

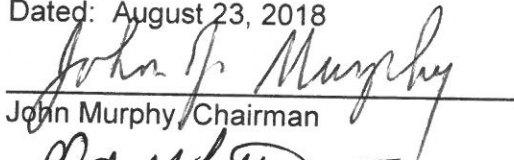
Municipal Officers' Certification of Official Text of Amendments to an Ordinance

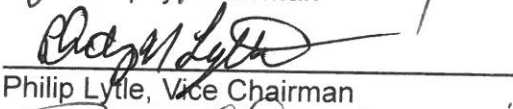
To: Wendy J. Rawski, Town Clerk of Eliot, Maine

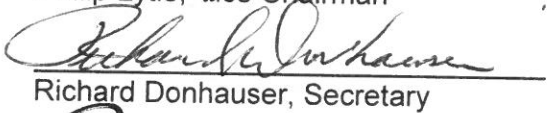
We hereby certify to you that the document to which we have affixed this certificate is a true copy of the official text of an amendment to the ordinance entitled "Section 1-2, Definitions and Rules of Construction, and Section 44, Shoreland Zoning, of the Municipal Code of Ordinances of the Town of Eliot, Maine", to update the Town's Shoreland Zoning Standards to be consistent with the Maine Department of Environmental Protection 2015 Chapter 1000 Guidelines, which is to be presented to the voters for their consideration on November 6, 2018.

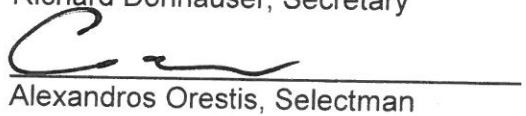
Pursuant to 30-A M.R.S.A. § 3002(2), you will retain this copy of the complete text of the amendments to the ordinance as a public record and make other copies available for distribution to the voters, and you will ensure that copies are available at the town meeting/polling places on the day of the 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. 44-4. - Definitions.

(See section 1-2).

Editor's note— A Town Meeting held on Nov. 6, 2001, art. 4, revised § 44-4, which pertained to definitions, and derived from T.M. of 12-15-93, § 17; T.M. of 3-27-99(1), § 2; T.M. of 3-27-99(2). Former provisions of this section can now be found in § 1-2 of this Code.

Sec. 44-5. - Effective date of ordinance and ordinance amendments, repeal of formerly adopted ordinance, and repeal of timber harvesting standards.

This ordinance, which was adopted by Eliot Town Meeting on December 15, 1993, and amended on June 9, 2009, shall not be effective unless approved by the commissioner of the department of environmental protection. A certified copy of the ordinance, attested and signed by the municipal clerk, shall be forwarded to the commissioner for approval. If the commissioner fails to act on this ordinance or ordinance amendment, within 45 days of his/her receipt of the ordinance, or ordinance amendment, it shall be automatically approved. The shoreland zoning ordinance previously adopted on March 19, 1988, was repealed on December 15, 1993.

Any application for a permit submitted to the municipality within the 45-day period shall be governed by the terms of this ordinance, or ordinance amendment, if the ordinance, or ordinance amendment, is approved by the commissioner.

~~Automatic repeal of municipal timber harvesting provisions. The municipal regulation of timber harvesting is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone within the Town of Eliot. On the date established under 38 M.R.S.A. 438-A(5), the following provisions of this chapter are repealed or amended as follows:~~

- ~~(1) Section 44-34, Table of Land Uses, delete the symbol "CEO" indicated in each district next to the use "Timber Harvesting", and replace with the symbol "BFP." Amend the table key to indicate that "BFP" means "Permit Required from Maine Bureau of Forestry, with a copy of said permit application required to be submitted to the Code Enforcement Officer."~~
- ~~(2) Subsection (c), Timber harvesting, repeal in its entirety.~~
- ~~(3) Chapter 1, General provisions, section 1-2, repeal definitions of the following terms:~~
 - ~~Harvest area;~~
 - ~~Residual basal area;~~
 - ~~Residual stand.~~

(T.M. of 12-15-93, § 4; T.M. of 6-9-09(1))

Sec. 44-6. - Availability.

A certified copy of this ordinance shall be filed with the municipal clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this ordinance shall be posted.

(T.M. of 12-15-93, § 5)

Sec. 44-7. - Severability.

Sec. 44-22. - Interpretation of district boundaries.

Unless otherwise set forth on the official zoning map, district boundary lines are property lines, the centerlines of streets, roads and rights-of-way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the board of appeals shall be the final authority as to location.

Note: Specific written descriptions of district boundaries are incorporated into later sections of the chapter so disputes may be minimized.

(T.M. of 12-15-93, § 10; T.M. of 6-9-09(1))

Secs. 44-23—44-30. - Reserved.

ARTICLE III. - LAND USE REGULATIONS

Sec. 44-31. - Requirements.

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created, except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

(T.M. of 12-15-93, § 11)

Sec. 44-32. - Nonconformance.

- (a) Purpose. It is the intent of this chapter to promote land use conformities, except that nonconforming conditions that existed before the effective date of this chapter shall be allowed to continue, subject to the requirements set forth in this section. Except as otherwise provided in this chapter, a nonconforming condition shall not be permitted to become more nonconforming.
- (b) General.
 - (1) Transfer of ownership: Nonconforming structures, lots, and uses may be transferred, and the new owner may continue the nonconforming use or continue to use the nonconforming structure or lot, subject to the provisions of this chapter.
 - (2) Repair and maintenance: This chapter allows, following permitting requirements detailed in the tables of land uses in chapters 44 and 45, ~~without a permit,~~ the normal upkeep and maintenance of nonconforming uses and structures including repairs or renovations which do not involve expansion of the nonconforming use or structure, and such other changes in a nonconforming use or structure as federal, state, or local building and safety codes may require.
- (c) Nonconforming structures.
 - (1) Expansions: All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in section 44-35(b)(1). A nonconforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the nonconformity of the structure and is in accordance with subparagraphs (a) and (b) below.
 - a. Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of an accessory structure that is located

structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in section 44-32(c)(1)(b)(i) and section 44-32(c)(1)(c)(i), above.

iii. In addition to the limitations in subparagraphs i and ii above, for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in section 44-32(c)(1)(b)(i) and section 44-32(c)(1)(c)(i), above.

d. An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the York County Registry of Deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the nonconforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the Eliot Planning Board.

(2) Foundations. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in section 44-32(c)(3).

(3)-(2) Relocation: A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the planning board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of state law and the State of Maine Subsurface Wastewater Disposal Rules (rules), or that a new system can be installed in compliance with the law and said rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the planning board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other onsite soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the planning board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with section 44-35(p)(8)(h). In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- a. Trees removed in order to relocate a structure must be replanted with at least one native tree, three feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50 percent of the number of trees planted.

- (1) Expansions: Expansions of nonconforming uses are prohibited, except that nonconforming residential uses may, after obtaining a permit from the planning board, be expanded within existing residential structures or within expansions of such structures as permitted in subsection 44-32(c)(1)~~a~~ above.
 - (2) Resumption prohibited: A lot, building or structure in or on which a nonconforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a nonconforming use, except that the planning board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five-year period.
 - (3) Change of use: An existing nonconforming use may be changed to another nonconforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, than the former use, as determined by the planning board. The determination of no greater adverse impact shall be made according to criteria listed in subsection 44-32(c)~~(4)~~(5) above.
- (e) Nonconforming lots.
- (1) Nonconforming lots: A nonconforming lot of record as of the effective date of this chapter or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this chapter except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the board of appeals.
 - (2) Contiguous built lots: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this chapter, if all or part of the lots do not meet the dimensional requirements of this chapter, and if a principal use or structure exists on each lot, the nonconforming lots may be conveyed separately or together, provided that the state minimum lot size law and the State of Maine subsurface wastewater disposal rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this chapter, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this chapter.
 - (3) Contiguous lots; vacant or partially built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this chapter, if any of these lots do not individually meet the dimensional requirements of this chapter or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to two or more contiguous lots, at least one of which is nonconforming, owned by the same person or persons on the effective date of this chapter and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and:
 - a. Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
 - b. Any lots that do not meet the frontage and lot size requirements of subparagraph a. above, are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

In areas adjacent to great ponds classified GPA and adjacent to rivers flowing to great ponds classified GPA, the designation of an area as a general development district shall be based upon uses existing at the time of adoption of this chapter. There shall be no newly established general development districts or expansions in area of existing general development districts adjacent to great ponds classified GPA, and adjacent to rivers which flow to great ponds classified GPA.

- (e) Stream protection district (as identified on zoning map). The stream protection district includes all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within 250 feet, horizontal distance, of the normal high-water line of a great pond, river or within 250 feet, horizontal distance, of the upland edge of a freshwater or coastal wetland saltwater body, or the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are located within 250 feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

(T.M. of 12-15-93, § 13; T.M. of 6-10-2014)

Sec. 44-34. - Table of land uses.

All land use activities, as indicated in table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in section 44-33 and other applicable ordinances. The district designated for a particular site shall be determined from the official zoning map.

Key to table 1:

Yes	-	Allowed (no permit required but the use must comply with all applicable land use standards)
No	-	Prohibited
SPR	-	Allowed with site plan review and approval by the planning board
CEO	-	Allowed with permit issued by the code enforcement officer
LPI	-	Allowed with permit issued by the local plumbing inspector
BFP	-	Permit required from Maine Bureau of Forestry, with a copy of said permit application required to be submitted to the code enforcement officer

Abbreviations:

RP	-	Resource protection
LR	-	Limited residential

(10)	Surveying and resource analysis	yes	yes	yes	yes	yes
(11)	Timber harvesting	BFP	BFP	yes	yes	yes
(11)(12)	Wildlife management practices	yes	yes	yes	yes	yes
Principal Structures or Uses						
(12)(13)	Principal structures and uses:					
a.	One- and two-family residential	SPR ⁴	SPR ⁹	CEO	CEO	CEO
b.	Multiunit residential	no	no	SPR	SPR	SPR
c.	Commercial (not listed elsewhere)	no ¹³	no ¹³	no ¹³	SPR	SPR ⁵
d.	Industrial	no	no	no	no	SPR
e.	Governmental and institutional	no	no	no	SPR	SPR
f.	Small nonresidential facilities for educational, scientific or nature interpretation purposes	SPR ⁴	SPR	CEO	CEO	CEO
(13)(14)	Agriculture	CEO	SPR	CEO	CEO	CEO
(14)(15)	Aquaculture	SPR ¹⁰	SPR ¹⁰	SPR ¹⁰	SPR	Yes
(15)(16)	Bed and breakfast	no	no	SPR ¹⁰	SPR ¹⁰	SPR
(16)(17)	Boardinghouse	no	no	SPR ¹⁰	SPR	SPR
(17)(18)	Campgrounds	no	no ⁷	no	no	SPR
(18)(19)	Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI
(19.1)	Fireworks sales	no ¹⁷	no ¹⁷	no ¹⁷	no ¹⁷	no ¹⁷
(20)	Gambling Casino	no	no	no	no	no

(32) (31)	Home Office	CEO	no	CEO	CEO	CEO
(33) (32)	Individual, private campsites	CEO	CEO	CEO	CEO	CEO
(34) (33)	Land management roads	yes	SPR	yes	yes	yes
(35) (34)	Piers, docks, wharves, bridges and other structures and uses and extending over or below the normal high-water line or within a wetland:					
a.	Temporary	CEO ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹
b.	Permanent residential	SPR	SPR	SPR	SPR	SPR
c.	Permanent commercial	SPR ¹⁴	SPR ¹⁴	SPR ¹⁴	SPR	SPR
d.	Limited commercial	SPR ⁵	SPR ⁵	SPR ⁵	SPR	no
(36) (35)	Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI
(37) (36)	Road and driveway construction	SPR	no ⁸	SPR	SPR	SPR
(38) (37)	Service drops, as defined, to allowed uses	yes	yes	yes	yes	yes
(39) (38)	Signs. <i>See zoning ordinance</i>	yes ^{9A}	yes ^{9A}	yes ^{9A}	yes ^{9A}	yes ^{9A}
(40) (39)	Solar energy system	CEO ¹⁵	CEO ¹⁵	CEO ¹⁵	CEO ¹⁵	CEO ¹⁵
(41) (40)	Small wind energy system	SPR ¹⁶	SPR ¹⁶	SPR ¹⁶	SPR ¹⁶	SPR ¹⁶
(42) (41)	Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO
(43) (42)	Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO
(44) (43)	Uses similar to uses requiring a SPR permit	SPR	SPR	SPR	SPR	SPR
(45) (44)	Waste containers	CEO ^{5A}	CEO ^{5A}	CEO ^{5A}	CEO ^{5A}	CEO ^{5A}

16 Must conform to the requirements of section 45-461.

17 See chapter 12 for additional regulations pertaining to the sale and use of fireworks.

(T.M. of 12-15-93, § 14; T.M. of 3-27-99(2); T.M. of 6-19-01, (art. 7); T.M. of 3-16-02, (art. 3, § 3), (art. 4); T.M. of 11-5-02; T.M. of 11-4-03; T.M. of 3-20-04; T.M. of 6-14-08; T.M. of 6-9-09(1); T.M. of 6-12-2010(1); T.M. of 6-12-2010(2); T.M. of 6-12-2010(3); T.M. of 6-18-2011(6); T.M. of 6-16-2012(2); T.M. of 6-11-2013(1))

Sec. 44-35. - Land use standards.

All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

(a) Minimum lot standards.

- (1) Lots will be equal to or greater in area than the minimum required for lots located in the nearest adjacent non-shoreland zoning district, as indicated on the Official Zoning Map. See section 45-405 of the Eliot Zoning Ordinance for the minimum lot area requirements for the zoning district.

Minimum shore frontage: The minimum shore frontage shall be equal to or greater than the minimum required street frontage of the nearest adjacent non-shoreland zoning district, as indicated on the Official Zoning Map, and as outlined in section 45-405 of the Eliot Zoning Ordinance.

Setbacks from property lines, streets and rights-of-way: The minimum setbacks from property lines, streets, and rights of way shall be defined as those required in the Eliot Zoning Ordinance (Chapter 45) for the nearest adjacent non-shoreland zoning district.

- (2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads ~~rights-of-way~~ serving more than two lots shall not be included toward calculating minimum lot area.
- (3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
- (4) The minimum width of any portion of any lot within 100 feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- (5) If more than one residential dwelling unit or more than one principal governmental, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit or principal structure, or use.

(b) Principal and accessory structures.

- (1) All new principal and accessory structures shall be set back at least 100 feet, horizontal distance, from the normal high-water line 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, or the upland edge of a wetland, except that in the general development district the setback from the normal high-water line 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 addition:

- e. Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) flood insurance rate maps or flood hazard boundary maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.
 - f. The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
 - g. A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - (iii) Only native species may be used to establish the buffer area;
 - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - (v) A footpath, not to exceed the standards in subsection 44-35(p)(2)a., may traverse the buffer;
- (6) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the code enforcement officer, to provide shoreline access in areas of steep slopes or unstable soils, provided that the structure is limited to a maximum of four feet in width, that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the department of environmental protection pursuant to the Natural Resources Protection Act, title 38, M.R.S.A. section 480-C), and that the applicant demonstrates that no reasonable access alternative exists on the property.
- (c) Piers, docks, wharves, bridges and other structures and uses extending over or below the normal high water line of a water body or within a wetland. (See note 1 below.)
- (1) **No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in section 44-35(a), a second structure may be allowed and may remain as long as the lot is not further divided.**
 - ~~(2)~~ ~~(1)~~ Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
 - ~~(3)~~ ~~(2)~~ The location shall not interfere with existing developed or natural beach areas.
 - ~~(4)~~ ~~(3)~~ The facility shall be located so as to minimize adverse effects on fisheries.
 - ~~(5)~~ ~~(4)~~ Facilities in nontidal waters shall be no larger in dimension than necessary to carry on the activity and be consistent with the dimensions of the surrounding facilities. A temporary pier, dock or wharf in nontidal waters shall not be wider than six feet for noncommercial uses.
 - ~~(6)~~ ~~(5)~~ No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
 - ~~(7)~~ ~~(6)~~ New permanent piers and docks on nontidal waters shall not be permitted unless it is clearly demonstrated to the planning board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

low water or halfway to the deep channel centerline will maintain the central 50 percent of the available width as open water, an even split between public and private interest.

Note 3: The purpose of paragraph (12) ~~(11)~~ is to avoid conflicts between neighboring waterfront property owners concerning the spacing of projects relative to "riparian" lines. (Riparian lines refers to the demarcations of rights in the water associated with owning waterfront property.) The United States Army Corps of Engineers reports that these conflicts generally concern access to piers and floats for mooring vessels. To resolve these conflicts the Army Corps of Engineers requires a minimum setback from the riparian boundary of 25 feet. This is based on the fact that a median sized recreational vessel length is in the range of 32 feet. A minimum turning distance for such a vessel is 1.5 times the vessel length, or 48 feet, rounded off to 50 feet. Each adjacent facility then provides one-half the required turning distance which is an equitable distribution of the resource. Applying the standards of paragraph (12) ~~(11)~~, the outside dimensions of floats and pilings located across the front of a pier will not usually exceed the effective lot frontage on the water body minus 50 feet.

Note 4: For the purpose of measuring setbacks of piers and appurtenant floats from adjacent lots in this section "riparian lines" are to be determined as follows: Draw a straight line (the baseline) between the two corners of each lot where the edge of the lot meets the high-water line. From these two corners extend parallel lines towards the water at right angles to the baseline. Usually the parallel lines from the lot corners on adjacent lots will not coincide, but will form a pie shape. An imaginary line drawn to bisect this pie shaped area is the riparian or boundary between each adjacent lot. These riparian lines should project on either side of the footprint of the pier and are the line from which the setbacks are to be measured. Where the location of the applicant's riparian lines is unclear due to the geography of the water body, they shall be determined by the planning board as part of the review of the proposed pier.

private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.

- (2) 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.
 - (3) 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.
 - (4) 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.
 - (5) 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 land owner is required.
 - (6) When a recreational vehicle, tent or similar shelter is 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.
- (f) Commercial and industrial uses. The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:
- a. Auto washing facilities.
 - b. Auto or other vehicle service and/or repair operations, including body shops.
 - c. Chemical and bacteriological laboratories.
 - d. Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms.
 - e. Commercial painting, wood preserving, and furniture stripping.
 - f. Dry cleaning establishments.
 - g. Electronic circuit assembly.
 - h. Laundromats, unless connected to a sanitary sewer.
 - i. Metal plating, finishing, or polishing.
 - j. Petroleum or petroleum product storage and/or sale, except storage on same property as use occurs and except for storage and sales associated with marinas.
 - k. Photographic processing.
 - l. Printing.
 - m. Uses similar to above.
- (g) Parking areas.
- (1) 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 the general development and limited commercial districts, may be reduced to no less than 50 feet from the normal high-water

a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

- (7) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:
- a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

Grade (Percent)	Spacing (Feet)
0—2	250
3—5	200—135
6—10	100—80
11—15	80—60
16—20	60—45
21+	40

- b. Drainage dips may be used in place of ditch relief culverts only where the grade is ten percent or less.
- c. On sections having slopes greater than ten percent, ditch relief culverts shall be placed at approximately a 30-degree angle downslope from a line perpendicular to the centerline of the road or driveway.
- d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
- (8) Ditches, culverts, bridges, dips, water turnouts and other stormwater runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.
- (i) Signs. See zoning ordinance.
- (j) Stormwater runoff.
- (1) All new construction and development shall be designed to minimize stormwater runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwaters.

Note: The State of Maine Solid Waste Laws, title 38, M.R.S.A. section 1310 and chapter 404 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.

- b. The final grade slope shall be two and one-half to one slope or flatter.
 - c. Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from offsite sources if necessary to complete the stabilization project.
- (4) In keeping with the purposes of this chapter, the planning board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

(n) Agriculture.

- (1) All spreading or disposal of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the former Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
- (2) Manure shall not be stored or stockpiled within 100 feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond, classified GPA, or within 75 feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater.
- (3) Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area, within the shoreland zone shall require a conservation plan to be filed with the planning board. Nonconformance with the provisions of said plan shall be considered to be a violation of this chapter.

Note: Assistance in preparing a soil and water conservation plan may be available through the local soil and water conservation district office.

- (4) There shall be no new tilling of soil within 100 feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within 75 feet, horizontal distance, from other water bodies; nor within 25 feet, horizontal distance, of tributary streams, and freshwater wetlands. Operations in existence on the effective date of this chapter and not in conformance with this provision may be maintained.
- (5) Newly established livestock grazing areas shall not be permitted within 100 feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within 75 feet, horizontal distance of other water bodies and coastal wetlands, nor; within 25 feet, horizontal distance, of tributary streams, and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a soil and water conservation plan.

(o) [Reserved.]

(p) Clearing or removal of vegetation for activities other than timber harvesting.

- (1) In a resource protection district abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove **hazard trees as described in section 44-35(p)(6), below.** ~~safety hazards.~~

Elsewhere, in any resource protection district the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

- (2) Except in areas as described in paragraph (1) above, and except to allow for the development of permitted uses, within a strip of land extending 100 feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is ordinance;
- (v) Where conditions permit, no more than 50 percent of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of this section, "other natural vegetation" is defined as retaining existing vegetation under three feet in height and other ground cover and retaining at least five saplings less than two inches in diameter at four and one-half feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two inches in diameter can be removed until five saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40 percent of the total volume of trees four inches or more in diameter, measured at four and one-half feet above ground level may be removed in any ten-year period.

- c. In order to protect water quality and wildlife habitat, adjacent to great ponds classified GPA, and streams and rivers which flow to great ponds classified GPA, existing vegetation under three feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in paragraphs (2) and (2)a. above.
- d. Pruning of tree branches, on the bottom one-third of the tree is allowed.
- e. In order to maintain a buffer strip of vegetation, when the removal of storm damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

The provisions contained in paragraph (2) above, shall not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

- (3) At distances greater than 100 feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and 75 feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten-year period, selective cutting of not more than 40 percent of the volume of trees four inches or more in diameter, measured four and one-half feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the 40 percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25 percent of the lot area or 10,000 square feet, whichever is greater, including land previously developed. This provision shall not apply to the general development district.

- (4) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this chapter.
- (5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

- iv. 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 square feet of lost canopy.
 - b. Outside of the shoreline buffer, if the removal of storm damaged trees exceeds forty percent of the volume of trees four inches or more in diameter, measured at four and one half feet above the ground level in any ten year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings shall be replanted on a one-for-one basis.
- (8) The following activities are exempt from the clearing and vegetation removal standards set forth in section 44-35(p)(1-5) 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 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 years, reverts back to primarily woody vegetation, the requirements of section 44-35(p) apply.
 - b. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 44-35(b) 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 44-35(n) 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 the General Development 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 to 38 M.R.S.A. section 343-E, and that is located along:
 - i. A coastal wetland, or
 - ii. 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:
 - i. 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 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

location that effectively reestablishes the screening between the shoreline and structures.

- vi. A survival rate of at least eighty percent of planted trees or saplings is required for a minimum of five years.

v. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three feet in height:

- i. All woody vegetation and vegetation under three feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three feet in height as applicable.
- ii. Woody vegetation and vegetation under three feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater.
- iii. If more than three woody vegetation plants are to be planted, then at least three different species shall be planted.
- iv. No one species shall make up 50% or more of the number of planted woody vegetation plants.
- v. 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 a minimum of five years.

vi. Revegetation activities must meet the following requirements for ground vegetation and ground cover:

- i. 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
- ii. Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum of four inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater.
- iii. Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for a minimum of five years.

(q) Erosion and sedimentation control.

- (1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - a. Mulching and revegetation of disturbed soil.
 - b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - c. Permanent stabilization structures such as retaining walls or riprap.

Sec. 44-41. - Administering bodies and agents.

- (a) Code enforcement officer. A code enforcement officer shall be appointed or reappointed annually by July 1st.
- (b) Board of appeals. A board of appeals shall be created in accordance with the provisions of title 30-A, M.R.S.A. section 2691.
- (c) Planning board. A planning board shall be created in accordance with the provisions of state law.

(T.M. of 12-15-93, § 16A)

Sec. 44-42. - Permits required.

After the effective date of this chapter no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

- (1) A permit is not required for the replacement of an existing road culvert as long as:
 - a. The replacement culvert is not more than 25 percent longer than the culvert being replaced;
 - b. The replacement culvert is not longer than 75 feet; and
 - c. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
- (2) A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the state historic preservation officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
- (3) Any permit required by this ordinance shall be in addition to any other permit required by other law or ordinance.

(T.M. of 12-15-93, § 16B; T.M. of 6-9-09(1))

Sec. 44-43. - Permit application.

- (a) Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in section 44-34. A fee in the amount established by the fee schedule in section 1-25 shall be submitted with the application.
- (b) All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
- (c) All applications shall be dated, and the code enforcement officer or planning board, as appropriate, shall note upon each application the date and time of its receipt.
- (d) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the plumbing inspector, shall be submitted whenever the nature of the proposed structure would require the installation of a subsurface sewage disposal system.

- (e) If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or statute administered by the municipality.
- (f) Special exceptions. In addition to the criteria specified in this section, excepting structure setback requirements, the planning board may approve a permit for a single family residential structure in a resource protection district provided that the applicant demonstrates that all of the following conditions are met:
 - (1) There is no location on the property, other than a location within the resource protection district, where the structure can be built.
 - (2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the resource protection district.
 - (3) All proposed buildings, sewage disposal systems and other improvements are:
 - a. Located on natural ground slopes of less than 20 percent; and
 - b. Located outside the floodway of the 100-year floodplain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's flood boundary and floodway maps and flood insurance rate maps; all buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency maps, it is deemed to be one-half the width of the 100-year floodplain.
 - (4) The total ~~footprint~~ ~~ground-floor-area~~, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
 - (5) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the planning board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate-value and high-value wetlands.

(T.M. of 12-15-93, § 16D; T.M. of 6-9-09(1))

Sec. 44-45. - Expiration of permit.

Permits shall expire one year 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 one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

(T.M. of 12-15-93, § 16E; T.M. of 6-8-04; T.M. of 6-9-09(1))

Sec. 44-46. - Installation of public utility service.

- (5) The board of appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this chapter to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- (6) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least 20 days prior to action by the board of appeals. Any comments received from the Commissioner prior to the action by the board of appeals shall be made part of the record and shall be taken into consideration by the board of appeals.
- (c) Administrative appeals. When the board of appeals reviews a decision of the code enforcement officer the board of appeals shall hold a "de novo" hearing. At this time the board may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity the board of appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the board of appeals hears a decision of the planning board, it shall hold an appellate hearing, and may reverse the decision of the planning board only upon finding that the decision was contrary to specific provisions of the ordinance or contrary to the facts presented to the planning board. The board of appeals may only review the record of the proceedings before the planning board. The board of appeals shall not receive or consider any evidence which was not presented to the planning board, but the board of appeals may receive and consider written or oral arguments. If the board of appeals determines that the record of the planning board proceedings are inadequate, the board of appeals may remand the matter to the planning board for additional fact finding.

(d) Appeal procedure.

(1) Making an appeal.

- (i) An administrative or variance appeal may be taken to the board of appeals by an aggrieved party from any decision of the code enforcement officer or the planning board, except for enforcement-related matters as described in section 44-48. Such an appeal shall be taken within 30 days of the date of the official, written decision appealed from, and not otherwise, except that the board, upon a showing of good cause, may waive the 30-day requirement.
- (ii) Applications for appeals shall be made by filing with the board of appeals a written notice of appeal which includes:
 - a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
 - b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (iii) Upon receiving an application for an administrative appeal or a variance, the code enforcement officer or planning board, as appropriate, shall transmit to the board of appeals all of the papers constituting the record of the decision appealed from.
- (iv) The board of appeals shall hold a public hearing on an administrative appeal or a request for a variance within 35 days of its receipt of a complete written application, unless this time period is extended by the parties.

(2) Decision by board of appeals:

- a. A majority of the full voting membership of the board shall constitute a quorum for the purpose of deciding an appeal.
- b. The person filing the appeal shall have the burden of proof.

enforce the provisions of this chapter in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this chapter and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

- (d) Fines. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this chapter shall be penalized in accordance with title 30-A, M.R.S.A. subsection 4452.

Note: Current penalties include fines of not less than \$100.00 nor more than \$2,500.00 per violation for each day that the violation continues. However, in a resource protection district the maximum penalty is increased to \$5,000.00.

(T.M. of 12-15-93, § 16H; T.M. of 6-9-09(1))

Cross reference— Code enforcement officer, 2-51 et seq.

Antenna means any exterior apparatus designed for telephonic, radio, television, personal communications service (PCS), pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.

Applicant (chapter 35) means a person with requisite right, title or interest or an agent for such person who has filed an application for development that requires a post-construction stormwater management plan under this chapter.

Aquaculture means the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Area of shallow flooding means a designated AO and AH zone on community's flood insurance rate map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the flood insurance study cited in article I of chapter 25.

Arterial street means a major thoroughfare which serves as major trafficways for travel between and through town.

ASCE means the American Society of Civil Engineers.

Assisted living facility means a housing facility, licensed by the state, which provides care in residential settings for elderly persons and persons with disabilities. This includes state licensed housing facilities known as congregate housing and residential care facilities.

Assisted living facility dwelling unit means a dwelling unit licensed by the state for assisted living facilities.

Auto graveyard means a yard, field, or other open area used as a place of storage for three or more unregistered or unserviceable, discarded, worn-out, or junked motor vehicles, including all vehicles which cannot pass the state inspection test in their existing condition or are otherwise inoperable.

Auto recycling business means the business office of a person who performs auto recycling.

Auto recycling operation means the dismantling of motor vehicles for the purpose of reselling the component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles.

Auto recycling operation, limited means the incidental dismantling of motor vehicles for the purpose of reselling the component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles subject to the following limitations:

- (1) Meets all state requirements for an auto recycling operation.
- (2) Conducted incidental to an approved (state and/or local) auto repair garage or auto service station.
- (3) No more than ten unregistered, unserviceable, discarded or worn-out automobiles (or parts which take up the same area as ten assembled automobiles) per acre allowed on lot.
- (4) All recycling operations must take place within the boundaries of the recycling enclosure or inside buildings on the lot.
- (5) Recycling enclosure must be a solid visual screen (fence, wall, etc.) at least six feet high which completely surrounds all outside recycling operations.
- (6) No vehicles or parts of vehicles are to be stored outside the recycling enclosure except those within buildings on the lot.
- (7) Size of the recycling enclosure is to be no larger than 25 percent of the lot size or 10,000 square feet, whichever is less.

control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Biomedical waste means waste that may contain human pathogens of sufficient virulence and in sufficient concentrations that exposure to it by a susceptible human host could result in disease or that may contain cytotoxic chemicals used in medical treatment.

Board of selectmen. The term board of selectmen shall mean the Board of Selectmen of the Town of Eliot, Maine.

Boarding home or boardinghouse means a building, having a common entrance, in which rooms are offered for accommodation, with or without meals, for compensation. The number of rooms allowed is to be limited by building size, adequacy of water, sewer, parking space and fire safety.

Note: 22 M.R.S.A. § 2501 states, in part, "Private homes shall not be deemed or considered lodging places and subject to a license where not more than three rooms are let.... Cottages [for summer occupancy] shall not be deemed or considered lodging places and subject to a license where not more than three cottages are let."

Boarding house. See Boarding home or boardinghouse.

Boarding kennel or kennel means facilities for five or more dogs kept under care of one owner or one or more dogs kept for breeding or compensation.

Boat launching facility means a facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Boats registered in landowners name means the burden of proof of boat ownership rests with the landowner (or person to whom water-dependent home occupation right has been transferred) and shall consist of either state registration or federal documentation in the landowner's (or person to whom water-dependent home occupation right has been transferred) name.

BOD (biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter or as prescribed in the current edition of Standard Methods for the Examination of Water and Wastewater published by the American Public Health Association.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Building. See Structure.

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

Building inspector. See Code enforcement officer.

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

Bureau means, within chapter 44, Shoreland Zoning, the State of Maine Department of Agriculture, Conservation, and Forestry. ~~Conservation's~~ Bureau of Forestry.

Camper means a single tent, tent trailer, camper body (for mounting upon an automobile or light truck), camper trailer, camper mobile home, or similar recreational vehicle, provided the same is used for temporary camping and not for permanent living or sleeping quarters.

Campground. See Campground or camper park.

Campground or camper park means any area or tract of land to accommodate two or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

Camping, temporary means any camping use not exceeding six months out of a one-year period.

applicant presents clear and convincing evidence that dealing in such materials does not constitute a substantial or significant portion of the overall business enterprise being conducted on the premises.

Commercial establishment means any structure or land or combination used for the sale, purchase, or lease of any goods such as gas stations, restaurants, or grocery stores and services, but not home occupations.

Commercial hauler means any person, party, company, or corporation who as a business handles and hauls solid waste for compensation.

Commercial/industrial street means a street servicing uses in the commercial/industrial zone. (Does not include Sunrise Street.)

Commercial pier means a permanent structure extending over the water the principal use of which is the production of income from a water dependent business use such as supporting the buying or selling of goods and/or services to vessels, providing continuous access to commercial vessels used to generate income, the berthing and/or repair of transient vessels, access to rental slips and moorings, fishing, or harvesting of shellfish, conducting tours or sightseeing trips, or the operation of a limited or full service marina. A pier shall be treated as a commercial pier for all purposes and shall be subject to the requirements and limitations applicable to commercial piers under this section if it is designated as a commercial pier on the application for approval first filed with the town, is more than six feet in width, or has pilings that extend below mean low water. A pier, which meets the criteria of this definition, is a commercial pier even if it is not associated with or does not support a land based commercial use.

Commercial use means 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.

Compostable materials means the product of decomposition. A humus-like material, usable as a soil amendment or fertilizer. Examples include yard waste (leaves, grass clippings and herbaceous plants) and kitchen food waste.

Comprehensive plan or policy statement means any part or element of the overall plan or policy for development of the town as defined in 30-A M.R.S.A. § 4326.

Computation of time. In computing any period of time prescribed or allowed by this Code, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

State Law reference— Similar provisions, 1 M.R.S.A. § 71(12).

Conforming use means a use of buildings, structures, or land which complies with all applicable provisions of this chapter.

Construction or construction activities means any and all activity incidental to the erection, demolition, assembling, altering, installing or equipping of buildings, structures, roads or appurtenances, including land clearing, grading, excavating and filling.

Construction drawings means drawings showing the location, profile, grades, size and type of drains, sewers, water mains, underground fire alarm ducts, underground power ducts and underground telephone ducts, pavements, cross sections of streets, miscellaneous structures, etc.

Contour lines and elevations means contour lines, spaced at intervals of not more than five feet or at such intervals as the planning board may require, and elevations shall be based upon U.S. Geological Survey topographical map datum of existing grades.

Contractor means any entity that agrees to furnish goods, materials, equipment, personnel, and/or services that meet or exceed stated requirements or specifications, at a mutually agreed upon price and

Discharge (chapters 31 and 35) means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of pollutants to "waters of the state."

Disruption of shoreline integrity means the alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

Disturbed area means clearing, grading and excavation. Mere cutting of trees, without grubbing, stump removal, disturbance or exposure of soil is not considered "disturbed area." "Disturbed area" does not include routine maintenance but does include redevelopment.

Domestic wastewater means wastewater essentially free of industrial wastes or toxic materials and which originates from domestic conveniences such as toilets, urinals, sinks, showers, drinking fountains, home laundries, kitchens, school cafeterias, and floor drains, and similar sources as approved under the Maine State Plumbing Codes.

Driveway means a vehicular access way less than 500 feet in length serving two single-family dwellings or one two-family dwelling, or less.

Dwelling means a fixed structure, containing one or more dwelling units.

Dwelling, multifamily. See Multifamily dwelling.

Dwelling unit means a room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking and eating. The term shall include mobile homes and apartments, but shall not include trailers, recreational vehicles, or accessory dwelling units. An accessory dwelling unit is not considered an apartment for purposes of this [Code]. The provisions of this definition relating to accessory dwelling units are retroactive to January 1, 2003.

Earth material removal means operations whereby topsoil, sand, gravel, clay, peat, rock, or other materials are removed for sale or for use on another lot.

Easement means the authorization of a property owner for the use by another, and for a specified purpose, of any designated part of his property.

Elderly housing means housing units constructed or operated as part of a life care facility or housing units constructed, operated or financed wholly or partially with state or federal funds. Elderly persons or handicapped persons shall occupy the housing units. The state or federal funding program must have received the approval of the United States Department of Housing and Urban Development as one designed and operated to assist elderly persons.

Elderly housing dwelling unit means a dwelling unit specifically designed for elderly persons.

Elderly person means a person 55 years of age or older or a couple that constitutes a household and at least one of whom is 55 years or older at the time of entry into the facility.

Electrical inspector. See Code enforcement officer.

Elevated building means a nonbasement building:

- (1) Built, in the case of a building in zones AE and A to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or stilts, and
- (2) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to two feet above the magnitude of the base flood.

In the case of zones AE and A, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of floodwaters, as required in section 25-17.

Flood or flooding means:

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters.
 - b. The unusual and rapid accumulation or runoff of surface waters from any source.
- (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (1)a. of this definition.

Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood insurance rate map (FIRM) means an official map of a community, on which the administrator of the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood insurance study. See Flood elevation study.

Floodplain or floodprone area means land area susceptible to being inundated by water from any source (see flooding).

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain, grading, or erosion control ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

Floodway. See Regulatory floodway.

Floodway encroachment lines means the lines marking the limits of floodways on federal, state and local floodplain maps.

Floor area (within chapter 44, Shoreland Zoning) means the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, ~~plus the horizontal area of any unenclosed portions of a structure such as porches and decks.~~

Floor area, gross means the sum, in square feet, of the floor areas of all roofed portions of a building, as measured from the interior faces of the exterior walls.

Definition of footprint had been added through a previous ordinance revision, pending codification.

Force main means a line without access from individual properties providing access from pumping station to trunk and sewer main.

Forest management activities means timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning,

educational, political, civic, recreational, paternal, patriotic or religious organizations, or a volunteer fire department or other public safety nonprofit organization when used for the conduct, of any beano, bingo, raffles, games of chance or other activities specifically permitted by Maine State Statute provided that such nonprofit organizations do not exist primarily to operate such activities and that all requirements of State Statute including all requirements for licensing by the Chief of the Maine State Police are strictly met.

Gambling device means any device, machine, paraphernalia or equipment that is used or usable in the playing phases of any gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. However, lottery tickets and other items used in the playing phases of lottery schemes are not gambling devices within this definition.

Game of chance means any game, contest, scheme or device in which: (A) a person stakes or risks something of value for the opportunity to win something of value; (B) the rules of operation or play require an event the result of which is determined by chance, outside the control of the contestant or participant; and (C) chance enters as an element that influences the outcome in manner that cannot be eliminated through the application of skill.

As used in this definition, "an event the result of which is determined by chance" includes but is not limited to a shuffle of a deck or decks of cards, a roll of a die or dice or a random drawing or generation of an object or objects that may include, but are not limited to, a card or cards, a die or dice, a number or numbers or regulations of any of these. A shuffle of a deck or decks of cards, a roll of a die or dice, a random drawing or generation of an object or objects or some other event the result of which is determined by chance that is employed to determine impartially the initial order of play in a game, contest, scheme or device does not alone make a game, contest, scheme or device a game of chance.

Game of skill means any game, contest, scheme or device in which a person stakes or risks something of value for the opportunity to win something of value and that is not a game of chance.

Garbage (chapter 18) means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

Gender means either the masculine or feminine gender shall extend and be applied to both the masculine and feminine genders, and to firms, partnerships and corporations.

State Law reference— Similar provisions, 1 M.R.S.A. § 71(7).

Grade means, in relation to buildings, the average of the finished ground level at the center of each wall of a building.

Grade plane means a reference plane representing the average of finished ground levels adjoining the building at all exterior walls. When the finished ground level slopes away from exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, when the lot line is more than six feet from the building, between the building and a point six feet from the building.

Great pond means 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 30 acres, except for the purposes of this chapter, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

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

Ground cover means small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the secretary of the interior, or directly by the secretary of the interior in states without approved programs.

Holding tank means a closed, watertight structure designed and used to receive and store wastewater or septic tank effluent. A holding tank does not discharge wastewater or septic tank effluent to surface or groundwater or onto the surface of the ground. Holding tanks are designed and constructed to facilitate ultimate disposal of wastewater at another site.

Home business, water-dependent means home businesses as defined in section 45-1 that require location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. A water dependent home business shall meet the requirements of home businesses, section 45-456.1. The following uses are allowed as water dependent home businesses:

- (1) Rental of offshore moorings or docking facilities (excluding dinghies) for boats, limited to a maximum of two rental spaces above and beyond that needed by landowner for boats registered in landowner's name.

Note: Authorization and location of rental moorings is the responsibility of the harbormaster and appropriate state and federal agencies. This ordinance establishes the maximum number of offshore rental moorings a waterfront landowner or lot can have to qualify for a water-dependent home business.

- (2) Outdoor winter storage of boats (September through May) shall be limited to a maximum of two rental spaces above and beyond that needed by landowner for boats registered in landowner's name. Rental spaces shall meet minimum yard and property line setback requirements for principal structures.

Note: In cases where landowner is not a municipal resident on a property seeking a home business, water-dependent, the landowner may transfer (via a letter to the code enforcement officer) their home business, water-dependent rights to a person who is a municipal resident on their property. In no case, shall there be more than a total of two rental offshore moorings or docking facilities, or outdoor boat storage facilities allowed per lot.

Home businesses means uses that provide space for commercial activity that is in scale and character with neighborhoods and areas that are primarily residential. Home businesses must comply with the requirements of home businesses, section 45-456.1.

Home occupation (regular and water-dependent) means an occupation or profession customarily carried on within a dwelling unit or accessory structure and clearly incidental to the use of the dwelling unit for residential purposes. It may include hairdressing, millinery, laundering, preserving and home cooking, or the office of a doctor, dentist, lawyer, musician, teacher, architect, real estate broker, computer programmer, or member of any recognized profession. It shall also include any occupation or trade carried on or away from the premises and not requiring outside storage of an inventory, stock in trade, or other equipment. This definition does not apply to farming and agriculture. A structure, use or activity not otherwise permitted within a district by this chapter shall not be permitted as a home occupation. A lodging business shall not be considered a home occupation.

- (1) Except for signs as permitted by this chapter, there shall be no external evidence of the occupation. Outside storage of motor vehicle is limited to one business related van, pickup truck, or passenger car.
- (2) At least one member of a family occupying the premise must be engaged in the occupation.
- (3) There shall be no more than five employees engaged in the occupation, including family members. Within any shoreland zone governed by chapter 44 of this Code, such an occupation shall employ no more than two persons other than family members residing in the home.

involves site improvements which may include but not be limited to gravel pads, parking areas, fire places, or tent platforms.

Industrial means the assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Industrial activity (chapter 31) means activity or activities subject to NPDES industrial permits as defined in 40 CFR, section 122.26(b)(14).

Industrial establishment means any structure or land or combination used for the manufacturing, processing, or fabrication of any article, substance, or commodity.

Industrial user (chapter 18) means any non-governmental source of indirect discharge or any source that discharges industrial wastes to the Town of Kittery wastewater treatment facility.

Industrial wastes means solid and liquid wastes, not including hazardous wastes, generated by industry. Often this is in the form of slag, sludge, cake, and dust.

Institutional buildings and uses means educational, religious, philanthropic, fraternal or social activities primarily conducted indoors and not including residential occupancy.

Institutional use (within chapter 44, Shoreland Zoning) means a nonprofit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

- (1) Inhibits or disrupts the wastewater pollution control facility, its treatment processes or operations, or its sludge processes, use or disposal; and
- (2) Therefore is a cause of a violation of any requirement of the Town of Kittery or Town of Eliot's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

Joint authority means purporting to give authority to three or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.

State Law reference— Similar provisions, 1 M.R.S.A. § 71(3).

Junkyard (salvage yard) means a yard, field, or other area exposed to the elements and used as a place of storage or disposition for:

- (1) Discarded, worn-out or junked plumbing, heating supplies household appliances and furniture.
- (2) Discarded or scrap lumber.
- (3) Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber or plastic debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material.

Keeper and proprietor. The words keeper and proprietor shall mean and include persons, firms, associations, corporations, clubs and copartnerships, whether acting by themselves or through a servant, agent or employee. M.R.S.A. The abbreviation "M.R.S.A." shall mean the latest edition or supplement of the Maine Revised Statutes Annotated.

Lot coverage means the percentage of the lot covered by all buildings.

Lot, interior means any lot other than a corner lot.

Lot lines means the lines bounding a lot as defined below:

Front lot line means, on an interior lot, the line separating the lot from the street; on a corner or through lot, the line separating the lot from either street.

Rear lot line means the lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension.

Side lot line means any lot line other than the front lot line or rear lot line.

Lot of record means a parcel of land, a legal description of which is recorded on a document or map on file with the county registry of deeds.

Lot, through means any interior lot having frontages on two more or less parallel streets, or between a street and a waterbody, or between two waterbodies, as distinguished from a corner lot. All sides of through lots adjacent to streets and waterbodies shall be considered frontage, and front yards shall be provided as required.

Lot width, minimum means the horizontal distance between the side lot lines, measured at the setback line. In any shoreland zone governed by chapter 44, "minimum lot width" means the closest distance between the side lots lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements set out in chapter 25, article IV.

Mandatory recycling means programs requiring the separation of recyclable and compostable materials from their solid wastes.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Manufactured housing means a structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building that is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, two types of manufactured housing are included. Those two types are:

- (1) Mobile home means a unit constructed after June 15, 1976, commonly called a "newer mobile home," that the manufacturer certifies is constructed in compliance with the United States Department of Housing and Urban Development standards, meaning a structure is transportable in one or more sections, that in the traveling mode is 14 body feet or more in width and is 750 or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit. This term also includes any structure that meets all the requirements of this subparagraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401 et seq.

Minor development means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50 percent of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

Minor street means a street providing access to less than 15 units of residential development, or to less than 2,500 square feet of retail commercial or industrial floorspace, or serving other premises generating less than the amount of traffic normally expected for the above uses.

Mobile home park means a parcel of land under unified ownership designed and/or used to accommodate three or more manufactured housing units.

Motel means a structure in which more than five rooms are offered for overnight accommodation, with or without meals, for compensation. This definition includes hotels, but excludes boardinghouses.

Multifamily dwelling means a building or portion principally designed, adapted, or used for occupancy by three or more families, each living in its own separate quarters. Each individual unit which functions as a separate living quarters shall be deemed to be a dwelling unit.

Multiunit residential means a residential structure containing three or more residential dwelling units.

Municipal officers means the Board of Selectmen of Eliot, Maine.

Municipal official means any elected or appointed member of the town.

Municipal permitting authority means the municipal official or body that has jurisdiction over the land use approval or permit required for a development.

Municipal resident means any person who occupies a dwelling within the town for more than 180 days in a calendar year.

Municipal separate storm sewer system or "MS4" (chapters 31 and 35) means conveyances for storm water, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly-owned treatment works and combined sewers) owned or operated by any municipality, sewer or sewage district, fire district, state agency or federal agency or other public entity that discharges directly to surface waters of the state.

Municipality means the Town of Eliot.

National Geodetic Vertical Datum (NGVD) means the National Vertical Datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)."

National pollutant discharge elimination system (NPDES) stormwater discharge permit (chapters 31 and 35) means a permit issued by the EPA or by the DEP that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Native means indigenous to the local forests.

Natural outlet means any outlet (other than a manmade outlet) into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

NEIWPCC means New England Interstate Wastewater Pollution Control Commission.

New construction means structures for which the start of construction commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements to such structure.

New development means any construction activity on unimproved premises.

Official map means the map adopted by the town showing the location of public property, ways used in common by more than two owners of abutting property, and approved subdivisions; and any amendments thereto adopted by the town or additions thereto resulting from the approval of subdivision plans by the planning board and the subsequent filing of record for such approved plans.

Official submittal date means the time of submission of a preapplication, final plan for minor subdivision, preliminary plan or final plan for a major subdivision. The date the planning board accepts by majority vote a complete application shall be indicated on the application. The application shall be accompanied by any required fees and all data required by this chapter.

Off-site parking means an off-site parking facility is any facility meeting one or more of the following criteria:

- (1) Any surface parking lot or parking structure which provides more than ten parking spaces for use by persons who are not visitors to or occupants, customers or employees of a use other than parking located on the same lot or a contiguous lot;
- (2) Any surface parking lot or parking structure which charges fees for parking, where such fees constitute the primary source of revenue derived from the use of the lot on which the parking is located;
- (3) Any surface parking lot or parking structure which provides parking spaces for passengers of a regularly scheduled shuttle bus service;
- (4) Any surface parking lot or parking structure which is the only use located on the lot, unless the parking is utilized to provide required off street parking for a use on an adjacent lot as allowed by section 45-490 or section 45-492 of this Code.

The term off street parking does not include a long term storage facility approved as a storage business.

Outflow stream means any perennial or intermittent stream, as shown on the most recent edition of a 7.5-minute series or, if not available, a 15-minute series topographic map produced by the United States Geological Survey, that flows from a freshwater wetland.

Outlet stream means 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.

Owner. The word owner applied to a building or land shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of a part of such building or land.

Ownership means ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockholder, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association. The term family shall include spouse, parent, child or grandchild.

Paraphernalia means equipment, products and materials that are ordinarily used in planting, propagating, cultivating, growing, harvesting, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body and includes all items listed in the state definition.

Pass-through means a discharge that exits the Town of Kittery wastewater pollution control facility into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Town of Kittery or Town of Eliot's NPDES permit (including an increase in the magnitude or duration of a violation).

Peak rate or flow means the maximum instantaneous rate of flow recorded during any calendar year measured in gallons per day.

chapter 44: Principal use means a use other than one which is wholly incidental or accessory to another use on the same lot

Private right-of-way means a street that is not intended to be offered to the town for acceptance as a public way.

Private wastewater disposal system means any sewage disposal system not constructed, installed, maintained, operated, or owned by the Town of Eliot.

Prohibited wastes means any unwanted, worn-out or discarded manufactured or industrially processed item or any naturally occurring but hazardous substance or naturally occurring substance that has been contaminated with hazardous chemicals or materials of industrial manufacture. Prohibited wastes shall not include wood, rocks, soil, sand and gravel or agricultural wastes which are uncontaminated by hazardous substances; products specifically manufactured for routine household use and discarded in the course of normal household use; scraps of construction or demolition debris when interred on site during the course of construction or demolition and which contain no hazardous materials.

Property. The word property shall include real, personal and mixed property.

Public facility means any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

Public property means property owned by the town and any place subject to the primary control of any public agency, including but not limited to any park, street, public way, cemetery, schoolyard or open space adjacent thereto and any lake or stream.

Public sewer means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

Public solid waste disposal facility means any land or structure or combination of land area and structures, including dumps and transfer stations used for storing, salvaging, reducing, incinerating, reclaiming or disposing of solid waste.

Public utility means any person, firm, corporation, municipal department, board or commission authorized to furnish gas, steam, electricity, waste disposal, transportation or water to the public.

PVC means poly vinyl chloride.

Qualifying street means a public street or a private street meeting the standards of chapter 37, streets and sidewalks.

Real property. The term real property shall include lands, tenements and hereditaments.

Recent floodplain soils means the following soil series as described and identified by the National Cooperative Soil Survey:

Fryeburg, Lovewell, Alluvial, Podunk, Suncook, Hadley, Medomak, Cornish, Rumney, Sunday, Limerick, Ondawa, Charles, Saco, Winooski

Recreational facility means a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recreational vehicle means 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 dwelling unit means 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 residential dwelling units.

Residential pier means a permanent structure extending over the water the principal use of which is the personal, recreational, and noncommercial use of the shoreland owner. Any pier which is over six feet in width or which has any permanent structural parts extending below the mean low water line shall not qualify as a residential pier and shall be deemed to be a commercial pier.

Restaurant means an establishment where meals are prepared and served to the public for consumption on the premises entirely within a completely enclosed building; and where no food or beverages are served directly to occupants of motor vehicles or directly to pedestrian traffic from an exterior service opening or counter, or any combination of the foregoing; and where customers are not permitted or encouraged by the design of the physical facilities, by advertising, or by the servicing or packaging procedures to take out food or beverages for consumption outside the enclosed building.

Restaurant, takeout means an establishment where food and/or nonalcoholic beverages are prepared and served to the public for consumption on or off the premises; where food and/or beverages may be served to pedestrians from an exterior opening or counter but not to occupants in motor vehicles whether parked or in a drive-through lane or similar arrangements; and where use of exterior loudspeakers is not permitted. The licensing authority may approve service of alcoholic beverages within an enclosed service area for on-premises consumption.

Restrictive easement, as used in the provisions of this Code governing small wind energy systems, means an easement on a property abutting a small wind energy system that imposes restrictions on the uses and structures within the easement area that are sufficient to allow the small wind energy system to be located closer to the property line than the otherwise applicable setback requirement.

Resubdivision means the division of an existing subdivision or any change or lot size therein or the relocation of any street or lot in a subdivision.

Riparian forest buffers means performance standards for setback areas associated with farm and croplands contained in USDA booklet titled "Riparian Forest Buffers," NA-PR-07-91.

Riprap means rocks, irregularly shaped, and at least six inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two units horizontal to one unit vertical or less.

River means a free flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of 25 square miles to its mouth. NOTE: The portion of a river that is subject to tidal action is a coastal wetland.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Road means 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.

Roominghouse. See Boardinghouse.

Rotor diameter means the cross sectional dimension of the circle swept by the rotating blades.

Roulette means a game of chance in which players bet on the compartment of a revolving wheel into which a small ball will come to rest.

Routine maintenance (chapter 35) means maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of land or improvements thereon.

Salt marsh means areas along coastal waters (most often along coastal bays) which support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

Salt meadow means areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black rush; common three-square occurs in fresher areas.

Shoreland zone means the land area located within 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 75 feet, horizontal distance, of the normal high-water line of a stream.

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

Sidewalk means any portion of a street between the curblin and the adjacent property line, intended for the use of pedestrians, excluding parkways.

Sight distance means the length of unobstructed view from a particular access point to the farthest visible point of reference on a roadway.

Sign means any structure, device, light, letter, word, model, banner pennant, insignia, trade flag, or representation that is designed to be seen from outside a building or from a town way and which is designed to occupy a message to the public. It advertises activities, goods, products, services or facilities available either on the lot where the sign appears or in some other location.

Sign, direct illuminated means a sign which has characters, letters, figures, designs or outlines illuminated by electric lighting or luminous tubes which are part of that sign.

Sign, flashing means a sign whose illumination is not kept constant in intensity at all times when in use, and which exhibits changes in light, color, light direction, and/or animation. Illuminated signs which indicate the time and temperature shall not be considered as flashing signs.

Sign, freestanding means a sign which is not attached to or supported by any building or tree.

Sign, indirect-illuminated means an illuminated sign whose illumination is derived entirely from an external artificial source.

Sign, parallel means a wall-mounted sign which is parallel to the building surface and not more than 12 inches from that surface.

Sign, projecting means a sign which is attached to a building wall, tree, or other structure and which extends more than 12 inches beyond the surface of that portion of the building wall, tree, or other structure to which it is attached.

Sign, roof means a sign which is located above, or which projects above, the eave line or the parapet wall of the building.

Sign, wall means any sign which is painted on, incorporated into, or consisting of cutout letters or devices affixed to the building wall with no background defined on the building wall.

Signature or subscription. The word signature or subscription includes a mark when the person cannot write.

Significant river segments. See title 38, M.R.S.A. section 437.

Single-family dwelling. See Dwelling unit and family.

Skid road or skid trail means a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

Slash means the residue, e.g., treetops and branches, left on the ground after a timber harvest.

Slot machine means any machine which operates by inserting a coin, token or similar object, setting the internal mechanism of the machine in motion, and by the application of the element of chance may deliver or entitle the person playing or operating the machine to receive cash, premiums, tickets or something of value.

Sludge (or biosolids) means waste containing varying amounts of contaminants removed from water, sanitary sewage, wastewater, or industrial wastes by physical, chemical, or biological treatment.

Storm-damaged tree means 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.

Storm drainage system means the municipality's regulated small MS4 and any of the unregulated small MS4.

Stormwater means any stormwater runoff, snowmelt runoff, and surface runoff and drainage; "stormwater" has the same meaning as "storm water."

Stormwater management facilities (chapter 35) means any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures that are part of the post-construction stormwater management plan for a development.

Stream means a free-flowing body of water from the outlet of a great pond or the confluence of two 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 wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.** ~~edition of a United States Geological Survey 7.5-minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area.~~

Street, town way or public way. The word street shall embrace streets, highways, avenues, boulevards, roads, town ways, lanes, bridges, and all other public ways dedicated to public use.

Structure (building) means anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences. The term includes structures temporarily or permanently located, such as decks and satellite dishes.

Structure (building, and within any shoreland zone governed by chapter 44) **means 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, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8.** ~~means anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.~~

Structure (floodplain) means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Subdivision means the division of a tract or parcel of land into three or more lots within any five-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term subdivision also includes the division of a new structure or structures on a tract or parcel of land into three or more dwelling units within a five-year period, the construction or placement of three or more dwellings units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into three or more dwelling units within a five-year period.

Subdivision, major means any subdivision containing more than four lots, or any subdivision requiring new public or private street connection, or the extension of municipal services.

Subdivision, minor means subdivision containing not more than four lots.

Tower means with regard to a wind energy system, the structure on which the wind system is mounted. This includes a monopole, freestanding, or guyed structure that supports a wind generator.

Tower height means with regard to a wind energy system, the height above grade of the fixed portion of the tower, excluding the wind turbine itself.

Town. The word town shall mean the Town of Eliot, Maine, and shall extend to and include its several officers, agents and employees.

Town boards, committees, commissions, officers, employees, departments, etc. Whenever reference is made to a board, committee, commission, officer, employee or department, etc., it shall mean the same as if it were followed by the words "of the Town of Eliot, Maine."

Town of Kittery (chapter 18) means Town of Kittery wastewater pollution control facility.

Tree means a woody perennial plant with a well-defined trunk(s) at least two inches in diameter at four and one half feet above the ground, with a more or less definite crown, and reaching a height of at least ten feet at maturity.

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

TSS (total suspended solids) means the total of all settleable and nonsettleable solids in a sample of wastewater, measured in milligrams per liter by weight.

Two-family dwelling means a building or portion principally designed, adapted, or used for occupancy by two families, and each living in its own separate quarters.

Unacceptable waste means hazardous waste, sewage treatment plant and septic tank residues, industrial waste, commercial waste sludge, coal and incinerator ash, asbestos and asbestos containing waste, tires, and other waste designated unacceptable by the board of selectmen.

Universal waste means electronic equipment specified by the State of Maine. Examples include TVs, computers, fluorescent tubes, etc.

Unpolluted drainage means water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

Upland edge of a wetland means 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** ~~maximum spring 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 meters (approximately 20 feet) tall or taller.

Urbanized area ("UA") (chapter 35) means the areas of the State of Maine so defined by the latest decennial (2000) census by the U.S. Bureau of the Census.

Use means the purpose for which land or a structure is arranged, designed or intended, or for which land or a structure is or may be occupied.

Variance means relaxation of requirements of this chapter as provided in section 45-49(b).

Wetland means a freshwater or coastal wetland.

Wind turbine means the parts of the wind system including the blades, generator, and tail.

Windfirm means the ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

Wood waste means brush, stumps, lumber, bark, woodchips, shavings, slabs, edgings, slash and sawdust, which are not mixed with other waste.

Woody vegetation means live trees or woody, nonherbaceous shrubs.

Written and in writing. The words written and in writing shall include any representation of words, letters or figures, whether by printing or otherwise.

State Law reference— Similar definitions, 30-A M.R.S.A. § 2001.

Yard means the area of land on a lot not occupied by the principal building and parking.

Yard, front means the area of land between the front lot line and the nearest part of the principal building.

Yard, rear means the area of land between the rear lot line and the nearest part of the principal building.

Yard, side means the area of land between the side lot line and the nearest part of the principal building.

Yard waste means grass clippings, leaves and other vegetal matter other than wood wastes and land clearing debris.

(T.M. of 6-19-01, (arts. 6—8); T.M. of 11-6-01, (arts. 2, 8); T.M. of 3-16-02, (art. 3, § 1), (art. 4); T.M. of 11-5-02; T.M. of 6-10-03; T.M. of 11-4-03; T.M. of 3-20-04; T.M. of 6-8-04; T.M. of 6-14-05; T.M. of 6-16-07; T.M. of 6-16-07; T.M. of 6-14-08; T.M. of 6-9-09(1); T.M. of 6-9-09(2); T.M. of 6-12-2010(3); T.M. of 6-18-2011(5); T.M. of 6-18-2011(6); T.M. of 6-16-2012(1); T.M. of 6-16-2012(3); T.M. of 6-11-2013(1); T.M. of 11-5-2013; T.M. of 6-9-2015(1); T.M. of 6-9-2015(2))

State Law reference— Similar definitions, 30-A M.R.S.A. § 2001.