

**ARTICLE 28** Shall an ordinance entitled “Amendments to Chapter 45, Zoning, and Chapter 1, General Provisions, of the Municipal Code of Ordinances of the Town of Eliot, Maine, to allow accessory structures meeting minimum setback requirements in the front yard” dated June 14, 2016 be enacted?

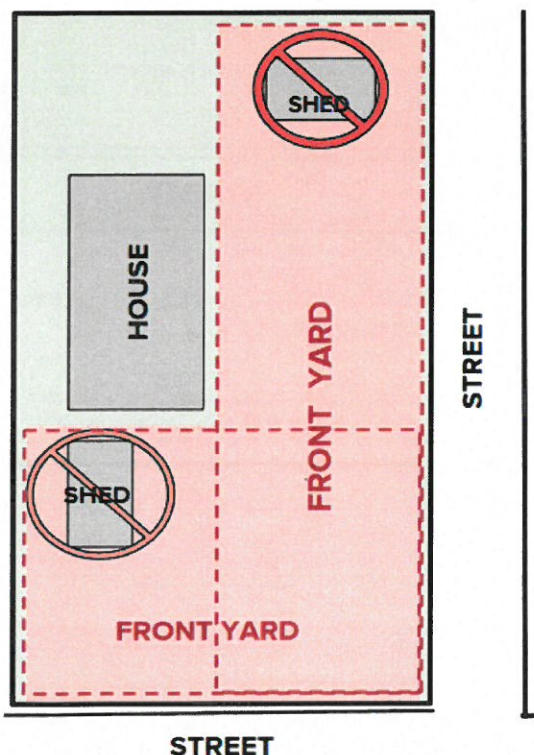
### THE AMENDMENT WILL:

1. Remove the ordinance provision that prohibits accessory structures (i.e. sheds, garages) in the area of land between the front property line and nearest part of the principal building (defined as the “front yard”).
2. Allow accessory structures to be located in the front yard in the Rural, Suburban and Village zoning districts provided a minimum setback of 30’ from the front property line can be met. Minimum setbacks from the side and rear property lines will remain unchanged.
3. Allow accessory structures in the Commercial/Industrial zoning district provided minimum setback requirements established for principal structures in that zone can be met.
4. Separate definitions of “accessory use” and “accessory structure” where the definitions are presently combined.
5. Create a definition of “footprint”.

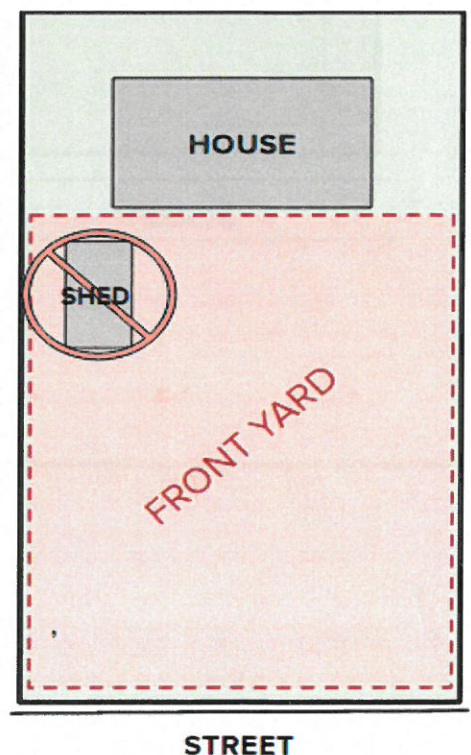
### BACKGROUND AND RATIONALE:

This amendment is proposed by the Planning Board at the request of a number of homeowners, staff and the Board of Appeals to address existing regulations pertaining to the placement of accessory structures such as sheds or garages. The Planning Board and staff have received numerous complaints from affected homeowners that the regulations prohibiting accessory structures in the “front yard” are too restrictive, especially in the case of corner lots (**example 1**) or lots where the house is situated toward the rear of the property (**example 2**). For some, a significant portion of the property can be encompassed by the “front yard”, significantly limiting where an accessory building can be placed on the property. Several homeowners have attempted to seek relief through variances, but the Board of Appeals was forced to deny these requests because the applicants could not meet all variance criteria. As such, the Board of Appeals has also requested the Planning Board re-examine this ordinance provision.

**EXAMPLE 1:**  
**CURRENT ORDINANCE (CORNER LOT)**



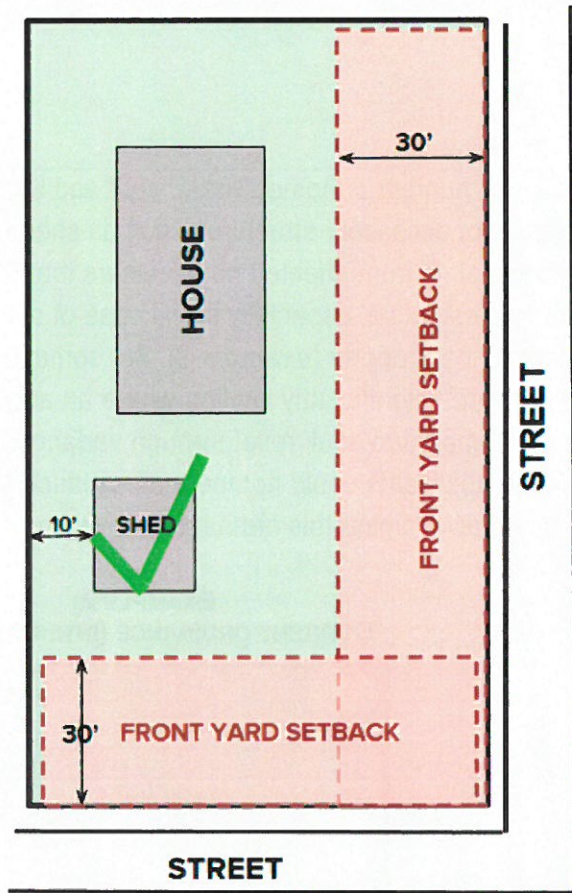
**EXAMPLE 2:**  
**CURRENT ORDINANCE (INTERIOR LOT)**



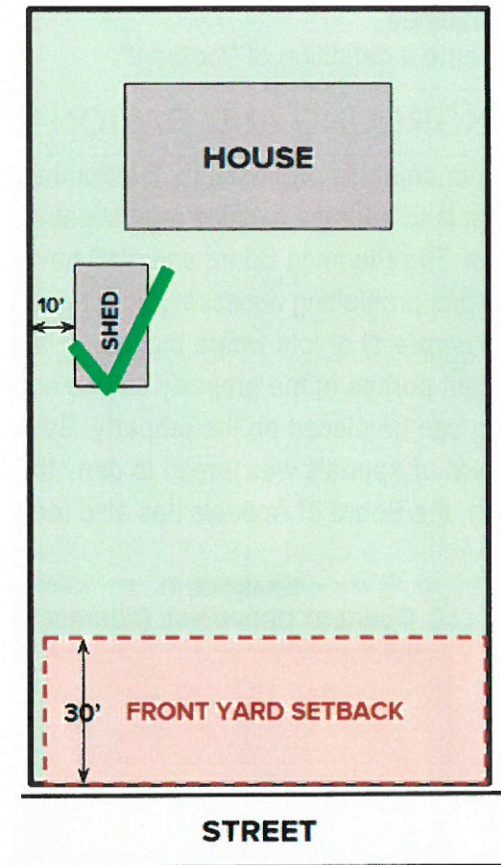
**Amendments to Chapter 45, Zoning, and Chapter 1, General Provisions, of the Municipal Code of Ordinances of the Town of Eliot, Maine, to allow accessory structures meeting minimum setback requirements in the front yard.**

If approved, the proposed amendment will allow property owners to place accessory buildings in the “front yard” provided a minimum front yard setback of 30’ can be met for properties in all zoning districts (except that properties in the Commercial/Industrial zone fronting on a Town or State road must meet a minimum front yard setback of 50’). This will provide some relief to affected homeowners while still maintaining a visual buffer between the structure and the street, as depicted in **example 3** and **example 4** below:

**EXAMPLE 3:**  
**CURRENT ORDINANCE (CORNER LOT)**



**EXAMPLE 4:**  
**CURRENT ORDINANCE (INTERIOR LOT)**





## SEC. 1-2. – DEFINITIONS AND RULES OF CONSTRUCTION.

### DELETE THE FOLLOWING ONE (1) DEFINITION:

- a. ~~Accessory structure or use means a use or detached structure that 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.~~

### ADD THE FOLLOWING THREE (3) DEFINITIONS:

#### New Text in Bold and Underlined

1. **Accessory structure (building) means a detached structure that is clearly incidental and subordinate in both use and scale to a principal structure and/or principal use. An accessory structure shall have a footprint and height that is less than the footprint and height of the principal structure. Accessory structures, when aggregated, shall not subordinate the principal structure.**
2. **Accessory use means a use located on the same lot with the principal use(s) that is clearly subordinate and customarily incidental to the principal use(s). Accessory uses, when aggregated, shall not subordinate the principal use(s) of the lot.**
3. **Footprint means the entire area of ground covered by a structure on a premises, including cantilevered or similar overhanging extensions, as well as unenclosed structures such as patios and decks.**

### AMEND THE FOLLOWING ONE (1) DEFINITION:

#### New Text in Bold and Underlined

1. **Principal structure (building) means the structure in which the primary use(s) of the lot is conducted. 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.**

## SEC. 45-405. - DIMENSIONAL STANDARDS

### AMEND TABLE OF DIMENSIONAL STANDARDS AS FOLLOWS:

		Rural	Sub	Village	C/I	MHP
Min. lot size (acres or ft. <sup>2</sup> )		3	2	1	3	6,500 ft <sup>2</sup> <sup>n</sup> 12,000 ft <sup>2</sup> <sup>n</sup> 20,000 ft <sup>2</sup> <sup>n</sup>
Min. yard dimensions (ft.)						
	Front yard	30	30 <sup>p</sup>	30 <sup>p</sup>	50 <sup>a,p</sup> 30	20 <sup>o</sup>
	Side yards	20	20 <sup>p</sup>	20 <sup>p</sup>	20 <sup>p</sup> 100 <sup>b</sup>	20 <sup>o</sup>
	Rear yard	30	30 <sup>p</sup>	30 <sup>p</sup>	20 <sup>p</sup> 100 <sup>b</sup>	10 <sup>o</sup>
Accessory building <sup>c</sup>						
	<b>Front yard setback</b>	<b>30</b>	<b>30</b>	<b>30</b>	<b>50<sup>a</sup></b> <b>30<sup>a</sup></b>	<b>5 <sup>o</sup></b>
	<b>Side &amp; rear yard setback</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>20</b> <b>100<sup>b</sup></b>	<b>5 <sup>o</sup></b>
Accessory dwelling unit		u	u	u	u	-
Max. height (ft.)		35	35	35	55 <sup>d</sup>	35
Max. lot coverage (%)		10	15 <sup>q</sup>	20 <sup>q</sup>	50 <sup>e,q</sup>	50 <sup>o</sup>
Setback-normal high water mark ((feet)		75	75	75	75	75
Dwelling units:						
	Min. size (sq. ft. per unit)	650 <sup>g</sup>	650 <sup>g,r</sup>	650 <sup>g,r</sup>	r	650
	Min. area (acres):					
	1 unit	3	2	1	—	o
	2 units	6	4	2	—	—
	each add'l unit	3	1	½ <sup>g</sup>	—	—



**Municipal Officers' Certification of Official Text of a Proposed Ordinance**  
**[30-A M.R.S.A. § 3002(2)]**

To the Town Clerk of the Town 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 ordinance entitled ***"Amendments to Chapter 45, Zoning, and Chapter 1, General Provisions, of the Municipal Code of Ordinances of the Town of Eliot, Maine, to allow accessory structures meeting minimum setback requirements in the front yard,"*** which is to be presented to the voters for their consideration on June 14, 2016.

Pursuant to 30-A M.R.S.A. § 3002(2), you will retain this copy of the complete text of 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: April 28, 2016

Stephen R. Beckett  
Rolando Hernandez  
John J. Murphy  
Risana Davis

Town of Eliot Board of Selectmen

The following "Amendments to Chapter 45, Zoning, and Chapter 1, General Provisions, of the Municipal Code of Ordinances of the Town of Eliot, Maine to allow accessory structures meeting minimum setback requirements in the front yard" were adopted at the Town Meeting Referendum Election held in Eliot on June 14, 2016 under Article #30.

Wendy J. Rawski  
Wendy J. Rawski, Town Clerk

**Amendments to Chapter 45, Zoning, and Chapter 1, General Provisions, of the Municipal Code of Ordinances of the Town of Eliot, Maine, to allow accessory structures meeting minimum setback requirements in the front yard.**

*Notes:*

- a. A front yard abutting a state or town road shall have a minimum depth of 50 feet from the right-of-way line. A front yard abutting an interior street within the proposed site shall have a minimum depth of 30 feet from the right-of-way line. All parking areas shall conform to setback requirements.
- b. All side and rear yards abutting an existing residential use shall have a minimum depth of 100 feet from the side or rear lot lines.
- c. Accessory buildings ~~may meet this minimum requirement provided they are smaller in size than the principal use and are~~ shall be located no less than 30 feet from any principal buildings on adjacent property. ~~An accessory building shall not be located within a front yard.~~**
- d. Must conform to the requirements of section 33-174. Rooftop antennas and other telecommunications structures shall conform to the requirements of sections 33-185 and 45-460. Steeples and spires shall be exempt from maximum height requirements.
- e. Maximum lot coverage shall include a 25 percent potential for expansion of floor space and 50 percent for expansion of parking areas.
- f. (Reserved.)
- g. The minimum acreage for elderly housing in all districts, where allowed, shall be one acre for the first dwelling unit and one quarter acre for each additional unit. Minimum acreage requirements shall revert back to dwelling unit requirements if elderly housing is discontinued. Dwelling unit minimum size (square feet per unit) requirements do not apply to federal or state elderly housing.
- h. In the rural, suburban and village districts, more than one principal structure may be located on a single lot, provided each such structure is located in such a fashion that it could be separately conveyed on a separate lot in compliance with all dimensional requirements of the district (except that any lawfully existing structure which does not meet all minimum dimensional requirements may continue that nonconformity).
- i. See section 45-528(c) for other requirements applicable to two or more commercial or industrial establishments under separate ownership on one parcel within the commercial/industrial district.
- j. Signs identifying subdivisions of ten or more lots shall be posted at the entrance of the subdivision and shall be approved by the planning board. Signs shall contain only the name of the subdivision.
- k. A sign shall not be located nearer than eight feet from the right-of-way boundary or nearer than eight feet from the edge of the travelled way. See section 45-532(h) for other requirements.
- l. Street frontage shall be measured along one street. The planning board is authorized to vary frontage requirements for new subdivisions according to section 41-255(g). Such lots shall be treated as conforming lots for the purpose of this chapter.
- m. Back lot requirements are contained in section 45-466
- n. Lots within a mobile home park shall be a minimum of:
  - 6,500 feet<sup>2</sup> if served by public sewer. Minimum lot width is 50 feet.
  - 12,000 feet<sup>2</sup> if served by central subsurface wastewater disposal approved by the state department of human services. Overall density of park, including road rights-of-way and buffer strips shall be 20,000 feet<sup>2</sup> per dwelling. Minimum lot width is 75 feet.
  - 20,000 feet<sup>2</sup> if served by onsite subsurface wastewater disposal. Minimum lot width is 100 feet.
- o. See section 41-276 et seq. for specific requirements.
- p. Elderly housing, nursing facility, assisted living facility and life care facility shall have setbacks of 50 feet from lot line or 100 feet from residential dwelling unit, whichever is greater.
- q. Life care facility shall have a maximum lot coverage of 50 percent. Elderly housing, nursing facility or assisted living facility individually shall have a maximum lot coverage of 35 percent.
- r. Each dwelling unit in an assisted living facility shall have a minimum of 300 square feet.
- s. One acre for the first dwelling unit and then one-fifteenth acre for each additional dwelling unit provided all other dimensional requirements are met.
- t. One acre for the first dwelling unit and then one-fifteenth acre for each additional assisted living facility dwelling unit plus one-fourth acre for each additional elderly housing dwelling unit plus district acreage requirement (1-village, 2-suburban, 3-C/I) for each single family dwelling unit provided all other dimensional requirements are met.

Example: A 15-acre suburban district lot could contain three single family dwelling units (five acres) plus 61 assisted living facility dwelling units (five acres) plus 17 elderly housing dwelling units (five acres) plus a nursing facility (0 acres) provided all dimensional requirements are met.
- u. See section 45-459 for requirements.
- v. In the C/I district, more than one principal structure may be located on a single lot which meets the minimum lot size and street frontage requirements for the district. Each such structure must maintain required yards adjacent to the front, side, and rear lot lines and must be located no closer than 20 feet (as viewed from the front lot line) to any other such structure on the lot. Such structures need not comply separately with the minimum lot size and frontage requirements, but the aggregate of all the structures on the lot shall not exceed the maximum lot coverage requirement (see note e.). Nonconforming lots of record, with existing commercial structures, at the time of adoption of this section change may also contain more than one principal structure provided the setback and expansion requirements are met. Separation of structures shall not be less than 20 feet.