

ARTICLE 3  
ESTABLISHMENT OF DISTRICTS

Section 1. Zoning Districts

A. To implement the provisions of this Ordinance, the Town is hereby divided into the following districts:

- (1) Resource Protection District (RP)
- (2) Branch Brook Aquifer Protection District (BB)
- (3) Rural Conservation District (RC)
- (4) Rural Residential District (RR)
- (5) Coastal Residential District (CR)
- (6) Suburban Residential District (SR)
- (7) Village Residential District(s) (VR) & (WKVR)
- (8) Downtown Business District (DB)
- (9) Upper Square District (US)
- (10) York Street Mixed Residential and Commercial Use District (MRCU)
- (11) Lower Village Business District (LVB)
- (12) West Kennebunk Village Mixed Use District (WKV)
- (13) Suburban Commercial District (SC)
- (14) Business Park District (BP)
- (15) Industrial District (I)
- (18) 39 Portland Road Contract Zone
- (19) 12 Depot Street Contract Zone
- (20) One Alfred Road Contract Zone
- (21) 119 Main Street Contract Zone
- (22) Cousens School Contract Zone
- (23) Terrace Green Contract Zone
- (24) Webber Hill Road Contract Zone
- (25) Portland Road Mixed Use District (PRMU)

B. In addition, there are created the following Overlay Districts:

- (16) Shoreland Overlay District (SZ)
- (17) Historic Preservation Overlay District (HP)

C. Official Zoning Map

Said districts are defined and/or described herein and are as shown on the Official Zoning Map of the Town of Kennebunk which is comprised of the following:

- (1) Zoning District Map, adopted November 2, 1993, as amended.
- (2) Resource Protection/Shoreland Zoning Map, 2009
- (3) Branch Brook Aquifer Protection District Map: Town of Kennebunk, 1986.

1 D. Uncertainty of District Boundaries

2  
3 Where uncertainty exists with respect to the boundaries of the various districts as shown on the  
4 Zoning Map, the following rules shall apply:

- 5  
6 (a) Boundaries indicated as approximately following the center lines of streets, highways, or  
7 alleys shall be construed to follow such center lines;  
8  
9 (b) Boundaries indicated as approximately following well established lot lines shall be  
10 construed as following such lot lines;  
11  
12 (c) Boundaries indicated as approximately following municipal limits shall be construed as  
13 following municipal limits;  
14  
15 (d) Boundaries indicated as following shorelines shall be construed to follow the normal high  
16 water line, and in the event of natural change in the shoreline shall be construed as moving  
17 with the actual shoreline; boundaries indicated as approximately following the center line  
18 of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such  
19 center line;  
20  
21 (e) Boundaries indicated as being parallel to or extensions of features indicated in paragraphs  
22 (a) through (d) above shall be so construed. Distances not specifically indicated on the  
23 Zoning Map shall be determined by the scale of the map. Any conflict between the  
24 Zoning Map and description of metes and bounds in a deed shall be resolved in favor of  
25 the description by metes and bounds;  
26  
27 (f) Where physical or cultural features existing in the ground are at variance with those shown  
28 on the Zoning Map or as described in this Article, or in circumstances where the items  
29 covered by paragraphs (a) through (e) are not clear, the Zoning Board of Appeals shall  
30 interpret the district boundaries.  
31  
32 (g) Resource Protection and Shoreland Overlay Zoning Districts - The determination of the  
33 boundaries of the Resource Protection and Shoreland Overlay Zoning Districts shall be  
34 based upon the descriptions in Sections 2 and 3 of this Article, with guidance provided  
35 from the 2009 Kennebunk Shoreland Zoning Map. Where uncertainty exists, the  
36 determination shall be based upon the descriptions rather than the map delineations.  
37

38 E. Division of Lots by District Boundaries

39  
40 When a lot is divided by a zoning district boundary, the regulations set forth in this Ordinance  
41 applying to the portion of such lot which is larger in area may be deemed to govern the smaller  
42 portion in the different zoning district, but only to an extent not more than thirty (30) linear feet in  
43 depth beyond the zoning district boundary. This standard shall not be applied to the Resource  
44 Protection District, nor to the Shoreland and Historic Preservation Overlay Districts.  
45

46 F. Map Corrections - Resource Protection District (RP) and Shoreland Overlay District (SZ)

47  
48 Any person owning a parcel of land which is shown to be located within the Shoreland Overlay  
49 District or the Resource Protection District on the official Kennebunk Resource

1 Protection/Shoreland Zoning Map, may apply to the Planning Board for a map correction. Such  
2 application shall include supporting evidence prepared by a wetland biologist or other qualified  
3 biologist, botanist or wetland scientist. As part of their review, the Planning Board shall provide  
4 public notice and hearing in conformance with the standards of Title 30-A M.R.S.A., Section  
5 4352.

6  
7 If the Planning Board determines that the applicant's land or any portion of the applicant's land was  
8 incorrectly included in the Shoreland Overlay District or in the Resource Protection District, the  
9 Planning Board shall issue a "Notice of Map Correction" finding that the applicant's property or  
10 some specifically described portion of the applicant's property was incorrectly mapped. If the map  
11 correction eliminates the applicant's land or any portion thereof from the Resource Protection  
12 District, the affected land shall be governed by the regulations applicable in the zoning district  
13 which was in place prior to the effective date of this amendment, and if applicable, by the  
14 regulations of the Shoreland Overlay District. The Notice of Map Correction shall be recorded in  
15 the office of the Town Clerk and may be recorded by the applicant in the Registry of Deeds.

16  
17 A map correction under this section shall constitute administrative action by the Planning Board  
18 and shall not constitute a rezoning or an amendment to the Town of Kennebunk Shoreland Zoning  
19 Map of the Town of Kennebunk Zoning Ordinance. However, any corrections established by a  
20 map correction under this section shall be incorporated into any subsequent amendments of the  
21 Town of Kennebunk Shoreland Zoning Map.

22  
23 **Section 2. Boundaries of the Zoning Districts**

24  
25 **A. Location of Districts**

26  
27 The location of the zoning districts shall be as shown on the Official Zoning Map and 2009  
28 Shoreland Zoning Map and as further described in this Section.

29  
30 **B. Resource Protection District (RP)**

31  
32 The Resource Protection District includes areas in which development would adversely affect  
33 water quality, productive habitat, biological ecosystems, or scenic and natural values. The  
34 boundaries of the Resource Protection District shall encompass the following areas :

35  
36 **(1) Portions of Priority 1 Wetlands:**

- 37  
38 **(a) Areas including and within two hundred and fifty (250) feet, horizontal distance,**  
39 **of the upland edge of the portions of the following Priority 1 Wetlands (as**  
40 **identified on the 2009 Shoreland Zoning Map) which are classified as E2EM and**  
41 **PEM on the 1990 National Wetlands Inventory (NWI) Map and listed below:**

42  
43 Kennebunk Protection Priority 1  
44 Wetlands per NWI Classification per  
45  
46 2009 Shoreland Zoning Map NWI Map  
47  
48 201,301,303,401 (Salt Marsh) E2EM Estuarine Intertidal  
49 Emergent  
50 201,307,313,315,(Freshwater & PEM Palustrine Emergent

1 Brackish Marsh)

2  
3 (b) Areas within 250 feet, horizontal distance, of the upland edge of freshwater  
4 wetlands, salt marshes and salt meadows, and wetlands associated with great  
5 ponds and rivers, which are rated "moderate" or "high" value waterfowl and  
6 wading bird habitat, including nesting and feeding areas, by the Maine  
7 Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on the  
8 State's GIS data layer. For the purposes of this paragraph "wetlands associated  
9 with great ponds and rivers" shall mean areas characterized by non-forested  
10 wetland vegetation and hydric soils that are contiguous with a great pond or river,  
11 and have a surface elevation at or below the water level of the great pond or river  
12 during the period of normal high water. "Wetlands associated with great ponds or  
13 rivers" are considered to be part of that great pond or river.

14  
15 (c) Notwithstanding areas described in subsection (1) (a) and (b) above, the following  
16 lots shall be excluded from the Resource Protection District:

17  
18 Lots located in the following Commercial or Industrial Zoning Districts:

19 Downtown Business,  
20 Upper Square,  
21 Lower Village Business,  
22 York Street Mixed Residential and Commercial Use,  
23 West Kennebunk Village,  
24 Suburban Commercial,  
25 Business Park, and  
26 Industrial

27  
28 (2) Flood plains along rivers and flood plains along artificially formed great ponds along  
29 rivers, defined by the 100 year flood plain as designated on the Federal Emergency  
30 Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary  
31 Maps, or the flood of record, or in the absence of these, by soil types identified as recent  
32 flood plain soils. This district shall also include 100 year flood plains adjacent to tidal  
33 waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary  
34 Maps.

35  
36 (3) Areas of two or more contiguous acres with sustained slopes of twenty (20) percent or  
37 greater and which fall within the Shoreland Overlay District as defined by the State and as  
38 shown on the Shoreland Zoning Map (2009).

39  
40 (4) Land areas along Branch Brook, the Kennebunk River and the Mousam River which are  
41 subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to  
42 tidal waters which are subject to severe erosion or mass movement, such as steep coastal  
43 bluffs.

44  
45 C. Branch Brook Aquifer Protection District (BB)

46  
47 The boundaries of the Branch Brook Aquifer Protection District shall be as indicated on the  
48 "Branch Brook Aquifer Protection District Map: Town of Kennebunk," on file at the Town Office,  
49 and as further described in Article 8, Section 2(B) of this Ordinance.

50  
51 (Old paragraphs C through L, containing verbal descriptions of the zoning district boundaries, are

1 repealed. The districts are depicted on the Official Zoning Map.)  
2

3 **Section 3. Boundaries of the Overlay Districts**  
4

5 A. The boundaries of the Overlay Districts shall be as shown on the Official Zoning Map, the 2009  
6 Shoreland Zoning Map, and as further described in this Section.  
7

8 B. Shoreland Overlay District (SZ)  
9

10 The boundaries of the Shoreland Overlay District shall encompass the following areas:  
11

12 (1) Those lands lying within two hundred and fifty (250) feet, horizontal distance, of the  
13 normal high water line of the following:  
14

15 (a) Great Ponds (Old Falls Pond and Alewife Pond).

16 (b) Branch Brook, Mousam River and Kennebunk River.

17 (c) Atlantic Ocean.

18 (d) Portions of Protection Priority 1 Wetlands not otherwise included in the Resource  
19 Protection District (See 2009 Shoreland Zoning Map for Protection Priority  
20 ratings)

21 (e) The perennial portions of the following brooks:

22 Cold Water Brook Slab Brook Fernald Brook

23 Day Brook Sucker Brook Ward Brook

24 Gooch's Creek Wonder Brook Lake Brook

25 (f) Scotsman's Brook (portion lying north of Fletcher Street)  
26

27 (2) Those lands lying within one hundred and twenty five (125) feet, horizontal distance of  
28 the normal high water line of Protection Priority 2 Wetlands (see the Kennebunk 2009  
29 Shoreland Zoning Map).  
30

31 (3) Those lands lying within twenty-five (25) feet, horizontal distance, of the normal high  
32 water line of the following:  
33

34 (a) All other wetlands which are one (1) acre or more in size, not listed in 2.B. (1),  
35 3.B. (1), and 3.B. (2) above, and which meet the Article 2 definition of freshwater  
36 wetland.  
37

38 (b) Other perennial streams and the above ground portion of Scotsman's Brook  
39 located south of Fletcher Street.  
40

41 (Old paragraph B, containing a verbal description of the Historic Preservation Overlay District, is  
42 repealed. The district is depicted on the Official Zoning Map.)