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
 - (6) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.
- (e) Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
 - (1) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
 - (2) Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

- (3) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
 - (4) No one species shall make up 50% or more of the number of planted woody vegetation plants; and
 - (5) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years
 - (f) Revegetation activities must meet the following requirements for ground vegetation and ground cover:
 - (1) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
 - (2) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
 - (3) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.
- (17) ~~(14)~~ Water quality. No activity shall deposit on or into the ground or discharge to the waters of the state any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.
- (18) ~~(15)~~ 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 20 days prior to action being taken by the Planning Board, the Code Enforcement Officer or the Planning Department. The Planning Board, the Code Enforcement Officer and the Planning Department shall consider comments received from the Commission prior to rendering a decision on the application.
- (19) ~~(16)~~ Commercial and industrial uses. The following new commercial and industrial uses are prohibited within a shoreland district adjacent to great ponds classified GPA and rivers and streams which flow to great ponds classified GPA:
- (b) Auto washing facilities.
 - (c) Auto or other vehicle service and/or repair operations, including body shops.
 - (d) Chemical and bacteriological laboratories.

- (e) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms.
 - (f) Commercial painting, wood preserving, and furniture stripping.
 - (g) Dry-cleaning establishments.
 - (h) Electronic circuit assembly.
 - (i) Laundromats, unless connected to a sanitary sewer.
 - (j) Metal plating, finishing, or polishing.
 - (k) Petroleum or petroleum product storage and/or sale except storage on the same property as use occurs and except for storage and sales associated with marinas.
 - (l) Photographic processing.
 - (m) Printing.
- (20) ~~(17)~~ Parking areas. All site plans shall demonstrate that any parking areas associated with proposed development in a shoreland district shall comply with the following requirements:
- (a) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities in districts other than Shoreland General Development I and II Districts shall be no less than 50 feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
 - (b) Parking areas shall be adequately sized for the proposed use, shall comply with the requirements of § 125-67E and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and, where feasible, to retain all runoff on site.
 - (c) In determining the appropriate size of proposed parking facilities, the following shall apply if stricter than the requirements of § 125-67E:
 - [2] Typical parking space: approximately 10 feet wide and 20 feet long, except that parking spaces for a vehicle and boat trailer shall be 40 feet long.
 - [3] Internal travel aisles: approximately 20 feet wide.
- (21) ~~(18)~~ Essential services. All site plans shall demonstrate that essential services shall be installed in compliance with the following:
- (a) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
 - (b) The installation of essential services, other than roadside distribution lines, is not allowed in a resource protection or stream 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 allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

(22) ~~(19)~~ Private campsites. Individual, private campsites not associated with campgrounds are allowed, provided that the following conditions are met:

- (a) One campsite per lot existing on the effective date of this chapter, or 30,000 square feet of lot area within a shoreland district, whichever is less, may be permitted.
- (b) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back 100 feet, horizontal distance, from the normal high water line of a great pond classified GPA or river flowing to a great pond classified GPA and 75 feet, horizontal distance, from the normal high water line of other water bodies, tributary streams, or the upland edge of a wetland.
- (c) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation, except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- (d) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a resource protection district shall be limited to 1,000 square feet.
- (e) 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 landowner is required.
- (f) ~~When a~~ recreational vehicle, tent or similar shelter is may not be placed on site for more than 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.~~
- (g) Individual, private campsites are for personal use of the property owner and may not be rented or leased.

(23) ~~(20)~~ Signs. Notwithstanding any less restrictive provision of this chapter, the following provisions shall govern the use of signs in the resource protection, stream protection, and shoreland limited residential districts:

- (a) Sign area shall not exceed six square feet in area and shall not exceed two signs per premises. Off-premises signs shall be prohibited.
- (b) Residential users may display one sign not over three square feet in area relating to the sale, rental, or lease of the premises.
- (c) Signs relating to trespassing and hunting shall be allowed without restriction as

to number, provided that no such sign shall exceed two square feet in area.

- (d) Signs relating to public safety shall be allowed without restriction.

Article XII. Construction and Definitions

125-109. Definitions

Hazard tree - a tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

Outlet stream - any perennial or intermittent stream, as shown 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, that flows from a freshwater wetland.

Storm-damaged tree - a tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

[End of ordinance]