"Amendment to Section 1-2, Section 29-5, Section 33-63, Section 33-140, Section 33-181, and Section 41-91 of the Municipal Code of Ordinances of the Town of Eliot, Maine"

Town of Eliot, Maine

Date of Enactment: November 6, 2018

ENACTMENT BE THE LEGISLATIVE BODY

Date of the vote to enact/amend this Ordinance:
November 6, 2018

Per the Charter of the Town of Eliot, Article 2(11) this Ordinance shall become effective on November 6, 2018.

Certified by the Town Clerk: _____

On the 7th day of November, 2018.

Municipal Officers' Certification of Official Text of Amendments to an Ordinance

To: Wendy J. Rawski, Town Clerk of Eliot, Maine

We hereby certify to you that the document to which we have affixed this certificate is a true copy of the official text of an amendment to the ordinance entitled "Section 1-2, Section 29-5, Section 33-63, Section 33-140, Section 33-181, and Section 41-91 of the Municipal Code of Ordinances of the Town of Eliot, Maine", to update the former job title of "Planning Assistant" to "Planner", which is to be presented to the voters for their consideration on November 6, 2018.

Pursuant to 30-A M.R.S.A. § 3002(2), you will retain this copy of the complete text of the amendments to the ordinance as a public record and make other copies available for distribution to the voters, and you will ensure that copies are available at the town meeting/polling places on the day of the vote.

Dated: August 23, 2018

John Murphy, Chairman

Philip Lytle, Vice Chairman

Richard Donhauser, Secretary

Alexandros Orestis, ~~Selectman~~

Select Board
Town of Eliot, Maine

Sec. 1-2 – Definitions and rules of construction

~~Planning assistant~~ ***Planner*** means the person designated by the board of selectmen to perform the functions assigned by this Code to the ~~planning assistant~~ ***Planner*** or, in the event the board of selectmen has not appointed a ***planner*** ~~planning assistant~~, the code enforcement officer.

Sec. 29-5. - Determining the maximum number of new dwelling units per calendar year.

(a) In accordance with 30-A M.R.S.A. § 4360, the number of building permits allocated each calendar year for new residential dwelling units must be 105 percent or more of the mean number of permits issued for new residential dwellings, not including permits for affordable housing, during the ten years immediately prior to the year in which the number is calculated. The mean is determined by adding together the total number of building permits issued, excluding permits issued for affordable housing, for new dwelling units for each year in the prior ten years and then dividing by ten. In addition, the minimum number of building permits allocated annually for new dwelling units meeting the definition of affordable housing shall be no less than ten percent of the number set forth above. If either number is a decimal, it shall be rounded to the nearest whole number. For the purposes of this chapter, 105 percent of the ten-year mean shall be the floor, or minimum number of building permits which must be allocated annually.

(b) The ceiling, or maximum number, will be determined using the following process:

(1) Not later than June 30 of each year, the planning board shall solicit, via the town manager, input from the public works director, ***planner*** ~~planning assistant~~, code enforcement officer, town clerk, fire chief, chief of police, community services director, school district or other department to ensure that the rate of growth has not outpaced or otherwise become inconsistent with the comprehensive plan or the town's capital improvement capability to establish or enlarge public facilities and services to accommodate growth. The planning board may also consult with independent experts or agencies for the same purpose.

Sec. 33-63. - Initiation of review process.

The site review process shall begin when an applicant, referred to as the developer, submits to the ~~planning assistant~~ ***Planner*** an application, sketch plan, survey map, location map and other data relevant to the proposed development.

(T.M. of 11-2-82; T.M. of 3-19-88; T.M. of 12-20-89, (§ 201.1); T.M. of 6-12-2010(3))

Sec. 33-126. - Application for review.

Following review of the sketch plan, the developer shall submit to the ~~planning assistant~~ ***Planner*** an application for review of a site plan. The site plan shall conform to the layout shown on the sketch plan plus any recommendations made by the planning board. Any amendments in applicable town ordinances or in the sketch plan shall require submission of a new sketch plan. For subdivision applications, notice of receipt of the application shall be made, pursuant to sec. 41-141.

(T.M. of 11-2-82; T.M. of 3-19-88; T.M. of 12-20-89, (§ 202.1); T.M. of 6-12-2010(3))

Sec. 33-140. - Revisions to final site plans after planning board approval.

(a) The property shown on an approved final site plan may be developed and used only as depicted on the approved plan and only in accordance with all materials submitted and representations made by the applicant during planning board review, all of which are conditions of approval. No change from the approved plan is permitted unless an amended plan is first submitted to and approved by the planning board. If any changes from the approved plan are discovered after completion of the project, revised plans shall be submitted and reviewed by the planning board as an application to amend an approved plan, pursuant to the procedure set forth below.

(b) Any person proposing any change to an approved final site plan shall submit an application for an amended site plan to the ~~planning assistant~~ ***Planner*** together with a fee in the amount established by the fee schedule set in section 1-25. Upon receipt of the application fee, the ~~planning assistant~~ ***Planner*** shall place the application for an amended site plan on the agenda for a planning board meeting. At that meeting, if the planning board determines that the proposed revisions are minor and do not result in any substantial changes to the approved development or further impact abutters, the planning board may approve the amended site plan. If the planning board determines that the changes are substantial, then the planning board shall process the application for the amended site plan in the same fashion as an application for review of a site plan under division 4 of this article III.

(c) Revisions to subdivision approvals shall follow the procedures of section 41-182 and title 30-A M.R.S.A. §4407.

(T.M. of 3-22-03; T.M. of 11-4-03; T.M. of 6-12-2010(3); T.M. of 6-16-2012(3))

Sec. 33-181. - Earth material removal.

(a) Applicability.

All performance standards and procedures established in this section shall be applicable to all new earth material removal operations and expansion of existing operations proposed after the enactment of this section. The standards of section 33-181 shall not apply to the following activities:

(1) Any exploratory excavation provided all excavated material is immediately replaced from the test pit, boring hole, or excavation trench.

(2) Excavation incidental to site grading or construction for which a building permit has been issued.

(3) Movement of earth materials from one portion of a parcel to another location on the same parcel or to a contiguous parcel of the same owner.

(4) Movement of earth materials from one parcel to another parcel of the same owner if the material is to be used for agricultural purposes.

(5) With the exception of topsoil, the removal of less than 100 cubic yards of earth material from a single parcel in a calendar year, provided the activity does not disturb more than one acre of surface area.

(6) Municipal uses, including storage of earth materials associated with construction.

(7) Approved operations in existence upon adoption of this section.

(b) Expansion of existing earth material removal operations.

Any approved existing operation proposing to expand earth material removal operations shall be required to make a conditional use application to the planning board under the provisions of section 33-181(c) below.

(c) Application for new earth material removal operations or expansion of existing earth material removal operations.

Proposed new earth material removal operations or expansion of existing earth material removal operation may be permitted as conditional uses within the rural, suburban, village and commercial industrial districts.

(1) Criteria for approval of new earth material removal operations or expansion of existing earth material removal operations as conditional uses.

Earth material removal may be permitted in designated districts, provided the planning board determines that the proposal meets all performance criteria contained in sections 33-181(d) as well as all pertinent portions of chapters 33 and 45 and the following criteria:

a. Duration of the operation shall not exceed five years without re-approval from the planning board;

b. Upon close-out of earth material removal operations, the site will be capable of supporting productive reuses consistent with the goals and requirements of the zoning district;

c. The proposed earth material removal operation will not cause unreasonable impacts in terms of noise, dust, vibration, unsightly views, traffic impacts on public roads, ground and surface water contamination, soil erosion and sedimentation, and groundwater contamination;

d. The earth material removal activity will not cause premature deterioration of public streets and highways. An evaluation of roadway conditions shall be performed by a state licensed professional engineer and provided by the applicant.

(2) Application requirements.

Applications for a conditional use permit for new earth material removal operations or expansion of existing earth material removal operations shall be submitted to the ***Planner*** ~~planning assistant~~. Earth material removal activities also require a site plan review approval, and shall therefore be subject to the application and review procedures outlined elsewhere in chapters 33 and 45 of this Code.

Sec. 41-91. - Preliminary procedure.

(a) A subdivision application shall be considered to be a specialized type of planning board site plan review. The subdivision review process shall begin when an applicant, referred to as the subdivider, submits to the ~~planning assistant~~ ***Planner*** an application for review of a sketch plan, and other data relative to the proposed subdivision, following the procedures in chapter 33, article III, division 3. The ~~planning assistant~~ ***Planner*** shall review all subdivision

applications, identify other requirements for planning board review, and verify compliance with local, state and federal laws.

(b) After review of the sketch plan application, and completion of the preliminary inspection required by section 33-64, the planning board shall prescribe the contour interval for subdivision plans and classify the sketch plan into one of two categories as defined below:

(1) Subdivision.

(2) Mobile home park subdivision.

The planning board shall also indicate to the applicant whether or not a technical consultant fee will be required upon submission of the preliminary plan, pursuant to section 41-142.

(c) If the sketch plan is classified as a subdivision, the subdivider shall then comply with the procedures outlined in article III of this chapter. In addition, all subdivisions shall comply with general requirements and design standards outlined in articles IV and V of this chapter.