

# TOWN OF ELIOT, MAINE

## PLANNING BOARD AGENDA

TYPE OF MEETING: IN PERSON WITH REMOTE OPTION  
PLACE: TOWN HALL/ZOOM

DATE: Tuesday, March 7, 2023  
TIME: 6:00 P.M.

PLEASE NOTE: IT IS THE POLICY OF THE PLANNING BOARD THAT THE APPLICANT OR AN AGENT OF THE APPLICANT MUST BE PRESENT IN ORDER FOR REVIEW OF THE APPLICATION TO TAKE PLACE.

**All in-person attendees are asked to wear face masks**

- 1) ROLL CALL
  - a) Quorum, Alternate Members, Conflicts of Interest
- 2) PLEDGE OF ALLEGIANCE
- 3) MOMENT OF SILENCE
- 4) 10-MINUTE PUBLIC INPUT SESSION
- 5) REVIEW AND APPROVE MINUTES
  - a) October 4, 2022 to February 21, 2023 – if available
- 6) NOTICE OF DECISION
  - a) 290 & 291 Harold L. Dow Highway – if available
- 7) PUBLIC HEARING
  - a) 360 River Road (Map 25, Lot 11), PID # 025-011-000, PB22-22: Shoreland Zoning Permit Application – Residential Pier, Gangway, Float, Boardwalk, and Stairway
- 8) NEW BUSINESS
  - a) 857 Main Street (Map 10, Lot 2), PID # 010-002-000, PB23-02: Site Plan Amendment/Review and Shoreland Zoning Permit Application – Boat Yard Expansion – Sketch Plan Review
- 9) OLD BUSINESS
  - a) June 2023 Ordinance Amendments and Growth Permits Allocation
    1. Housing, Tiny Homes (LD2003 and LD1530)
    2. Marijuana Performance Standards and Licensing
    3. Mobile Vendors
    4. Day Nurseries
    5. Non-Stormwater Discharges
    6. Growth Permits
  - b) 771 Main St. – Demolition Delay Ordinance (as time allows)
- 10) OTHER BUSINESS / CORRESPONDENCE
  - a) Updates, if available: Ordinance Subcommittee, Comprehensive Plan, Town Planner, Board Members
- 11) SET AGENDA AND DATE FOR NEXT MEETING
  - a) March 21, 2023
- 12) ADJOURN

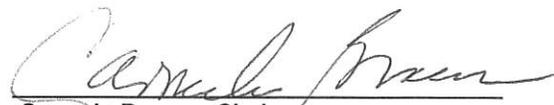
**NOTE:** All Planning Board Agenda Materials are available on the Planning Board/Planning Department webpages for viewing.

To view a live remote meeting: (Instructions can also be found on the Planning Board webpage)

- a) Go to [www.eliotme.org](http://www.eliotme.org)
- b) Click on "Meeting Videos" – Located in the second column, on the left-hand side of the screen.
- c) Click on the meeting under "Live Events" – The broadcasting of the meeting will start at 6:00pm (Please note: streaming a remote meeting can be delayed up to a minute)

Instructions to join remote meeting:

- a) To participate please call into meeting 5 minutes in advance of meeting start time. Please note that Zoom does state that for some carriers this can be a toll call. You can verify by contacting your carrier.
- b) Please call **1-646-558-8656**
  1. When prompted enter meeting number ID: **816 8758 1996**
  2. When prompted to enter Attendee ID
  3. When prompted enter meeting password: **922727**
- c) Members of the Public calling in, will be first automatically be placed in a virtual waiting room until admitted by one of the members of the Planning Board. Members of the public will be unmuted one at a time to allow for input. Please remember to state your name and address for the record.
- d) Press \*9 to raise your virtual hand to speak

  
Carmela Braun – Chair

**NOTE:** All attendees are asked to wear facial protective masks. No more than 50 attendees in the meeting room at any one time. The meeting agenda and information on how to join the remote Zoom meeting will be posted on the web page at [eliotmaine.org/planning-board](http://eliotmaine.org/planning-board). Town Hall is accessible for persons with disabilities.

**POSTED 03/01/2023 - KRT**



# TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

## PUBLIC HEARING NOTICE

**AUTHORITY:** Eliot, Maine Planning Board  
**PLACE:** Town Hall (1333 State Rd.) with Remote Option  
**DATE OF HEARING:** March 7, 2023  
**TIME:** 6:00PM

Notice is hereby given that the Planning Board of the Town of Eliot, Maine will hold a public hearing on Tuesday, March 7, 2023 at 6:00 PM for the following application:

- **360 River Rd. (Map 25, Lot 11), PID # 025-011-000, PB22-22:** Shoreland Zoning Permit Application
  - Residential Pier, Gangway, Float, Boardwalk, and Stairway
    - **Applicant: Robert C. Holderith**
    - **Property Owner: Robert C. Holderith**

Interested persons may be heard and written communication received regarding the proposed application at this public hearing. The application is on file and available for review in the Planning Office at Eliot Town Hall, 1333 State Road, Eliot, ME 03903. The meeting agenda and information on how join the remote Zoom meeting will be posted on the web page at [eliotmaine.org/planning-board](http://eliotmaine.org/planning-board). Town Hall is accessible for persons with disabilities.

**POSTED**  
**02/27/2023**  
**KRT**

<b>Account Number:</b>	702192
<b>Customer Name:</b>	Town Of Eliot
<b>Customer Address:</b>	Town Of Eliot 1333 State Road ELIOT ME 03903
<b>Contact Name:</b>	Kearsten Metz
<b>Contact Phone:</b>	2074391813
<b>Contact Email:</b>	kmetz@eliotme.org
<b>PO Number:</b>	

<b>Date:</b>	02/27/2023
<b>Order Number:</b>	8505189
<b>Prepayment Amount:</b>	\$ 0.00

<b>Column Count:</b>	1.0000
<b>Line Count:</b>	44.0000
<b>Height in Inches:</b>	0.0000

**Print**

Product	#Insertions	Start - End	Category
NEO PRT Seacoast Daily	1	02/28/2023 - 02/28/2023	Govt Public Notices
NEO PRT seacoastonline.com	1	02/28/2023 - 02/28/2023	Govt Public Notices

<b>Total Order Confirmation</b>	<b>\$137.72</b>
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## Ad Preview

### PUBLIC HEARING NOTICE

**AUTHORITY:** Eliot, Maine  
Planning Board

**PLACE:** Town Hall (1333  
State Rd.) with Remote  
Option

**DATE OF HEARING:**  
March 7, 2023

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  - o Property Owner: Robert C. Holderith

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# 500 feet Abutters List Report

Eliot, ME  
February 27, 2023

## Subject Property:

Parcel Number: 025-011-000  
CAMA Number: 025-011-000  
Property Address: 360 RIVER RD

Mailing Address: HOLDERITH, ROBERT C  
11440 COUNTY HIGHWAY 14  
DELHI, NY 13753

## Abutters:

Parcel Number: 018-002-000  
CAMA Number: 018-002-000  
Property Address: 318 RIVER RD

Mailing Address: CHICK, ANDREW S REALTY TRUST  
ANDREW CHICK TRUSTEE  
318 RIVER RD  
ELIOT, ME 03903

Parcel Number: 018-003-000  
CAMA Number: 018-003-000  
Property Address: 312 RIVER RD

Mailing Address: MCALLISTER, CHRISTIANE  
312 RIVER RD  
ELIOT, ME 03903

Parcel Number: 018-004-000  
CAMA Number: 018-004-000  
Property Address: 306 RIVER RD

Mailing Address: VORCE, RAMONA LS  
306 RIVER RD  
ELIOT, ME 03903

Parcel Number: 018-005-000  
CAMA Number: 018-005-000  
Property Address: RIVER RD

Mailing Address: OGILBY, HENRY M  
88 TAYLOR RD  
BELMONT, MA 02178

Parcel Number: 025-009-000  
CAMA Number: 025-009-000  
Property Address: 28 SANDY HILL LN

Mailing Address: SHAPLEIGH, NANCY  
28 SANDY HILL LN  
ELIOT, ME 03903

Parcel Number: 025-010-000  
CAMA Number: 025-010-000  
Property Address: 374 RIVER RD

Mailing Address: EGGLESTON, PETER R FRANCIS,  
JOANNE C  
374 RIVER RD  
ELIOT, ME 03903

Parcel Number: 025-012-000  
CAMA Number: 025-012-000  
Property Address: 352 RIVER RD

Mailing Address: COUTU, TYLER R COUTU, MELISSA  
352 RIVER RD  
ELIOT, ME 03903

Parcel Number: 025-012-001  
CAMA Number: 025-012-001  
Property Address: 346 RIVER RD

Mailing Address: GORDON, KATHY PELLEY  
346 RIVER RD  
ELIOT, ME 03903

Parcel Number: 025-012-002  
CAMA Number: 025-012-002  
Property Address: 344 RIVER RD

Mailing Address: COUTU, TYLER R COUTU, MELISSA  
352 RIVER RD  
ELIOT, ME 03903

Parcel Number: 025-012-003  
CAMA Number: 025-012-003  
Property Address: RIVER RD

Mailing Address: JENKINS, THOMAS BRYAN JENKINS,  
ANN M  
342 RIVER RD  
ELIOT, ME 03903



www.cai-tech.com

Data shown on this report is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this report.



# 500 feet Abutters List Report

Eliot, ME  
February 27, 2023

Parcel Number: 025-013-000  
CAMA Number: 025-013-000  
Property Address: 342 RIVER RD

Mailing Address: JENKINS, THOMAS B JENKINS, ANN M  
342 RIVER RD  
ELIOT, ME 03903

Parcel Number: 025-014-000  
CAMA Number: 025-014-000  
Property Address: 338 RIVER RD

Mailing Address: GENTILE, MARK J GENTILE,  
ROSEMARY A  
338 RIVER RD  
ELIOT, ME 03903



[www.cai-tech.com](http://www.cai-tech.com)

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2/27/2023

Page 2 of 2

Case No. _____ Site review?    Yes    No
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**APPLICATION FOR SITE PLAN REVIEW  
TOWN OF ELIOT PLANNING BOARD**

**Step 1. (Fill in all blocks below - See the Planning Assistant if you don't understand.)**

Tax Map 10 Lot# 2 Lot Size 6.2 Acres Zoning District: VD/GD Shoreland

Your Name Geoff Aleva, PE Civil Consultants Your mailing address 293 Main Street, PO BOX 100

City/Town South Berwick State: ME Zip: 03908 Telephone: 207-384-2550

Who owns the property now? MGX II LLC c/o Tom Allen

Address (Location) of the property 857 Main Street, Eliot, ME 03903

Property located in a flood zone?  Yes  No (**No work in floodzone**)  
(If yes, please complete the attached Flood Hazard Development Application and return it with your completed application)

**Step 2 (establish your legal interest in the property)**

Attach a copy of the Purchase and Sales Agreement, Deed, Tax records, Signed Lease, or other documents to the satisfaction of the Planning Assistant. If you are representing a corporation, provide documentation that you have authority to speak for the corporation.

**Step 3 (Go to the Zoning Ordinance Section 45-290, Table of Land uses)**

What SPECIFIC land use are you applying for? Use similar to uses requiring Planning Board Approval  
(You MUST make this selection from Section 45-290 of the Zoning Ordinance)

Having entered the SPECIFIC land use above now provide a more detailed description of what you want to do:

- Demolition of 6800 sq. ft existing wood framed structure
- Erection of new metal framed structure
- Improved storm water management
- New waterline from road with sprinkler fire suppression system to main buildings
- (See Project Narrative for more information)
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Case No. _____ Site review?    Yes    No
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**Step 4    Attach ten (10) copies of a sketch plan, showing in approximate dimensions the following:**

- All zoning districts
- The location of all existing and/or proposed buildings
- The setbacks of all existing and proposed structures or uses.
  
- The location of proposed signs, their size, and direction of illumination.
  
- The location of all existing and/or proposed entrances and exits.
  
- All existing and/or proposed parking areas (parking is permitted in the front, rear and side of the premises, so long as it does not violate setback requirements.)
  
- Plans of buildings, sewage disposal facilities, and location of water supply.

**Step 5    Sign the application (both owner and applicant must sign and date the application) and submit fee with preliminary plans (\$100 per acre for first 5 acres and \$50 per acre after five plus \$150 for advertising and public hearing fees)**

Applicant       Date 1/24/23

Property Owner \_\_\_\_\_ Date \_\_\_\_\_

**Step 6    Application received by Planning Assistant**

Date received by the PA \_\_\_\_\_ PA initials \_\_\_\_\_

**Step 7    The Planning Assistant will review the application and if complete, will place your application on a future Planning Board agenda**

**Step 8    The applicant or representative of the applicant must attend the Planning Board meeting**

**PART 1 - THE PROCEDURE**

FOR OFFICE USE ONLY:

PERMIT NO.: \_\_\_\_\_

ISSUE DATE: \_\_\_\_\_

FEE AMOUNT: \_\_\_\_\_

**TOWN OF ELIOT**  
**SHORELAND ZONING PERMIT APPLICATION**

**GENERAL INFORMATION**

1. APPLICANT <b>Civil Consultants Geoffrey R. Aleva, PE</b>		2. APPLICANT'S ADDRESS <b>293 Main Street, PO BOX 100 South Berwick, ME 03908</b>		3. APPLICANT'S TEL. # <b>207-384-2550</b>	
4. PROPERTY OWNER <b>MGX II LLC C/O Tom Allen</b>		5. OWNER'S ADDRESS <b>3 Bond Road Kittery Point, ME 03905</b>		6. OWNER'S TEL. # <b>207-439-9582</b>	
7. CONTRACTOR <b>H.L. Patten Construction Brett Patten</b>		8. CONTRACTOR'S ADDRESS <b>PO Box 450 Kittery, ME 03904</b>		9. CONTRACTOR'S TEL. # <b>207-439-2008</b>	
10. LOCATION/ADDRESS OF PROPERTY <b>857 Main Street, Eliot, ME 03903</b>			11. TAX MAP/PAGE & LOT # AND DATE LOT WAS CREATED <b>M10, L2</b>		12. ZONING DISTRICT <b>VD/GD</b>
13. DESCRIPTION OF PROPERTY INCLUDING A DESCRIPTION OF ALL PROPOSED CONSTRUCTION, (E.G. LAND CLEARING, ROAD BUILDING, SEPTIC SYSTEMS, AND WELLS - PLEASE NOTE THAT A SITE PLAN SKETCH IS REQUIRED ON PAGE 3).  <b>Proposed project is to expand boatyard and buildings and work areas. See attached project narrative.</b>					

14. PROPOSED USE OF PROJECT <b>Marina, Limited boatyard</b>	15. ESTIMATED COST OF CONSTRUCTION
--	------------------------------------

**SHORELAND AND PROPERTY INFORMATION**

16. LOT AREA (SQ. FT.) <b>267,894 sq. ft.</b>	17. FRONTAGE ON ROAD (FT.) <b>29.85 ft.</b>
18. SO. FT. OF LOT TO BE COVERED BY NON-VEGETATED SURFACES <b>TBD</b>	19. ELEVATION ABOVE 100 YR. FLOOD <b>30+ feet</b>
20. FRONTAGE ON WATERBODY (FT.) <b>224.33 ft.</b>	21. HEIGHT OF PROPOSED STRUCTURE <b>Match existing</b>
22. EXISTING USE OF PROPERTY <b>Boatyard, Limited marina</b>	23. PROPOSED USE OF PROPERTY <b>Boatyard, Limited marina</b>

Note: Questions 24 & 25 apply only to expansions of portions of existing structures which are less than the required setback.

<p>24. A) TOTAL FLOOR AREA OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK AS OF 1/1/89:</p> <p>_____ SQ. FT.</p> <p>B) FLOOR AREA OF EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK FROM 1/1/89 TO PRESENT:</p> <p>_____ SQ. FT.</p> <p>C) FLOOR AREA OF PROPOSED EXPANSION OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK:</p> <p>_____ SQ. FT.</p> <p>D) % INCREASE OF FLOOR AREA OF ACTUAL AND PROPOSED EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK SINCE 1/1/89:</p>	<p>25. A) TOTAL VOLUME OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK AS OF 1/1/89:</p> <p>_____ CUBIC FT.</p> <p>B) VOLUME OF EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK FROM 1/1/89 TO PRESENT:</p> <p>_____ CUBIC FT.</p> <p>C) VOLUME OF PROPOSED EXPANSION OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK:</p> <p>_____ CUBIC FT.</p> <p>D) % INCREASE OF VOLUME OF ACTUAL AND PROPOSED EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK SINCE 1/1/89:</p>
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$(\% \text{ INCREASE} = \frac{B+C}{A} \times 100)$ <hr style="width: 80%; margin: auto;"/> %	$(\% \text{ INCREASE} = \frac{B + C}{A} \times 100)$ <hr style="width: 80%; margin: auto;"/> %
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NOTE: IT IS IMPERATIVE THAT EACH MUNICIPALITY DEFINE WHAT CONSTITUTES A STRUCTURE, FLOOR AREA, AND VOLUME AND APPLY THOSE DEFINITIONS UNIFORMLY WHEN CALCULATING EXISTING AND PROPOSED SO. FT. AND CU. FT.

**SITE PLAN**

PLEASE INCLUDE: LOT LINES; AREA TO BE CLEARED OF TREES AND OTHER VEGETATION; THE EXACT POSITION OF PROPOSED STRUCTURES, INCLUDING DECKS, PORCHES, AND OUT BUILDINGS WITH ACCURATE SETBACK DISTANCES FROM THE SHORELINE, SIDE AND REAR PROPERTY LINES; THE LOCATION OF PROPOSED WELLS, SEPTIC SYSTEMS, AND DRIVEWAYS; AND AREAS AND AMOUNTS TO BE FILLED OR GRADED. IF THE PROPOSAL IS FOR THE EXPANSION OF AN EXISTING STRUCTURE, PLEASE DISTINGUISH BETWEEN THE EXISTING STRUCTURE AND THE PROPOSED EXPANSION.

NOTE: FOR ALL PROJECTS INVOLVING FILLING, GRADING, OR OTHER SOIL DISTURBANCE YOU MUST PROVIDE A SOIL EROSION CONTROL PLAN DESCRIBING THE MEASURES TO BE TAKEN TO STABILIZE DISTURBED AREAS BEFORE, DURING AND AFTER CONSTRUCTION (See attached guidelines)

**PLEASE SEE ATTACHED SKETCH PLAN**

SCALE: \_\_\_\_\_ = \_\_\_\_\_ FT.

**FRONT OR REAR ELEVATION**

**SIDE ELEVATION**

DRAW A SIMPLE SKETCH SHOWING BOTH THE EXISTING  
AND PROPOSED STRUCTURES WITH DIMENSIONS

**ADDITIONAL PERMITS, APPROVALS, AND/OR REVIEWS REQUIRED**

CHECK IF REQUIRED:

- PLANNING BOARD REVIEW APPROVAL  
(e.g. Subdivision, Site Plan Review)
- BOARD OF APPEALS REVIEW APPROVAL
- FLOOD HAZARD DEVELOPMENT PERMIT
- EXTERIOR PLUMBING PERMIT  
(Approved HHE 200 Application Form)
- INTERIOR PLUMBING PERMIT
- DEP PERMIT (Site Location,  
Natural Resources Protection Act)
- ARMY CORPS OF ENGINEERS PERMIT  
(e.g. Sec. 404 of Clean Waters Act)

OTHERS:

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

NOTE: APPLICANT IS ADVISED TO CONSULT WITH THE CODE ENFORCEMENT OFFICER AND APPROPRIATE STATE AND FEDERAL AGENCIES TO DETERMINE WHETHER ADDITIONAL PERMITS, APPROVALS, AND REVIEWS ARE REQUIRED

I CERTIFY THAT ALL INFORMATION GIVEN IN THIS APPLICATION IS ACCURATE. ALL PROPOSED USES SHALL BE IN CONFORMANCE WITH THIS APPLICATION AND THE <u>TOWN OF ELIOT</u> SHORELAND ZONING ORDINANCE. I AGREE TO FUTURE INSPECTIONS BY THE CODE ENFORCEMENT OFFICER AT REASONABLE HOURS.	
_____ APPLICANT'S SIGNATURE	_____ DATE
 AGENT'S SIGNATURE (if applicable)	<u>1/24/23</u> DATE

**From:** [Tom Allen](#)  
**To:** [Brett Patten](#)  
**Cc:** [geoff@civcon.com](mailto:geoff@civcon.com)  
**Subject:** RE: [External] Fwd: SAFE HARBOR PROJECT  
**Date:** Monday, January 23, 2023 2:46:25 PM  
**Attachments:** [image114746.png](#)

---

This email serves to confirm that Safe Harbors Marinas authorizes Civil Consultants to act as their agent on the future application and project for Safe Harbor Kittery Point at 857 Main Street in Eliot.



**Tom Allen**  
General Manager  
Safe Harbor Kittery Point  
O: (207) 439-9582

The information transmitted, including attachments, is intended only for the person(s) or entity to which it is addressed and may contain confidential and/or privileged material. Any non-public information in this communication, including attachments, constitutes "confidential information" under, and is subject to the terms of, any applicable nondisclosure or confidentiality agreement between Safe Harbor Marinas (or its affiliates) and the intended recipient or its principals and affiliates, as applicable. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and destroy any copies of this information.

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**From:** Brett Patten <[brett@hlpatten.com](mailto:brett@hlpatten.com)>  
**Sent:** Monday, January 23, 2023 1:25 PM  
**To:** Tom Allen <[tjallen@shmarinas.com](mailto:tjallen@shmarinas.com)>  
**Subject:** [External] Fwd: SAFE HARBOR PROJECT

Hi Tom,

If you could please write a simple email stating the SH authorizes Civil Consultants to act as their agent in regards to the project at 857 Main Street.

Thank you

Brett

----- Forwarded message -----

From: <[geoff@civcon.com](mailto:geoff@civcon.com)>  
Date: Fri, Jan 20, 2023 at 3:28 PM  
Subject: SAFE HARBOR PROJECT  
To: Brett Patten <[brett@hlpatten.com](mailto:brett@hlpatten.com)>

Brett

I will need a agent authorization email with the application.

Geoffrey R. Aleva, PE  
President  
Structural / Civil Engineer  
CIVIL CONSULTANTS  
PO Box [100 / 293 Main Street](#)  
[South Berwick, Maine 03908](#)  
[ph: 207-384-2550](#)  
fx: 207-384-2112  
mobile: 603-781-1402

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Brett H. Patten, Project Manager  
H.L. Patten Construction, Inc.  
Kittery, ME 03904  
207 439-2008

**WARRANTY DEED**

**KNOW ALL PERSONS BY THESE PRESENTS**, That **ALPAT CO, INC.**, a corporation duly organized and existing under the laws of the State of Maine with a place of business at Eliot, County of York and State of Maine, for consideration paid, grants to **MGX II, LLC**, a limited liability company duly organized and existing under the laws of the State of Maine with a place of business at Kittery, County of York and State of Maine, and whose mailing address is 48 Bowen Road, Kittery, Maine 03904, with **WARRANTY COVENANTS**, a certain lot or parcel of land, together with any buildings and improvements located thereon, situated at 857 Main Street, in the Town of Eliot, County of York and State of Maine, and being more specifically described as follows:

**See attached EXHIBIT A for a more specific description of the premises herein conveyed, which description is hereby incorporated herein by this reference.**

Meaning and intending to convey and hereby conveying the remaining portion of the premises conveyed to Alpat Co, Inc. by warranty deed from Cianbro Corporation dated February 14, 1992 and recorded in the York County Registry of Deeds at Book 5972, Page 209.

**IN WITNESS WHEREOF**, the said **ALPAT CO, INC.** has caused this instrument to be executed by its duly authorized officer this 14 day of October, 2007.

**ALPAT CO, INC.**

  
\_\_\_\_\_  
Witness

By:   
\_\_\_\_\_  
George A. Patten, Jr., Its President

Maine R.E. Transfer Tax Paid

STATE OF MAINE

COUNTY OF YORK

October 1, 2007

Personally appeared the above-named George A. Patten, Jr., President of Alpat Co, Inc., and acknowledged the foregoing instrument to be his voluntary act and deed in his said capacity, and the voluntary act and deed of said corporation.

Before me,

  
Notary Public

Dean K. Bouffard  
Attorney-at-Law

## EXHIBIT A

A certain lot or parcel of land, together with the buildings thereon and appurtenances thereto, located on the Southwest side of Main Street, also known as State Route #103, in Eliot, County of York and State of Maine, and being further bounded and described as follows, to-wit:

BEGINNING at an iron pin found in the Southwest side of Main Street, also known as State Route #103, said iron pin marking the Northeast corner of land now or formerly of Cummins; thence proceeding on a bearing of South 62° 44' 54" West along land now or formerly of Cummins, a distance of 286.56 feet, more or less, to a 24" cherry tree; thence continuing on a bearing of South 61° 27' 53" West, along land now or formerly of Allain, a distance of 931.49 feet, more or less, to an iron pin found; thence continuing on a bearing of South 56° 42' 07" West, along land now or formerly of Allain, a distance of 174.70 feet, more or less, to an iron pin found near the high water mark of the Piscataqua River; thence continuing on the same bearing of South 56° 42' 07" West a short distance to the high water mark of the Piscataqua River; thence proceeding in a generally Northwesterly direction on a meandering line along the high water mark of the Piscataqua River (with a tie line bearing of North 45° 55' 36" West, a distance of 249.83 feet, more or less) to the edge of a right of way now or formerly of Daniel J. Taylor, Jr.; thence proceeding on a bearing of North 78° 33' 23" East, along said right of way, a short distance to a steel stake set at the end of said tie line call; thence continuing on the same bearing of North 78° 33' 23" East along said right of way, a distance of 76.13 feet, more or less, to a steel stake; thence proceeding on a bearing of North 57° 54' 36" East along said right of way, a distance of 478.53 feet, more or less, to a steel stake; thence continuing on a bearing of North 62° 44' 18" East, along said right of way and land now or formerly of said Taylor, a distance of 606.46 feet, more or less, to an iron pin found at the Northwest corner of land now or formerly of McLean; thence proceeding on a bearing of South 42° 25' 42" East, along land now or formerly of McLean, a distance of 84.67 feet, more or less, to an iron pin found; thence continuing on a bearing of South 39° 28' 14" East along land now or formerly of said McLean, a distance of 107.15 feet, more or less, to a steel stake set in the Southwest corner of land now or formerly of McLean; thence proceeding on a bearing of North 62° 44' 54" East, along land now or formerly of McLean and land now or formerly of Owens, a distance of 264.00 feet, more or less, to a steel stake set in the Southwesterly sideline of said Main Street, also known as State Route #103; thence proceeding on a bearing of South 38° 37' 12" East along the Southwesterly line of said Main Street, a distance of 31.31 feet, more or less, to the point of beginning. The subject premises comprise 6.15 acres, more or less.

Also including as part of this conveyance all of the grantor=s right, title and interest in and to a pier commencing at the southwesterly corner of the subject premises and extending in a southwesterly direction into the Piscataqua River.

The above description is based upon a standard boundary survey of land of Cianbro Corporation, prepared by Kenneth D. Markley, Registered Land Surveyor No. 1322, on May 15, 1989. This survey plan is recorded in the York County Registry of Deeds at Plan Book 181,

Page 14 and reference is made to said plan for a complete description of the premises herein conveyed.

Also conveying any property which is generally to the south of the following described property line:

BEGINNING at the most northerly corner of land belonging to ALPAT CO. INC., said corner is shown as a 1" diameter iron pipe buried 3" (found) on A Standard Boundary Survey and Subdivision Plan for The Taylor Family Estate, Prepared by J.A. Davis & Associates, Dated 01/12/2001, Scale: 1" = 60' recorded at Plan Book 261, Page 23 of the York County Registry of Deeds. Said 1" diameter iron pipe is also southwesterly on a course bearing of S60 degrees, 57 minutes, 36 seconds West a distance of 268.32 feet from a 3" x 4 2" x 9" high, granite bound with drill hole at Main Street, also shown on said plan; thence property line in common continues on a course of S 62 degrees, 29 minutes, 17 seconds West for a distance of 606.46' to a T-Bar with Easterly Surveying, stainless steel cap; thence S 57 degrees, 39 minutes, 35 seconds West for a distance of 478.53 feet to another T-Bar with Easterly Surveying, stainless steel cap; thence on the same course of 57 degrees, 39 minutes, 35 seconds West for a distance of 73.21' to a rebar and cap set on 12/29/00, and to the low water mark of the Piscataqua River.

Expressly excluding any property which is generally to the north of the property line described in the immediately preceding paragraph.

Also hereby conveying an appurtenant easement to benefit the property of AL PAT, Co., Inc. conveyed by this deed and by a prior deed described at Book 5972, Page 209 of the York County Registry of Deeds, to remaining intertidal land in the Piscataqua River to use any intertidal land currently used for docks, piers, floats, and moorings, and other currently existing structures in the intertidal land in the Piscataqua River, including with this appurtenant easement the right to access these existing structures for the purpose of repairing, maintaining and accessing and using these structures. This easement shall not permit the installation of any additional structures in intertidal land owned by the Estate of Daniel J. Taylor, Jr., its successors and/or assigns, that do not currently exist.

Said premises are also conveyed together with the benefit of an easement from P J & A, LLC to ALPAT CO, Inc. dated March 26, 2003 over the following described premises:

A certain tract or parcel of land located on the southwest side of Main Street, also known as Route 103, in the Town of Eliot, County of York and State of Maine, depicted as **"PROPOSED RIGHT OF WAY FOR TAX MAP 10 LOT 2"** on a certain plan entitled **"STANDARD BOUNDARY SURVEY OF Tax Map 10 Lot 2 & RIGHT OF WAY EXCHANGE PLAN FOR PROPERTIES AT 167 1/2 & 169 Main Street (aka Route 103) Eliot, York County, Maine"**, dated 1/15/03, by NorthEASTERLY Surveying, Inc. and to be recorded in the York County Registry of Deeds, and being more particularly described as follows:

Beginning at a point on the southwest sideline of said Main Street at the east corner of land of the grantor herein and thence running South 62° 43' 41" West a distance of 264.18 feet along land now or formerly of P J & A, LLC to an iron pipe; thence turning and running North 40° 39' 19" West a distance of 10.68 feet to a point; thence turning and running North 62° 43' 19" East a distance of 264.34 feet to the southeast sideline of said Main Street; thence turning and running South 39° 47' 49" East along the southwest sideline of said Main Street a distance of 10.67 feet to the point of beginning.

**End of Document**

SPS  
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**RETURN TO: SHEPARD & READ  
93 MAIN ST. KENNEBUNK, ME 04043**

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LIST OF ABUTTERS

857 Mian Street  
Eliot, ME  
Map 10 Lot 2  
January 2023

MAP	LOT	NAME & MAILING ADDRESS
10	2 ( Locus)	MGX II LLC 3 Bond Road Kittery Point, ME 03905
10	1	Judith Thompson Michael Thompson 851 Main Street Eliot, ME 03903
10	3	Robert Mahoney Janine Mahoney 863 Main Street Eliot, ME 03903
10	4	Webb, Hillary Revocable Tru Hillary Webb Trustee 871 Main Street Eliot, ME 039003
10	5	Bradley Gilbert Tara Gilbert 881 Main Street Eliot, ME 03903
10	6	Cory Ilaria 1 Clark Road Eliot, ME 03903
10	7	Gass Family Revocable Trust Michael and Kimberly Gass Tru 120 Hillside Dr Portsmouth, NH 03803
10	8	Richard Philbrick Harriet Philbrick 11 Clark Road Eliot, ME 03903
10	9	Monica Sambataro Revocable Monica Sambataro Trustee 14 Clark Road Eliot, ME 03903
10	10	Green Acre Baha'I School 1233 Central Street Evanston, IL 60201
10	11	Marcia Houde Paul Houde 6 Clark Road Eliot, ME 03903
10	12	Mary Aducat 289 Kresson-Gibbsboro Road Voorhees, NJ 08043

LIST OF ABUTTERS

857 Mian Street  
Eliot, ME  
Map 10 Lot 2  
January 2023

MAP	LOT	NAME & MAILING ADDRESS
10	13	Mary Aducat 289 Kresson-Gibbsboro Road Voorhees, NJ 08043
10	33	Kenneth Dame Meredith Dame PO Box 324 Eliot, ME 03903
10	34	Kenneth Dame Meredith Dame PO Box 324 Eliot, ME 03903
10	36	Greig Cronauer Ellen Cronauer 874 Main Street Eliot, ME 03903
10	37	Karen Horton Robert Horton 862 Main Street Eliot, ME 03903
10	38	Melissa Piper 15 Greenwood Street Eliot, ME 03903
10	77	Hinds Family Revocable Trust George & Irva Hinds Trust 63 Greenwood Street Eliot, ME 03903
10	78	Margaret Ann Morse 850 Main Street Eliot, ME 03903
10	79	Pamela A Mondschein Living Trust Pamela A Mondschein Trustee 840 Main Street Eliot, ME 03903
5	1	Patricia Konovalchik 123 Stacy Lane Eliot, ME 03903
5	2	Patricia Levesque Revocable Trust Patricia Levesque 5 Gerrys Lane Eliot, ME 03903
5	3	Leonard Lamberti Revocable Trust Leonard Lamberti Trustee 7 Gerrys Lane Eliot, ME 03903

LIST OF ABUTTERS

857 Mian Street  
Eliot, ME  
Map 10 Lot 2  
January 2023

MAP	LOT	NAME & MAILING ADDRESS
5	4	Heidi Thompson Douglas Thompson 201 Wilshire Drive Sharon, MA 02067
5	5	Janice/Ronald Desjardins Rev Trust Janice/Ronald Desjardins Trustee 1138 Kittiwake Dr Venice, FL 34285
5	6	CPN Realty LLC David Chase 31 Clark Road Eliot ME 03903
5	9	Mark Tucker Jane Harper 26 Clark Road Eliot ME 03903
5	10	David Rutstein Gayle Rutstein 22 Clark Road Eliot, ME 03903
6	55	Mary Ellen Manero-Earley 18 Anthony's Landing Eliot, ME 03903
6	56	Stephen Manero Britt Manero 12 Anthony's Landing Eliot, ME 03903
6	62	Joseph Christian Darcy Christian 827 Main Street Eliot, ME 03903
6	63-1	Ramona Robinson Luis Valdex PO Box 518 Eliot, ME 03903
6	63-2	Stephen Manero 12 Anthony's Landing Eliot, ME 03903
6	63-3	Stephen Manero 12 Anthony's Landing Eliot, ME 03903
6	64	Elizabeth Clark Thomas Clark 11 Clark Road Eliot, ME 03903



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## CIVIL CONSULTANTS MEMORANDUM

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**TO: Town of Eliot – Planning Department**

**FROM: Geoffrey R. Aleva, PE – President**

**SUBJECT: Sketch Submission –Safe Harbor Proposed Expansion**

**DATE: JANUARY 24, 2023**

**PROJECT: SAFE HARBOR MARINA (MAP 10, LOT 2)**

The proposed project is to expand the existing boatyard operations. This memorandum addresses our interpretation of the zoning ordinance and implications on the project.

The existing Boatyard was formerly known as Kittery Point Service Yacht Yard is now known as Safe Harbor Kittery Point.

The property located a 857 Main Street is the base Village Zone and the General Development Shoreland zone. The Village zone does not have a direct use that indicates the current longstanding Boatyard use. The zoning ordinance indicates Uses Similar to Uses Requiring Planning Board approval are allowed. It is our contention that this use is similar to a working waterfront business allowed in the General Development shoreland zone. The Limited Marina Boatyard use would extend into the entire parcel.

The General Development Shoreland zone indicates Limited Marinas are allowed with Site Plan Review. This initial discussion with the board is to determine if the property is considered non-conforming due to use and what potential requirements there will be for site renovations, expansions and improvements.

The property has been in operation as a boatyard and marine based business for many years. The proposed operations are to remain as existing. The property was previously called the Kittery Point Service Yacht Yard in Eliot. The new ownership with the same manager is Safe Harbor Kittery Point. The proposed work to be reviewed by the Planning Board is for proposed site changes and upgrades. The proposed building construction occurs outside the shoreland area and connects to existing structures.

The new buildings will allow for the relocation of outside boat maintenance to the interior of the buildings for safety and reduced noise impacts. The buildings will also be protected with a new sprinkler system.

The proposed site revisions include expansion of the marine use boatyard working area located within the 250 ft shoreland area. The intent of this work is to provide a larger platform for commercial operations at the base of the hill. That work will not be below the normal high-water mark, but within the 250 shoreland zone area.

Gravel site access areas around the existing buildings are proposed to be paved to promote better site conditions and reduce dust and maintenance. Improvements to site drainage will be achieved through analysis and relocation of existing drainage facilities and additional stormwater BMPS to improve flow characteristics from the property. We will be working with MDEP to review the



stormwater provisions. The proposed building expansions are to be located over existing building, gravel and pavement impervious areas.

The proposed expansion if considered non-conforming would be located outside the shoreland zone. Following Article 5, Section 45-192, expansion of a nonconforming use. In order to achieve the proposed building expansions, several existing structures will be removed. Existing wood framed structures will be removed and replaced with new steel framed buildings. Based on the survey that was performed the existing SF of buildings on site is 32,054 SF. We are proposing a minimum expansion of 25% of that area 8,013 SF. Ideally, we would like to have additional opportunity to expand the building area beyond the 25% to relocate more of the maintenance operations to the interior of the structure.

The intent would be to construct new buildings that would follow the Village zoning allowance of 20% of lot area. Based on the 6.15 acre (267,894 SF) lot, the total proposed building coverage would be 53,578 SF. Currently the lot coverage is approximately 12%. Building additions of 21,500 SF would allow for the buildout of the site to Village District standards.

This relocation will reduce noise and visual disturbances along the north neighbors.

Safe Harbor had completed a property survey during the purchase of the property, our surveyors will be utilizing this and additional information to provide a base plan for use in the development of the Site Plan. We will present our updated plans that incorporate the Planning Boards initial comments as subsequent meetings.

### **SAFE HARBOR PROJECT SYNOPSIS:**

Current operation: The site at Safe Harbor Kittery Point Eliot Facility currently consists of approximately 5 structures comprising approximately 32,000 sf. We are a boatyard operation that services, repairs and stores both recreational, commercial and government vessels up to 55' LOA. In the winter season approximately 150 boats are stored on the property. On average 15 vessels are stored inside heated and 25 inside a cold storage Rubb fabric structure. A limited number of vessels are stored on premises in the summer season.

The scope of improvements consists of:

- Demolition of 6800 s.f of existing wood framed structures, to be replaced with steel framed buildings
- Erection of new metal framed structure for improved work flow.
- Improved storm water management
- New waterline from road with sprinkler fire suppression system to main buildings

Benefits of the improvements:

- Increased inside storage capacity via outside storage reducing environmental impact of outside work and shrink wrap.
- Increased safety of employees performing service work to vessels inside versus out in the elements.
- Reduction in neighborhood noise from outside boat work.
- Reduced runoff from boats outside storage boats.
- Additional safety of sprinklered buildings.

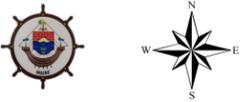


- Supporting growth of a working waterfront-based business. More boats inside means the ability to retain more year-round employees in the winter season.

The hours of operation are M-F, 7:30am - 4:00pm. Saturdays as needed in the swing season.

J:\aaa\2022\2229100\PLANNINGBOARD\SKETCH\SKETCH-PROJECT NARRATIVE.docx





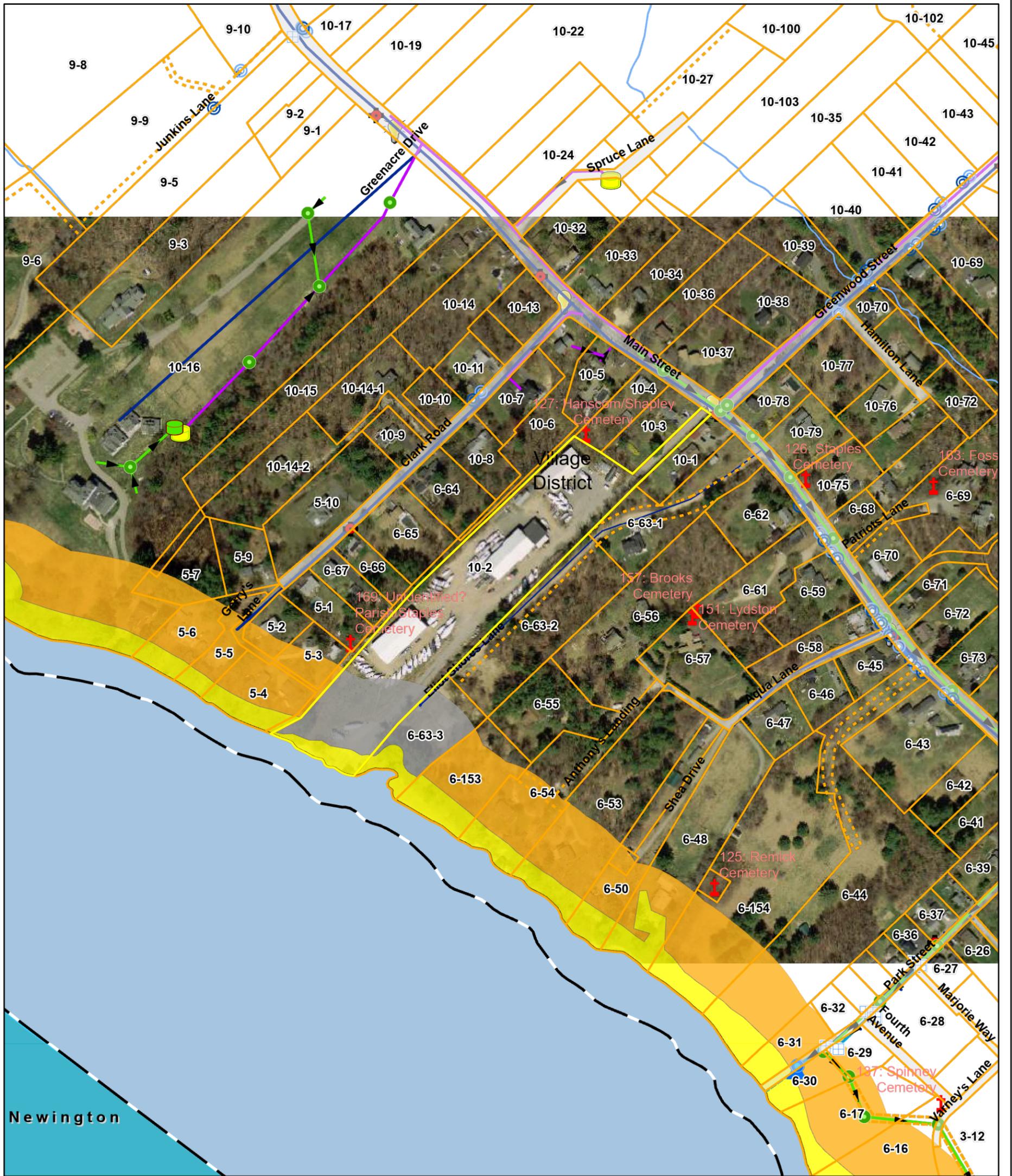
Town of Eliot, ME



December 8, 2022

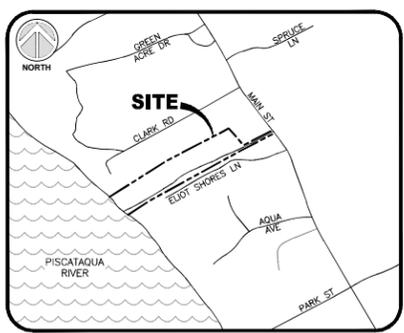
1 inch = 120 Feet

www.cai-tech.com



Large Scale	Town Rights-of-Way	Hydrography	Septic Tank	KWD Pipes
CAI Town Line	Water Bodies	Swale	Wastewater Manhole	Street_Lights
Mask - New Hampshire	Culvert Inlet	Culvert	Sewer Easements	Zoning
Parcel - Poly	Culvert Outlet	Gravity	Force Main	Resource Protection
Street Names	Catchbasin	Drainage Ditches	Waste Water	Limited Residential
Parcel Lines - Ortho	Drain Manhole	Waterbody	Hydrants	General Development
Rights-of-Way	Public	Pump Station	KWD Main Lines	Tidal Areas
Cemetery Centroids				

Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.



**VICINITY MAP**  
NOT TO SCALE

**TITLE COMMITMENT LEGAL DESCRIPTION**

The land described in this map of survey is the same property as that described in Exhibit A of Chicago Title Insurance Company Commitment No. CHICAGO201480.007(2) with a commitment date of October 25, 2021, as follows:

A certain lot or parcel of land, together with the buildings thereon and appurtenances thereto, located on the Southwest side of Main Street, also known as State Route #103, in Eliot, County of York and State of Maine, and being further bounded and described as follows, to-wit:

**BEGINNING** at an iron pin found in the Southwest side of Main Street, also known as State Route #103, said iron pin marking the Northeast corner of land now or formerly of Cummings; thence proceeding on a bearing of South 22°45'54" East, along land now or formerly of Cummings, a distance of 286.56 feet, more or less, to a 24" cherry tree; thence continuing on a bearing of South 61°27'53" West, along land now or former of Allain, a distance of 331.49 feet, more or less, to an iron pin found; thence continuing on a bearing of South 56°42'07" West, along land now or formerly of Allain, a distance of 174.70 feet, more or less, to an iron pin found near the high water mark of the Piscataqua River; thence continuing on the same bearing of South 56° 42'07" West a short distance to the high water mark of the Piscataqua River; thence proceeding in a generally Northwesterly direction on a meandering line along the high water mark of the Piscataqua River (with a tie line bearing of North 45°55'36" West, a distance of 249.83 feet, more or less, to the edge of a right of way now or formerly of Daniel J. Taylor, Jr.); thence proceeding on a bearing of North 78°33'23" East, along said right of way, a short distance to a steel stake set at the end of said tie line call; thence continuing on the same bearing of North 78°33'23" East along said right of way, a distance of 76.13 feet, more or less, to a steel stake; thence proceeding on a bearing of South 42°25'42" East, along land now or formerly of McLean, a distance of 84.67 feet, more or less, to an iron pin found; thence continuing on a bearing of South 39°28'14" East along land now or formerly of said McLean, a distance of 107.15 feet, more or less, to a steel stake set in the Southwest corner of land now or formerly of McLean; thence proceeding on a bearing of North 62°44'54" East, along land now or formerly of McLean and land now or formerly of Owens, a distance of 264.00 feet, more or less, to a steel stake set in the Southwesterly side of said Main Street, also known as State Route #103; thence proceeding on a bearing of South 38°37'12" East along the Southwesterly line of said Main Street, a distance of 31.31 feet, more or less, to the point of beginning. The subject premises comprise 6.15 acres, more or less.

Also including as part of this conveyance all of the grantor's right, title and interest in and to a pier commencing at the southwesterly corner of the subject premises and extending in a southeasterly direction into the Piscataqua River.

The above description is based upon a standard boundary survey of land of Cianbro Corporation, prepared by Kenneth D. Markley, Registered Land Surveyor No. 1322, on May 15, 1989. This survey plan is recorded in the York County Registry of Deeds at Plan Book 181, Page 14 and reference is made to said plan for a complete description of the premises herein conveyed.

**TITLE COMMITMENT LEGAL DESCRIPTION, Continued**

Also conveying any property which is generally to the south of the property line located off Main Street, Eliot, County of York and State of Maine, said property line described as follows:

**BEGINNING** at the most northerly corner of land belonging to ALPAT CO., INC., said corner shown as a 1" diameter iron pipe buried 3" (found) on a plan entitled "Standard Boundary Survey and Subdivision Plan for The Taylor Family Estate", prepared by J.A. Davis and Associates, dated 01/12/2001, Scale: 1"=60', recorded at Plan Book 261, Page 23 of the York County Registry of Deeds. Said 1" diameter iron pipe is also southwesterly on a course bearing of South 60 degrees, 57 minutes, 36 seconds West a distance of 268.32 feet from a 3" x 4-1/2" x 9" high, granite bound with drill hole at Main Street, also shown on said plan; thence property line in common continues on a course of South 62 degrees, 29 minutes, 17 seconds West for a distance of 606.46' to a T-Bar with Eastern Surveying, stainless steel cap; thence South 57 degrees, 39 minutes, 35 seconds West for a distance of 478.53 feet to another T-Bar with Eastern Surveying, stainless steel cap; thence on the same course of South 57 degrees, 39 minutes, 35 seconds West for a distance of 73.21' to a rebar and cap set on 12/29/00, and to the low water mark of the Piscataqua River.

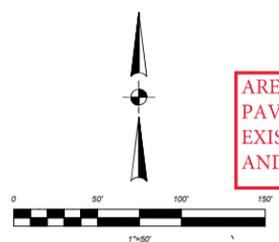
Expressly excluding any property which is generally to the north of the property line described in the immediately preceding paragraph and as more particularly described in a Quitclaim Deed from ALPAT Co. Inc. to Danielle Taylor Hughes, Personal Representative of the Estate of Daniel J. Taylor dated January 18, 2001 and recorded in Book 10404, page 35.

Also hereby conveying an appurtenant easement to benefit the property of ALPAT, Co., Inc., conveyed by this deed and by a prior deed described at Book 5972, Page 209 of the York County

Registry of Deeds, to remaining intertidal land in the Piscataqua River to use any intertidal land currently used for docks, piers, floats, and other currently existing structures in the intertidal land in the Piscataqua River, including with this appurtenant easement the right to access these existing structures for the purpose of repairing, maintaining and accessing and using these structures. This easement shall not permit the installation of any additional structures in intertidal land owned by the Estate of Daniel J. Taylor, Jr., its successors and/or assigns, that do not currently exist.

Said premises are also conveyed together with the benefit of an easement from P&A, LLC to ALPAT, CO, Inc., dated March 26, 2003 over the following described premises: A certain tract or parcel of land located on the southwest side of Main Street, also known as route 103, in the Town of Eliot, County of York and State of Maine, depicted as "PROPOSED RIGHT OF WAY FOR TAX MAP 10 LOT 2" on a certain plan entitled "STANDARD BOUNDARY SURVEY OF TAX MAP 10 LOT 2 & RIGHT OF WAY EXCHANGE PLAN FOR PROPERTIES AT 167 1/2 & 169 MAIN STREET (aka Route 103) Eliot, York County, Maine", dated 1/15/03, by NorthEastern Surveying Inc. and to be recorded in the York County Registry of Deeds, and being more particularly described as follows:

**BEGINNING** at a point on the southwest side of said Main Street at the east corner of land now or formerly of P&A, LLC and thence running South 62°43'41" West a distance of 264.18 feet along land now or formerly of P&A, LLC to an iron pin; thence turning and running North 42°59'15" West a distance of 10.68 feet to a point; thence turning and running North 62°43'19" East a distance of 264.34 feet to the southeast side of said Main Street; thence turning and running South 39°47'49" East along the southwest side of said Main Street a distance of 10.67 feet to the point of beginning.



**IDEAL NEW BOATYARD / MAINTENANCE BUILDING**

**AREA OF NEW PAVEMENT OVER EXISTING GRAVEL AND ASPHALT**

**REMOVE EXISTING BUILDINGS**

**REMOVE STRUCTURES**

**REMOVE WOOD STRUCTURE AND REPLACE WITH NEW**

**REPAVE ENTRY AFTER NEW WATERMAIN INSTALL**

**SURVEYOR CERTIFICATE**

**Owner: MXG II, LLC**  
TAX MAP 10 LOT 2  
Deed: Bk 15270, Pg 710  
267,894± Sq Ft (6.15± Acres)  
to Approx. High Water Mark

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes items 1, 2, 3, 4, 6(a), 6(b), 7(a), 7(b)(1), 7(c), 8, 9, 10, 13, 14, 16, 17, 18 and 19 of Table A thereof. The field work was completed on 09/27/2021.

Date of Plat or Map: 04/05/2022  
EARL N. STROM, PLS 2224

**SURVEY LEGEND**

- SUBJECT PROPERTY BOUNDARY
- ADJACENT PROPERTY BOUNDARY
- CENTERLINE
- EASEMENT AS NOTED
- SETBACK LINE
- CHAIN LINK FENCE
- WOOD RAIL FENCE
- CONCRETE SURFACE
- GRASS/NATURAL GROUND
- WOOD SURFACE
- ASPHALT SURFACE
- RETAINING WALL
- LOW WATER LINE (APPROXIMATE)
- HIGH WATER LINE (APPROXIMATE)
- SPOILAGE PILE
- FOUND MONUMENT AS NOTED
- CALCULATED CORNER LOCATION
- BOLLARD
- WOODEN POST
- UTILITY POLE
- UTILITY POLE WITH DROP
- UNUSED UTILITY POLE WITH SECURITY CAM
- GUY ANCHOR
- ELECTRICAL BOX/CABINET
- GATE MOTOR & ARM
- GATE KEYPAD
- SECURITY CAMERA
- PROPANE
- PROPANE FILL VALVE
- MANHOLE - STORM
- STORM DRAIN GRATE
- WATER VALVE
- WATER SPIGOT
- WATER METER
- SIGN
- MEASURED BEARING/DISTANCE
- CALCULATED BEARING/DISTANCE
- RECORD BEARING/DISTANCE EXHIBIT A PER TITLE
- RECORD BEARING/DISTANCE PER PLAN BOOK 261, PAGE 23

**ZONING DATA**

ZONE V - Village District (Sec. 45-288)		
<b>SETBACKS</b>	<b>REQUIRED</b>	<b>EXISTING</b>
FRONT	30'	>30'
STREET SIDE	20'	N/A
INTERIOR SIDE	20'	>20'
REAR	30'	>30'
<b>BULK</b>	<b>REQUIRED</b>	<b>EXISTING</b>
MIN LOT SIZE	1 acre	267,300 Sq Ft
BUILDING FOOTPRINT	NONE	N/A
REQUIRED WIDTH	110'	29.85'
MAX BUILDING COVERAGE	24%	12%
BUILDING HEIGHT	35'	34'
<b>PARKING</b>	<b>REQUIRED</b>	<b>EXISTING</b>
1 SPACE FOR EACH 150 SQ FT OF RETAIL FLOOR AREA (32,054 Sq Ft / 150=214 spaces)		NO DESIGNATED SPACES AT TIME OF SURVEY

The zoning jurisdiction applicable to the property is the Town of Eliot, Maine.  
Zoning information is from a Zoning Report prepared by: Bureau Veritas 10461 Mill Run Circle, Suite 1100 Owings Mills, Maryland 21117 (800) 733-0660  
Prepared for: Safe Harbor Marinas 14785 Preston Road Dallas, Texas 75254  
BY Project # 152768.21R000 001.259 Dated 10/25/2021  
No representation is made as to the accuracy or completeness of the above third party information shown on this survey. Compliance is beyond the scope of this survey. Any user of said information is urged to contact the local zoning agency directly.

**SURVEYOR'S NOTES**

- The address of the surveyed property is 857 Main Street, Town of Eliot, York County, Maine, 03903.
- Record Owner: MGX II, LLC 3 Bond Rd Kittery, Maine 03905
- The site lies in Flood Zone "X" per FEMA Flood Insurance Rate Map, no. 23014200102, dated 06/05/1999.
- There are no identifiable parking spaces observed on the subject property.
- No evidence of potential wetlands was observed on the subject property at the time the survey was conducted, nor has this surveyor received any documentation of any wetlands being located on the subject property.
- There is visible evidence of the following servitudes: electric utility, water service, gas, and sewer. Visible and above-ground utilities have been depicted on the survey. Utilities should be located as necessary.
- There was no evidence of recent earth moving work, building construction or additions at the time of survey.
- There were no proposed changes to street right-of-way lines per available information, nor evidence of recent street or sidewalk construction or repairs.
- The gross land area of the subject property is 267,894± Sq Ft (6.15± Acres) to Approximate High Water.
- Bearings are based on ME State Plane, West Zone, per GPS observation.
- No bulkhead or seawall observed along the subject property at time of survey.
- At the time of the survey, there was no evidence of any division or party walls.
- The right-of-way width of Main Street is not confirmed, and not depicted on previous surveys.
- At the time of survey, no encroachments were observed onto or beyond the subject premises. See buildings (C) & (D), and (E) & (F).
- The property is contiguous to all public rights-of-way shown hereon, without gaps, gores, or overlapping portions.
- The subject property has direct access to Main Street, aka Route 103.
- The distance from the easternmost property corner to the intersection of Main Street (Route 103) and Greenwood Street is 27.7 feet.
- At the time of the survey, there were seven (7) buildings located on the property. Four (4) of these present as two (2) structures which have odd-ons or are built adjacently, but are counted here separately. See buildings (C) & (D), and (E) & (F).
- At the time of the survey, there was no evidence that the subject property is being used as a solid waste dump, sump, or sanitary landfill.
- At the time of the survey, a cemetery or family burial ground was observed within the subject property as shown hereon (near the northeastern property boundary).
- The number of existing slips/moorings within the subject property is not known.

**NOTES CORRESPONDING TO SCHEDULE B**

- The commitment for title insurance issued by Chicago Title Insurance Company, Commitment No. CHICAGO201480.007(2) with a commitment date of October 25, 2021 contains the following exceptions which are survey matters:
  - Any exception, reservation, restriction, easement or condition set out in the attached Exhibit A. (Items are plotted and shown hereon.)
  - Title to that portion of the property lying below the mean high water mark of the Piscataqua River. (Piscataqua River shown hereon.)
  - Title in and to the land and any structures lying below the low mark of the Piscataqua River. (Features observed/surveyed are shown hereon.)
  - Rights of the upper and lower riparian owners in and to the free and unobstructed flow of water of the Piscataqua River extending through the subject premises, without diminution or pollution. (Piscataqua River shown hereon.)
  - Navigational servitudes and all other statutory and regulatory rights and powers of the United States, the State of Maine, the Town of Eliot and the public over the Piscataqua River and its shorelands extending to the ordinary high water mark thereof and which may be exercised without obligation for compensation to the riparian rights thereof. (Piscataqua River shown hereon.)
  - The consequences of any change in location of the Piscataqua River which forms the southwesterly boundary of the subject premises. (Piscataqua River shown hereon.)
  - Rights, if any, of the public to use as a public beach or recreation area any part of the land lying between the body of water abutting the subject property and the natural line of vegetation, bluff, extreme high water line, or other apparent boundary line separating the publicly used area from the upland private area. (General location shown hereon.)
  - Title to artificially filled land, submerged land and lands lying below the ordinary high water mark of the Piscataqua River is specifically excepted from the coverage of this policy. (Piscataqua River shown hereon.)
  - Rights of others for ingress and egress to an existing cemetery located within the insured premises. (Cemetery shown hereon.)
  - Such state of facts as set forth on a plan entitled "Standard Boundary Survey of Land of Cianbro Corporation, Main Street (Route 103) Eliot, Maine" dated May 15, 1989, prepared by Eastern Surveying and recorded in Plan Book 181, Page 14. (Items are plotted and shown hereon.)
  - Easements and rights as set forth in an Easement Deed from Alpat Co Corporation to Central Maine Power Company and New England Tel. & Tel. Co. dated March 31, 1992 and recorded in Book 6078, Page 199. (Easement and associated appurtenances are plotted and shown hereon.)
  - Such state of facts as set forth on a plan entitled "Standard Boundary Survey and Subdivision for Tax Map No. 10, Lot No. 5, 173 Main Street, Eliot, Maine 03903, York county, Prepared For: Taylor Family Estate, 173 Main Street, Eliot, Maine 03903" dated January 12, 2001, prepared by J.A. Davis & Associates and recorded in Plan Book 261, Page 23. (Previous boundary near the most westerly corner of the subject property is abandoned per this survey, as shown.)
  - Conditions and restrictions for an appurtenant easement as set forth in a Deed of Sale by Personal Representative (Testate) from Danielle Taylor Hughes to ALPAT Co, Inc. dated January 18, 2001 and recorded in Book 10404, Page 33. (Applies to property generally south of the property line indicated hereon; general location of intertidal land shown hereon.)
  - Conditions regarding an appurtenant easement as set forth in an Easement Deed from P J & LLC to ALPAT, Co., Inc., dated March 26, 2003 and recorded in Book 14531, Page 176. (Described easement is plotted and shown; also described in Exhibit A.)

**ENCROACHMENT STATEMENT**

- Buildings lie within setback(s) as shown.
- Building (A): 4.5'
- Building (B): 7.9'
- Building (C): 4.4'
- Building (D): 2.8'

Drawn By: HH Checked By: ENS

DATE: 01/10/2022

NO.	DATE	DESCRIPTION
1	01/15/2022	Address comments
2	02/18/2022	Zoning Information

**SURVEYOR:**  
C S S I  
Commercial Surveying Specialists, Inc.  
357 8th Avenue West  
Braselton, GA 30205  
(405) 202-3001

**SURVEYOR DRAWING NUMBER**  
21-09-027

**SHEET TITLE**  
2022 ALTA/NSPS LAND TITLE SURVEY

**PREPARED FOR:**  
SAFE HARBOR MARINAS, LLC  
14785 Preston Road Suite 975  
Dallas, TX 75254

**PROJECT NUMBER**  
ME-4

**SITE ADDRESS**  
857 MAIN STREET  
ELIOT, ME 03903

**WORK COORDINATED BY:**  
COX LEVIN  
National Land Survey Consultants  
surveys@coxlevin.com  
781-640-3309 - www.coxlevin.com

**SITE NAME**  
ELIOT ME

**SHEET NUMBER**  
1 of 1

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Housing, Tiny Homes, and Accessory Dwelling Units

*Planning Board recommends \_\_\_\_\_ (#-#)*

*Select Board recommends \_\_\_\_\_ (#-#)*

*DRAFT for March 7, 2023 Planning Board review*

**Short title**

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Housing, Tiny Homes, and Accessory Dwelling Units

**Ballot question – Town Meeting and Referendum, June 6, 2023**

ARTICLE #\_\_ : Shall an Ordinance entitled “Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Housing, Tiny Homes, and Accessory Dwelling Units” be enacted?

*(A copy of this ordinance is available in the Town Clerk’s Office)*

**Background and rationale**

These ordinance amendments seek to address the requirements of municipalities in recently-enacted state legislation.

LD1530, codified in state statute in 30-A M.R.S.A. §4363, requires that municipalities “permit a tiny home to be placed or erected on an individual house lot where single-family dwellings are allowed or as an accessory structure, subject to all applicable land use requirements as single-family dwellings or as an accessory structure”. The ordinance amendments accordingly make tiny homes allowable in Section 45-290, the table of permitted and prohibited uses in zoning districts, and in Section 44-34, the associated table for shoreland zoning districts, to the same extent that single-family dwellings are allowable in those tables. Proposed new Section 45-137 includes tiny home regulations. A tiny home definition is added to Section 1-2 to reference the state statutory definition, which generally defines tiny homes as vehicles used as permanent living quarters that do not exceed 400 square feet in size and comply with safety standards for recreational vehicles. This state definition therefore applies to what is sometimes called a “tiny home on wheels”, such as those that can be towed on a roadway.

LD2003, codified in state statute primarily in 30-A M.R.S.A. §§4364, 4364-A, 4364-B, and 4364-C, requires municipalities to change certain zoning and land use regulations toward increasing housing opportunities. The ordinance amendments begin to address these requirements by focusing on changes to the Town’s current regulations on accessory dwelling units (ADUs). They change the Section 1-2 definition of ADUs to mirror state statute. Standards proposed to be removed include the requirement that a dedicated off-street parking space be provided for an ADU, the annual permit maximum for ADUs of 12, and, for the most part, the requirement that detached ADUs meet principal building yard and setback requirements (which are generally 30 ft. to the front and rear lot lines, and 20 ft. to the side lot line). Most detached ADUs would only be required

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Housing, Tiny Homes, and Accessory Dwelling Units

to meet accessory structure yard and setback requirements, which are generally 30 ft. to the front lot line, and 10 ft. to the side and rear lot lines. Also proposed to be changed in accordance with LD2003 is a lowering of the required minimum gross floor area of an ADU from 300 sq. ft. to 190 sq. ft.

The amendments add short-term rental and transient rental platform definitions to Section 1-2, and they place certain restrictions on the use of tiny homes or ADUs for short-term rentals.

To reflect the above-described changes, the amendments make formatting and organizational changes to the existing dimensional standards table in Section 45-405. Tiny homes are added to the table but not given a minimum dwelling unit size. The dimensional standards for signage is broken out into a separate table for easier readability, and some rows in the table(s) are moved around for better organization. In some cases, footnote information is embedded into the table.

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Housing, Tiny Homes, and Accessory Dwelling Units

**New text underlined in bold**

~~Deleted text in strikethrough~~

***[Text in brackets, bold, and italics introduces a large block of new text:]***

*[Text in brackets and italics is a temporary explanatory note]*

Sec. 1-2. - Definitions and rules of construction.

*[abridged to only show changes]*

*[...]*

*Accessory dwelling unit* means ~~a separated living area which is part of an existing or new single family owner occupied residence, and which is clearly secondary to the existing single family use of the home~~ **self-contained dwelling unit located within, attached to, or detached from a single-family dwelling unit located on the same parcel of land. An accessory dwelling unit must meet** and that meets the requirements of section 45-459.

*[...]*

**Short-term rental means living quarters offered for rental through a transient rental platform.**

**State law reference—30-A M.R.S.A. §4364-C**

*[...]*

**Tiny home means “tiny home” as defined by 29-A M.R.S.A. §101(80-C), as may be amended.**

*[State law: “a living space permanently constructed on a frame or chassis and designed for use as permanent living quarters that:*

- A. *Complies with American National Standards Institute standard A 119.5 on plumbing, propane, fire and life safety and construction or National Fire Protection Association standard 1192 on plumbing, propane and fire and life safety for recreational vehicles; [PL 2019, c. 650, §1 (NEW).]*

- B. *Does not exceed 400 square feet in size; [PL 2019, c. 650, §1 (NEW).]*

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Housing, Tiny Homes, and Accessory Dwelling Units

*C. Does not exceed any dimension allowed for operation on a public way under this Title; and [PL 2019, c. 650, §1 (NEW).]*

*D. Is a vehicle without motive power. [PL 2019, c. 650, §1 (NEW).]*

*“Tiny home” does not include a trailer, semitrailer, camp trailer, recreational vehicle or manufactured housing.”]*

[...]

**Transient rental platform means “transient rental platform” as defined by 36 M.R.S.A. §1752(20-C), as may be amended.**

[...]

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Housing, Tiny Homes, and Accessory Dwelling Units

Sec. 44-34. – Table of land uses.

*[draft table, not yet updated to include November 2022 amendments]*

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

Abbreviations:

RP	-	Resource protection
LR	-	Limited residential
LC	-	Limited commercial
GD	-	General development
SP	-	Stream protection

The following notes are applicable to the land uses table on the following page:

Note: The term "functionally water-dependent use" as defined, includes a very diverse group of uses ranging from large, industrial facilities that receive shipments by water or use water for cooling, to traditional commercial fishing enterprises, and public waterfront parks.

Table 1. Land Uses in the Shoreland Zone

	Districts				
Land Uses	SP	RP	LR	LC	GD
Uses or Activities Without Structures					

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Housing, Tiny Homes, and Accessory Dwelling Units

(1)	Clearing of vegetation for activities other than timber harvesting	CEO	CEO <sup>1</sup>	CEO	CEO	CEO
(2)	>Emergency operations	yes	yes	yes	yes	yes
(3)	Fire prevention activities	yes	yes	yes	yes	yes
(4)	Forest management activities, except for timber harvesting and land management roads	yes	yes	yes	yes	yes
(5)	Mineral exploration	no	no	no	yes <sup>2</sup>	yes <sup>2</sup>
(6)	Mineral extraction, including sand and gravel extraction	no	no	no	SPR	SPR
(7)	Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes
(8)	Nonintensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes	yes
(9)	Soil and water conservation practices	yes	yes	yes	yes	yes
(10)	Surveying and resource analysis	yes	yes	yes	yes	yes
(11)	Wildlife management practices	yes	yes	yes	yes	yes
Principal Structures or Uses						
(12)	Principal structures and uses:					
	a. One- and two-family residential	SPR <sup>4</sup>	SPR <sup>9</sup>	CEO	CEO	CEO
	<b>b. <u>Tiny home</u></b>	<b><u>SPR<sup>4</sup></u></b>	<b><u>SPR<sup>9</sup></u></b>	<b><u>CEO</u></b>	<b><u>CEO</u></b>	<b><u>CEO</u></b>
	<del>b.</del> Multifamily dwelling	no	no	SPR	SPR	SPR
	<del>c.</del>					
	<del>e.</del> <b><u>d.</u></b> Commercial (not listed elsewhere)	no <sup>13</sup>	no <sup>13</sup>	no <sup>13</sup>	SPR	SPR <sup>5</sup>
	<del>d.</del> <b><u>e.</u></b> Industrial	no	no	no	no	SPR

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Housing, Tiny Homes, and Accessory Dwelling Units

	e. f.	Governmental and institutional	no	no	no	SPR	SPR
	f. g.	Small nonresidential facilities for educational, scientific or nature interpretation purposes	SPR <sup>4</sup>	SPR	CEO	CEO	CEO
(13)		Agriculture	CEO	SPR	CEO	CEO	CEO
(14)		Aquaculture	SPR <sup>10</sup>	SPR <sup>10</sup>	SPR <sup>10</sup>	SPR	Yes
(15)		Auto graveyard	no	no	no	no	no
(16)		Auto hobbyist storage area	no	no	no	no	no
(17)		Auto junkyard	no	no	no	no	no
(18)		Auto recycling operation, limited	no	no	no	no	no
(19)		Auto recycling operation, principal	no	no	no	no	no
(20)		Bed and breakfast	no	no	SPR <sup>10</sup>	SPR <sup>10</sup>	SPR
(21)		Boardinghouse	no	no	SPR <sup>10</sup>	SPR	SPR
(22)		Campgrounds	no	no <sup>7</sup>	no	no	SPR
(23)		Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI
(24)		Fireworks sales	no <sup>17</sup>	no <sup>17</sup>	no <sup>17</sup>	no <sup>17</sup>	no <sup>17</sup>
(25)		Gambling Casino	no	no	no	no	no
(26)		Marijuana establishment					
	a.	Marijuana store	no	no	no	SPR	SPR
	b.	Marijuana cultivation facility	no	no	no	SPR	SPR
	c.	Marijuana products manufacturing facility	no	no	no	no	SPR
	d.	Marijuana testing facility	no	no	no	SPR	SPR

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Housing, Tiny Homes, and Accessory Dwelling Units

(27)	Marinas						
	a.	Full service	no	no	no	no	SPR
	b.	Limited	no	no	no	SPR	SPR
(28)	Medical marijuana establishment						
	a.	Medical marijuana dispensary	no	no	no	SPR	SPR
	b.	Medical marijuana cultivation facility	no	no	no	SPR	SPR
	c.	Medical marijuana caregiver retail store	no	no	no	SPR	SPR
	d.	Medical marijuana products manufacturing facility	no	no	no	no	SPR
	e.	Medical marijuana testing facility	no	no	no	SPR	SPR
(29)	Off-site parking		no	no <sup>7</sup>	no	no	no
(30)	Public and private recreational areas involving minimal structural development		SPR	SPR	SPR	SPR	CEO
(30.5)	Solar energy system; larger-scale		no	no	no	no	no
<p><i>[^This numbering is how it looks in Municode now, but fixing the numbering was accomplished by November 2022 solar energy system ordinance amendments. Municode should be updated soon.]</i></p>							
Accessory Structures or Uses							
(31)	Structures accessory to allowed uses, not otherwise listed		SPR <sup>4</sup>	SPR	CEO	CEO	CEO
(32)	Essential services		SPR <sup>6</sup>	SPR <sup>6</sup>	SPR	SPR	SPR
	a.	Roadside distribution lines (34.5kV and lower)	CEO <sup>6</sup>	CEO <sup>6</sup>	yes <sup>12</sup>	yes <sup>12</sup>	yes <sup>12</sup>
	b.	Non-roadside or cross-country distribution lines	SPR <sup>6</sup>	SPR <sup>6</sup>	CEO	CEO	CEO

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Housing, Tiny Homes, and Accessory Dwelling Units

		involving ten poles or less in the shoreland zone					
	c.	Non-roadside or cross-country distribution lines involving 11 or more poles in the shoreland zone	SPR <sup>6</sup>	SPR <sup>6</sup>	SPR	SPR	SPR
	d.	Other essential services	SPR <sup>6</sup>	SPR <sup>6</sup>	SPR	SPR	SPR
(33)	Fences		yes <sup>11A</sup>				
(34)	Filling and earthmoving of < 10 cubic yards		CEO	CEO	yes	yes	yes
(35)	Filling and earthmoving of > 10 cubic yards		SPR	SPR	CEO	CEO	CEO
(36)	Home business		no <sup>12A</sup>	no <sup>12A</sup>	SPR <sup>10A</sup>	SPR <sup>10A</sup>	no
(37)	Home occupations; regular and water-dependent		no	no	no	no	no
(38)	Home Office		CEO	no	CEO	CEO	CEO
(39)	Individual, private campsites		CEO	CEO	CEO	CEO	CEO
(40)	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 <sup>11</sup>				
	b.	Permanent residential	SPR	SPR	SPR	SPR	SPR
	c.	Permanent commercial	SPR <sup>14</sup>	SPR <sup>14</sup>	SPR <sup>14</sup>	SPR	SPR
	d.	Limited commercial	SPR <sup>5</sup>	SPR <sup>5</sup>	SPR <sup>5</sup>	SPR	no
(41)	Private sewage disposal systems for allowed uses		LPI	LPI	LPI	LPI	LPI
(42)	Road and driveway construction		SPR	no <sup>8</sup>	SPR	SPR	SPR
(43)	Service drops, as defined, to allowed uses		yes	yes	yes	yes	yes

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Housing, Tiny Homes, and Accessory Dwelling Units

(44)	Signs.	yes <sup>9A</sup>				
(45)	Solar energy system, small-scale ground-mounted or roof mounted	CEO <sup>15</sup>				
(46)	Small wind energy system	SPR <sup>16</sup>				
(47)	Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO
(48)	Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO
(49)	Uses similar to uses requiring a SPR permit	SPR	SPR	SPR	SPR	SPR
(50)	Waste containers	CEO <sup>5A</sup>				

Footnotes:

<sup>1</sup> In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

<sup>2</sup> Requires permit from the code enforcement officer if more than 100 square feet of surface area, in total, is disturbed.

<sup>3</sup> In RP not allowed in areas so designated because of wildlife value.

<sup>4</sup> Provided that a variance from the setback requirement is obtained from the board of appeals.

<sup>5</sup> Functionally water-dependent uses and uses accessory to such water dependent uses only (see note on previous page).

<sup>5A</sup> Only as an accessory use to an allowed principal use on the lot. Must conform to the requirements of [section] 45-422, Waste containers.

<sup>6</sup> See further restrictions in subsection 44-35(1)(2), essential services.

<sup>7</sup> Except when area is zoned for resource protection due to floodplain criteria in which case a site plan review is required from the planning board.

<sup>8</sup> Except as provided in subsection 44-35(h).

<sup>9</sup> Single family residential structures may be allowed by special exception only according to the provisions of subsection 44-44(f), Special exceptions. Two-family residential structures are prohibited.

<sup>9A</sup> See sign ordinance section.

<sup>10</sup> Except for commercial uses otherwise listed in this table, such as marinas and campgrounds, that are allowed in the respective district.

<sup>10A</sup> Must conform to the requirements of section 45-456.1, Home business.

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<sup>11</sup> Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

<sup>11A</sup> Must conform to the requirements of section 45-423, Fences.

<sup>12</sup> Permit not required, but must file a written "notice of intent to construct" with CEO.

<sup>12A</sup> "No" except in conjunction with aquaculture, small nonresidential facilities for educational, scientific or nature interpretation purposes or limited commercial piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water line or within a wetland.

<sup>13</sup> Use is "No" except when permitted under another specific land use entry.

<sup>14</sup> Only commercial aquaculture allowed on piers in this zone, with no other commercial pier uses. Pier must meet the requirements of a residential pier in these zones.

Note: A person performing any of the following activities shall require a permit from the department of environmental protection, pursuant to title 38, M.R.S.A. section 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

- a. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- b. Draining or otherwise dewatering;
- c. Filling, including adding sand or other material to a sand dune; or
- d. Any construction or alteration of any permanent structure.

<sup>15</sup> Must conform to the requirements of section 45-462.

<sup>16</sup> Must conform to the requirements of section 45-461.

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

(T.M. of 11-06-2018(3); T.M. of 7-14-2020(4) ; T.M. of 6-8-2021(2) , art. 33; T.M. of 6-8-2021(3) , art. 36; T.M. of 6-8-2021(4) , art. 31; T.M. of 6-14-2022(2) , art. 25)

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Housing, Tiny Homes, and Accessory Dwelling Units

Sec. 45-290. – Table of permitted and prohibited uses.

*[additional changes to this section are proposed by other draft ordinance amendments]*

The following table of land uses designates permitted uses by a yes and prohibited uses by a no. Any use not listed is a prohibited use. The letters CEO, SPR, and SD are explained in section 45-402.

*Table of Land Uses*

Land uses	R	S	V	C/I
Accessory dwelling unit	CEO	CEO	CEO	CEO
Agriculture, except animal breeding and care	yes	yes	yes	no
Animal breeding	yes <sup>1</sup>	12	SPR <sup>1&amp;8</sup>	no
Animal husbandry	yes <sup>1</sup>	yes <sup>1</sup>	yes <sup>1</sup>	no
Apartment house, see multiple-family dwelling	—	—	—	—
Apartment, see single-family dwellings	—	—	—	—
Aquaculture	13	13	SPR <sup>8</sup>	no
Assisted living facility	no	SPR/SD	SPR/SD	SPR/SD
Auto graveyards	SPR	no	no	no
Auto hobbyist storage area	SPR	SPR	no	no
Auto junkyard	no	no	no	no
Auto recycling business	9	9	no	SPR
Auto recycling operation, principal	9	no	no	SPR
Auto recycling operation, limited	9	9	no	SPR
Auto repair garages	14	14	SPR <sup>8</sup>	SPR
Auto service stations	no	9	no	SPR
Banks	no	no	SPR	SPR
Bathhouse	11	11	no	no
Bathing beach	yes	yes	yes	no
Bed and breakfasts	14	14	SPR <sup>8</sup>	SPR

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Housing, Tiny Homes, and Accessory Dwelling Units

Boarding homes, see lodging businesses	—	—	—	—
Boarding kennel	no	no	no	SPR
Bulk oil fuel tanks	no	no	no	SPR <sup>2</sup>
Business office	14	14	SPR <sup>8</sup>	SPR
Campgrounds	SPR	no	no	no
Cemeteries	SPR	SPR	SPR	no
Clearing	yes	yes	yes	yes
Clinics	no	no	no	SPR
Clustered housing	SPR	no	no	no
Commercial adult enterprise	no	no	no	SPR
Commercial establishment, 2 or more where allowed	-	9	no	SPR
Day nurseries	SPR	16	SPR <sup>8</sup>	SPR
Earth material removal, less than 100 cubic yards 100 cubic yards or greater	yes SPR	yes SPR	yes SPR	yes SPR
Elderly housing	no	SPR/SD	SPR/SD	SPR/SD
Emergency operations	yes	yes	yes	yes
Equipment storage, trucks, 3 or more	no	no	no	yes
Essential services	yes	yes	yes	yes
Expansion of an existing telecommunication structure or collocation of antenna on a existing telecommunication structure or alternate tower structure	CEO	CEO	CEO	CEO
Farm equipment stores	SPR	10	no	SPR
Fences	yes <sup>5</sup>	yes <sup>5</sup>	yes <sup>5</sup>	yes <sup>5</sup>
Firewood sales	yes	13	SPR <sup>8</sup>	yes
Fireworks sales	no <sup>19</sup>	no <sup>19</sup>	no <sup>19</sup>	no <sup>19</sup>
Forest management, except timber harvesting	yes	yes	yes	yes
Funeral establishment	no	no	SPR	SPR
Gambling casino	no	no	no	no

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Housing, Tiny Homes, and Accessory Dwelling Units

Gardening	yes	yes	yes	yes
Gasoline stations	no	9	no	SPR
Governmental buildings or uses	SPR	SPR	SPR	SPR
Grain or feed stores	SPR	10	no	SPR
Harvesting wild crops	yes	yes	yes	yes
Home business	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR <sup>8</sup>	no
Home occupations	10	10	no	no
Home office	CEO	CEO	CEO	CEO
Hospitals	no	no	no	SPR
Indoor commercial, recreational and amusement facilities	no	no	no	SPR
Industrial and business research laboratory	no	no	no	SPR
Industrial establishments and uses	no	no	no	SPR
Institutional buildings and uses, indoor	no	9	no	no
Junkyards	no	no	no	no
Landfill, dump	no	no	no	no
Libraries	SPR	SPR	SPR	SPR
Life care facility	no	SPR/SD	SPR/SD	SPR/SD
Lodging businesses, including bed and breakfasts, boarding homes or houses, hotels, inns, lodginghouses, rooming homes, and the like	14	14	SPR <sup>8</sup>	SPR
Manufacturing	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR
Marijuana establishment*	no	no	no	SPR <sup>20</sup>
Medical marijuana establishment*	no	no	no	SPR <sup>20</sup>
Mobile home parks	SPR/ SD <sup>7</sup>	SPR/SD <sup>7</sup>	SPR/SD <sup>7</sup>	no
Motel	no	no	no	SPR
Multiple-family dwelling	no	SPR	SPR	no
Museums	SPR	SPR	SPR	SPR

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Housing, Tiny Homes, and Accessory Dwelling Units

New construction of telecommunication structure 70 feet and higher	9	9	no	SPR
New construction of telecommunication structure less than 70 feet high	CEO	CEO	CEO	CEO
Nurseries, plants	CEO	17	SPR <sup>8</sup>	no
Nursing facility	no	SPR	SPR	SPR
Off-site parking	no	no	no	no
Parks	SPR	SPR	SPR	no
Places of worship	SPR	SPR	SPR	SPR
Playgrounds	SPR	SPR	SPR	no
Printing plant	14	14	SPR <sup>8</sup>	SPR
Produce and plants raised locally, seasonal sales	yes	yes	yes	no
Professional offices	14	14	SPR <sup>8</sup>	SPR
Public utility facilities	SPR	SPR	SPR	SPR
Recreational facilities, nonintensive	SPR	SPR	SPR	no
Recreational use not requiring structures	SPR	yes	yes	no
Restaurant	9	9	SPR <sup>8</sup>	SPR
Restaurant, takeout	no	no	no	SPR
Retail stores, local, other	18	18	SPR <sup>8</sup>	SPR
Road construction	CEO	CEO	CEO	SPR
Schools	SPR	SPR	SPR	SPR
Sewage disposal systems, private	CEO	CEO	CEO	CEO
Signs, 6 square feet	CEO	CEO	CEO	CEO
Signs, other	CEO	CEO	CEO	CEO
Single-family dwellings	CEO	CEO	CEO	no <sup>6</sup>
Small wind energy system	SPR	SPR	SPR	SPR
Solar energy system, small-scale ground mounted or roof-mounted	CEO <sup>21</sup>	CEO <sup>21</sup>	CEO <sup>21</sup>	CEO <sup>21</sup>

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Housing, Tiny Homes, and Accessory Dwelling Units

Solar energy system, larger-scale	SPR <sup>21</sup>	SPR <sup>21</sup>	no	SPR <sup>21</sup>
Surveying and resource analysis	yes	yes	yes	yes
Timber harvesting	yes	yes	yes	yes
<b><u>Tiny homes</u></b>	<b><u>CEO<sup>22</sup></u></b>	<b><u>CEO<sup>22</sup></u></b>	<b><u>CEO<sup>22</sup></u></b>	<b><u>no<sup>22</sup></u></b>
Truck terminals and storage	no	no	no	SPR
Two-family dwellings	CEO	CEO	CEO	no <sup>6</sup>
Veterinary hospital	15	15	No	SPR
Warehouse	no	no	no	SPR
Waste containers	CEO <sup>3</sup>	CEO <sup>3</sup>	CEO <sup>3</sup>	CEO <sup>3</sup>
Wholesale	no	no	no	SPR
Wholesale business facilities	no	no	no	SPR
Uses similar to allowed uses	CEO	CEO	CEO	CEO
Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO
Uses similar to uses requiring a planning board permit	SPR	SPR	SPR	SPR

\*Marijuana establishment and medical marijuana establishment are defined in section 11-3 of this Code.

*Notes:*

1. Buildings housing animals shall be no less than 100 feet from property lines.
2. Each bulk oil fuel tank shall not exceed 50,000 gallons in size and use shall be limited to local use only.
3. Only as an accessory to an allowed principal use on the lot. Must conform to the requirements of 45-422, Waste containers.
4. Individual stores shall not have more than 2,500 square feet of gross floor area, except stores located on Route 236 may have up to 5,000 square feet. Customer sales areas shall be confined to one floor.
5. Must conform to the requirements of section 45-423.
6. See section 45-192(b) for an exception on accessory uses and structures.
7. See division 2 of article V of chapter 41 of this Code for specific areas where mobile home parks are allowed.

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Housing, Tiny Homes, and Accessory Dwelling Units

8. Must conform to the requirements of section 45-456.1 Home business.
9. Use is prohibited unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) non-commercial properties.
10. Use is prohibited unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) non-commercial properties.
11. Use is prohibited unless property abuts Route 236. If property abuts Route 236, use is "CEO" and must be visually screened from abutting (same street side) non-commercial properties.
12. Use is "SPR 1 & 8" unless property abuts Route 236. If property abuts Route 236, use is "SPR 1" and must be visually screened from abutting (same street side) non-commercial properties.
13. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "yes" and must be visually screened from abutting (same street side) non-commercial properties.
14. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) non-commercial properties.
15. Use is prohibited unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) non-commercial properties in accordance with Sec. 33-175(a). Overnight boarding and outdoor kenneling of animals is prohibited in the rural and suburban zoning districts.
16. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) noncommercial properties.
17. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "CEO" and must be visually screened from abutting (same street side) noncommercial properties.
18. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "SPR 4" and must be visually screened from abutting (same street side) noncommercial properties.
19. See chapter 12 for additional regulations pertaining to the sale and use of fireworks.
20. Must conform to the requirements of section 33-190. Marijuana establishments and medical marijuana establishments may only be authorized as principal uses, and not as accessory uses.
21. Must conform to the requirements of section 45-462.

**22. May be permitted as a principal residential unit or as an accessory dwelling unit. All tiny homes shall conform to the requirements of Section 45-137. Accessory dwelling unit tiny homes shall also conform to the requirements of Section 45-459. For tiny homes in the C/I zoning district, reference footnote 6.**

(T.M. of 11-2-82; T.M. of 6-26-85; T.M. of 11-23-85; T.M. of 11-4-86; T.M. of 4-21-87; T.M. of 3-19-88; T.M. of 12-20-89, (§ 207); T.M. of 12-15-93; Amend. of 3-25-95; T.M. of 3-27-99(1), § 5; Ord. of 3-25-00(1); T.M. of 3-16-02, (art. 3), (art. 4); T.M. of 6-19-01, (art. 6), (art. 7); T.M. of 11-5-02; T.M. of 11-4-03; T.M. of 11-4-03; T.M. of 3-20-04; T.M. of 6-14-08; T.M. of 6-12-2010(3); T.M. of 6-18-2011(6); T.M. of 11-8-2011; T.M. of 6-16-2012(1); T.M. of 6-16-2012(2);

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T.M. of 11-5-2019(5); T.M. of 7-14-2020(5) ; T.M. of 6-8-2021(2) , art. 33; T.M. of 6-8-2021(4) , art. 31; T.M. of 11-2-2021(4) , art. 5; T.M. of 6-14-2022(2) , art. 25)

Cross reference(s)—Review procedures and standards for site review requirements in the zoning table of uses, § 33-56 et seq.

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Housing, Tiny Homes, and Accessory Dwelling Units

Sec. 45-405. Dimensional standards.

[DRAFT table]

(a) Lots and structures in all districts shall meet or exceed the following minimum requirements:

District	Rural	Suburban	Village	C/I	MHP
Min. lot size ( <del>acres or ft.<sup>2</sup></del> ), <b><u>acres (ac) or square feet (ft<sup>2</sup>)</u></b>	<b><u>3 ac</u></b>	<b><u>2 ac</u></b>	<b><u>1 ac</u></b>	<b><u>3 ac</u></b>	6,500 ft <sup>2</sup> n 12,000 ft <sup>2</sup> n 20,000 ft <sup>2</sup> n
<b><u>Min. street frontage (ft.)<sup>1</sup></u></b>	<b><u>200</u></b>	<b><u>150</u></b>	<b><u>100</u></b>	<b><u>300</u></b>	<b><u>50/75/100<sup>n</sup></u></b>
<b><u>Min. street frontage: back lots</u></b>	<b><u>m</u></b>	<b><u>m</u></b>	<b><u>m</u></b>		
<b><u>Min. area per dwelling unit, acres (ac)</u></b>					
<i>[The below min. area per dwelling unit rows have moved up in the table. Struckthrough rows are near the end of the table.]</i>					
<b><u>1 unit</u></b>	<b><u>3 ac</u></b>	<b><u>2 ac</u></b>	<b><u>1 ac</u></b>	<b><u>=</u></b>	<b><u>0</u></b>
<b><u>2 units</u></b>	<b><u>6 ac</u></b>	<b><u>4 ac</u></b>	<b><u>2 ac</u></b>	<b><u>=</u></b>	<b><u>=</u></b>
<b><u>Each additional unit</u></b>	<b><u>3 ac</u></b>	<b><u>1 ac</u></b>	<b><u>½ ac<sup>g</sup></u></b>	<b><u>=</u></b>	<b><u>=</u></b>
<b><u>Assisted living facility</u></b>	<b><u>=</u></b>	<b><u>s</u></b>	<b><u>s</u></b>	<b><u>s</u></b>	<b><u>=</u></b>
<b><u>Elderly housing</u></b>	<b><u>=</u></b>	<b><u>g</u></b>	<b><u>g</u></b>	<b><u>g</u></b>	<b><u>=</u></b>
<b><u>Life care facility</u></b>	<b><u>=</u></b>	<b><u>t</u></b>	<b><u>t</u></b>	<b><u>t</u></b>	<b><u>=</u></b>
Min. yard dimensions (ft.)					
Front yard	30	30 <sup>p</sup>	30 <sup>p</sup>	50 <sup>a,p</sup> 30	20 <sup>o</sup>
Side yards	20	20 <sup>p</sup>	20 <sup>p</sup>	20 <sup>p</sup> 100 <sup>b</sup>	20 <sup>o</sup>
Rear yard	30	30 <sup>p</sup>	30 <sup>p</sup>	20 <sup>p</sup> 100 <sup>b</sup>	10 <sup>o</sup>
Accessory building <sup>c</sup>					
Front yard setback	30	30	30	50 <sup>a</sup> 30 <sup>a</sup>	5 <sup>o</sup>

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Side and rear yard setback	10	10	10	20 100 <sup>b</sup>	5°
Accessory dwelling unit	u	u	u	u	—
Max. height (ft.)	35	35	35	55 <sup>d</sup>	35
Max. lot coverage (%)	10	15 <sup>q</sup>	20 <sup>q</sup>	50 <sup>q</sup>	50°
Setback-normal high water mark (feet) <sup>e</sup>	75	75	75	75	75
Dwelling units:					
<b><u>Min. size (sq. ft. per unit):</u></b>					
Min. size (sq. ft. per unit)	650 <sup>g</sup>	650 <sup>g,f</sup>	650 <sup>g,f</sup>	f	650
<b><u>Accessory dwelling unit (ADU)</u></b>	<b><u>u</u></b>	<b><u>u</u></b>	<b><u>u</u></b>	<b><u>u</u></b>	<b><u>—</u></b>
<b><u>Assisted living facility</u></b>	<b><u>—</u></b>	<b><u>300</u></b>	<b><u>300</u></b>	<b><u>300</u></b>	<b><u>—</u></b>
<b><u>Federal or state elderly housing, other than assisted living facility</u></b>	<b><u>—</u></b>	<b><u>No min.</u></b>	<b><u>No min.</u></b>	<b><u>No min.</u></b>	<b><u>—</u></b>
<b><u>Mobile home park units</u></b>	<b><u>—</u></b>	<b><u>—</u></b>	<b><u>—</u></b>	<b><u>—</u></b>	<b><u>650</u></b>
<b><u>Tiny home</u></b>	<b><u>r</u></b>	<b><u>r</u></b>	<b><u>r</u></b>	<b><u>r</u></b>	<b><u>—</u></b>
<b><u>All other units</u></b>	<b><u>650</u></b>	<b><u>650</u></b>	<b><u>650</u></b>	<b><u>650</u></b>	<b><u>—</u></b>
Min. area (acres):					
1 unit	3	2	1	—	e
2 units	6	4	2	—	—
Each additional unit	3	1	½ <sup>g</sup>	—	—
Assisted living facility	—	s	s	s	—
Elderly housing	—	g	g	g	—

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Life care facility	—	‡	‡		‡	—
Max. number of principal structures per lot	h	h	h		v	1

**(b) Signs in all districts shall meet or exceed the following minimum requirements:**

*[The below rows have been separated out to this separate table. Struckthrough rows are included in the previous table.]*

Signs:					
<b><u>District</u></b>	<b><u>Rural</u></b>	<b><u>Suburban</u></b>	<b><u>Village</u></b>	<b><u>C/I</u></b>	<b><u>MHP</u></b>
Max. sign area (sq. ft.)	6	6	6	100	6
Max. sign area (sq. ft.), commercial establishments only	12	12	12	100 <sup>i</sup>	12
Max. sign area (sq. ft.), new residential subdivisions	50 <sup>j</sup>	50 <sup>j</sup>	50 <sup>j</sup>		50 <sup>l</sup>
Min. setback (ft.) (front lot line only)	8 <sup>k</sup>	8 <sup>k</sup>	8 <sup>k</sup>	-- <sup>k</sup>	8 <sup>k</sup>
Min. st. frontage (ft.) <sup>†</sup>	200	150	100	300	50/75/100 <sup>m</sup>
Backlots <sup>m</sup>					

*Notes:*

- a. A front yard abutting a state or town road shall have a minimum depth of 50 feet from the right-of-way line. A front yard abutting an interior street within the proposed site shall have a minimum depth of 30 feet from the right-of-way line. All parking areas shall conform to setback requirements.
- b. All side and rear yards abutting an existing residential use shall have a minimum depth of 100 feet from the side or rear lot lines.
- c. Accessory buildings shall be located no less than 30 feet from any principal buildings on adjacent property.
- d. Rooftop antennas and other telecommunications structures shall conform to the requirements of sections 33-185 and 45-460. Steeples and spires shall be exempt from maximum height requirements.
- e. Setbacks and setback measurements in shoreland zones shall follow requirements of chapter 44.

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f. (Reserved.)

g. The minimum acreage for elderly housing in all districts, where allowed, shall be one acre for the first dwelling unit and one quarter acre for each additional unit. Minimum acreage requirements shall revert back to dwelling unit requirements if elderly housing is discontinued. ~~Dwelling unit minimum size (square feet per unit) requirements do not apply to federal or state elderly housing.~~

h. In the rural, suburban and village districts, more than one principal structure may be located on a single lot, provided each such structure is located in such a fashion that it could be separately conveyed on a separate lot in compliance with all dimensional requirements of the district (except that any lawfully existing structure which does not meet all minimum dimensional requirements may continue that nonconformity).

i. See section 45-528(c) for other requirements applicable to two or more commercial or industrial establishments under separate ownership on one parcel within the commercial/industrial district.

j. Signs identifying subdivisions of ten or more lots shall be posted at the entrance of the subdivision and shall be approved by the planning board. Signs shall contain only the name of the subdivision.

k. See section 45-532 for additional sign placement requirements.

l. Street frontage shall be measured along one street. The planning board is authorized to vary frontage requirements for new subdivisions according to section 41-255(g). Such lots shall be treated as conforming lots for the purpose of this chapter.

m. Back lot requirements are contained in section 45-466.

n. Lots within a mobile home park shall be a minimum of:

6,500 feet<sup>2</sup> if served by public sewer. Minimum lot width is 50 feet.

12,000 feet<sup>2</sup> if served by central subsurface wastewater disposal approved by the state department of human services. Overall density of park, including road rights-of-way and buffer strips shall be 20,000 feet<sup>2</sup> per dwelling. Minimum lot width is 75 feet.

20,000 feet<sup>2</sup> if served by onsite subsurface wastewater disposal. Minimum lot width is 100 feet.

o. See section 41-276 et seq. for specific requirements.

p. Elderly housing, nursing facility, assisted living facility and life care facility shall have setbacks of 50 feet from lot line or 100 feet from residential dwelling unit, whichever is greater.

q. Life care facility shall have a maximum lot coverage of 50 percent. Elderly housing, nursing facility or assisted living facility individually shall have a maximum lot coverage of 35 percent.

r. ~~Each dwelling unit in an assisted living facility shall have a minimum of 300 square feet.~~

**All tiny homes shall conform to the requirements of Section 45-137. Accessory dwelling unit tiny homes shall also conform to the requirements of Section 45-459.**

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s. One acre for the first dwelling unit and then one-fifteenth acre for each additional dwelling unit provided all other dimensional requirements are met.

t. One acre for the first dwelling unit and then one-fifteenth acre for each additional assisted living facility dwelling unit plus one-fourth acre for each additional elderly housing dwelling unit plus district acreage requirement (1-village, 2-surburban, 3-C/I) for each single family dwelling unit provided all other dimensional requirements are met.

*Example:* A 15-acre suburban district lot could contain three single family dwelling units (five acres) plus 61 assisted living facility dwelling units (five acres) plus 17 elderly housing dwelling units (five acres) plus a nursing facility (0 acres) provided all dimensional requirements are met.

u. See section 45-459 for requirements.

v. In the C/I district, more than one principal structure may be located on a single lot which meets the minimum lot size and street frontage requirements for the district. Each such structure must maintain required yards adjacent to the front, side, and rear lot lines and must be located no closer than 20 feet (as viewed from the front lot line) to any other such structure on the lot. Such structures need not comply separately with the minimum lot size and frontage requirements, but the aggregate of all the structures on the lot shall not exceed the maximum lot coverage requirement. Nonconforming lots of record, with existing commercial structures, at the time of adoption of this section change may also contain more than one principal structure provided the setback and expansion requirements are met. Separation of structures shall not be less than 20 feet.

(T.M. of 11-2-82; T.M. of 6-26-85; T.M. of 11-23-85; T.M. of 11-4-86; T.M. of 4-21-87; T.M. of 3-19-88; T.M. of 12-20-89, (§ 305); T.M. of 12-15-93; Amend. of 3-26-94; Ord. of 3-25-00(1); T.M. of 6-19-01, (art. 8); T.M. of 3-16-02, (art. 4); T.M. of 11-5-02; T.M. of 6-14-05; T.M. of 6-18-2011(5); T.M. of 6-14-2016(1); T.M. of 11-6-2018(5).....)

Cross reference(s)—Requirements unique to mobile home park subdivisions, § 41-276 et seq.; other district regulations, § 45-286 et seq.

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***[Add a new section:]***

Sec. 45-137. – Tiny homes

- (a) Tiny homes:
  - (1) Shall be placed on a set location on the lot, meeting applicable standards in Section 45-405 and, if used as an accessory dwelling unit, Section 45-459;
  - (2) Shall be connected to a public water system or well; and
  - (3) Shall be served by a public sewer or a subsurface sewage disposal system.
- (b) In addition to other permitting requirements, tiny home building permit applications shall:
  - (1) include documentation of motor vehicle title; and
  - (2) indicate whether the tiny home is proposed to be established as a principal dwelling unit or an accessory dwelling unit.
- (c) A tiny home established as a principal dwelling unit:
  - (1) may not be used as a short-term rental; and
  - (2) is subject to the growth management and growth permit requirements of Chapter 29.
- (d) No more than one tiny home shall be placed on a lot, unless the lot meets the dimensional standards in Section 45-405. If a lot has a tiny home established as a principal dwelling unit, a second tiny home may not be permitted on the same lot as an accessory dwelling unit.
- (e) A person who temporarily locates a tiny home on a lot in the town shall notify the Code Enforcement Officer in writing and indicate their intention for the use of the tiny home. The Code Enforcement Officer may permit a temporary use or occupancy of the tiny home consistent with the Town Code and applicable building codes. However, in no case shall a tiny home be used for temporary residential occupancy on the same lot, or on a contiguous lot under the same ownership, for more than 180 days in a five-year period. For the purpose of this section, “temporary residential occupancy” means that the tiny home is being used as living quarters without meeting the requirements of subsection (a) of this section. A tiny home used for temporary residential occupancy, if permitted, shall not be used as a short-term rental.

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Sec. 45-459 – Accessory dwelling unit

- (a) ~~An accessory dwelling unit (ADU) is a small apartment which is part of an existing or new single family owner-occupied home, and which is clearly secondary to the single family home. The accessory dwelling unit may be rented so that the owner-occupant may benefit from the additional income. The owner may also elect to occupy the accessory dwelling unit and rent the principal dwelling unit.~~
- (b) Owner-occupied means that either the principal dwelling unit or the accessory dwelling unit is occupied by a person who has a legal or equitable ownership interest in the property and bears all or part of the economic risk of decline in value of the property and who receives all or part of the remuneration, if any, derived from the lease or rental of the dwelling unit.
- (c) An accessory dwelling unit may be permitted as an accessory use to a single family home under the following conditions:
  - (1) Only one accessory dwelling unit (ADU) is permitted per lot. The accessory dwelling unit shall be located in the same building as the principal dwelling unit or in a building accessory to the principal dwelling unit. ~~Any structure containing an accessory dwelling unit must meet minimum yard and setback requirements for principal structures.~~
  - (2) A building permit for the proposed construction of a new ADU or the creation of a new ADU within an existing building, must be issued by the CEO. Planning board approval is not required for an ADU.
  - (3) A building permit for a new single family home may include an ADU as long as the provisions of this section are met and the building conforms to all of the dimensional requirements for the zone in which it is being built. An ADU may be included in a new home constructed on a lawful nonconforming lot of record which may be built upon pursuant to section 45-194.
  - (4) The property owner must occupy either the principal dwelling unit or the ADU as their principal residence, and at no time receive rent for the owner-occupied unit. Principal residence must be proven by voter registration or other evidence acceptable to the CEO.
  - (5) The maximum gross floor area of an ADU shall be 1,000 square feet or 50 percent of the gross floor area of the principal dwelling unit, whichever is less. The minimum gross floor area of an ADU shall be ~~300~~ **190** square feet. An ADU shall not have more than two bedrooms.
  - (6) Apartments built prior to November 2, 1982 and existing on March 16, 2002, shall be considered lawful nonconforming uses which may continue pursuant to section 45-191. Any apartments existing on (effective date of section 45-459) and built on or after November 2, 1982 shall not be considered lawful nonconforming uses, unless the property owners applies for a building permit for the ADU and brings the unit up to the health and safety provisions of the minimum housing code standards. A grace period of one year from the adoption of this article will be allowed for homeowners to modify such unlawful non-conforming units. The CEO will have the authority to waive certain

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- space and setback requirements for such unlawful nonconforming units where full compliance would be impractical. On March 16, 2003, all owners of unlawful nonconforming units who have not brought them up to the health and safety standards of the minimum housing code, will be in violation of this section and subject to fines per subsection 45-6(b).
- (7) When any property containing an accessory dwelling unit is sold or transferred, the new owner must continue to meet the requirements of this Section in order to continue the use of the accessory dwelling unit. Should the new owner not meet the requirements of this section, the use of the unit must be discontinued. However, any lease in effect at the time of transfer may be continued until it expires or up to one year from the date of the transfer, whichever is shorter. This subsection (7) does not apply to an apartment built before November 2, 1982 and existing on March 16, 2002.
- (8) To ensure continued compliance by current and subsequent owners, the applicant shall provide and record in the county registry of deeds a covenant in a form acceptable to the town attorney that the existence of the accessory dwelling unit is predicated upon the occupancy of either the accessory dwelling unit or the principal dwelling by a person who owns the property. It is also required that any owner of the property must notify a prospective buyer of the limitations of this section.
- (9) New accessory dwelling units are not subject to the requirements of the growth management ordinance, chapter 29. ~~However, the number of accessory dwelling units that may be issued building permits within a calendar year is limited to a total of 12, to be issued on a first come, first served basis in the order in which the code enforcement officer receives completed applications for building permits under section 45-127. If two or more applications are received simultaneously (as in as a single mail delivery), the code enforcement officer shall determine their order by random selection. The provisions of this paragraph are retroactive to January 1, 2003.~~
- (10) This provision shall not prohibit the conversion of a single family dwelling to a multifamily dwelling so long as said conversion complies with all current zoning requirements. However, if such conversion is approved, any accessory dwelling unit previously allowed under this section must be incorporated into and meet all the requirements for one of the units of the multifamily dwelling. Multifamily dwellings shall not include accessory dwelling units as defined in this section.
- (11) Design criteria:
- a. An ADU shall be designed to maintain the architectural design, style, appearance, and character of the main building as a single-family residence. If an ADU extends beyond the existing footprint of the main building, such an addition must be consistent with the existing facade, roof pitch, siding, and windows.
  - b. Exterior stairs are restricted to the rear or sides of the structure.
- (12) Occupancy of an ADU shall be limited to the following: No more than two persons per bedroom are allowed, unless otherwise approved by the code enforcement officer and the fire chief or their respective designees. Increased occupancy limits may be

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granted after application to the code enforcement officer and inspection of the dwelling unit.

~~(13)~~— ~~One off street parking space must be provided for the accessory dwelling unit in addition to the off street parking required for the principal dwelling unit.~~

~~(14)~~**(13)** An occupancy permit must be issued by the CEO prior to occupancy of an accessory dwelling unit created or modified pursuant to this section 45-459.

~~(15)~~**(14)** The CEO shall prepare a biennial report to the planning board on accessory dwelling units which will include:

- a. The number of units established;
- b. The geographic distribution of the units; and
- c. The average size of the units.

The planning board shall reassess the provisions of this section allowing accessory dwelling units every five years or sooner if records show that 20 percent of single family homes have ADUs.

~~(16)~~**(15)** The code enforcement officer may inspect an accessory dwelling unit, with or without complaint with a minimum of 48 hours of receipt of notice of inspection to the property owner to ensure compliance with the section. Any property owner found in violation of this section shall have 30 days from the date of written notice to correct such violation. Failure to correct the violation shall result in the revocation of the accessory dwelling unit certificate of occupancy, as well as subjecting the property owner to the remedies and penalties provided in sections 45-101 and 45-102.

**(d) Lot line setbacks.**

**(1) An ADU located within the same structure as a single-family dwelling unit or attached to or sharing a wall with a single-family dwelling unit shall meet minimum yard and setback requirements for principal structures.**

**(2) An ADU permitted in an accessory structure as of July 1, 2023, shall continue to meet minimum yard and setback requirements for principal structures, except that, if that ADU was permitted with a yard width or setback distance less than the requirements for principal structures relative to one or more lot lines, then, relative to those lot lines only, the ADU may continue to have its existing yard width or setback distance, but shall not be extended or moved closer to any of those lot lines. In such case, the total gross floor area of the ADU that is less than minimum yard and setback requirements for principal structures shall not be expanded.**

**(3) An ADU permitted in an accessory structure after July 1, 2023:**

- a. Shall meet minimum yard and setback requirements for accessory structures; and**
- b. Shall not be used as a short-term rental unless it meets minimum yard and setback requirements for principal structures.**

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**State law reference – 30-A M.R.S.A. §4364-B**

(T.M. of 3-16-02, (art. 4); T.M. of 6-10-03; T.M. of 6-14-05; T.M. of 6-8-2021(1) , art. 34)

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*Planning Board recommends \_\_\_\_\_ (#-#)*

*Select Board recommends \_\_\_\_\_ (#-#)*

*DRAFT for March 7, 2023 Planning Board review*

### **Short title**

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 11 – Marijuana Establishments, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, Related to Marijuana Licensing and Performance Standards

### **Ballot question – Town Meeting and Referendum, June 6, 2023**

ARTICLE #\_\_ : Shall an Ordinance entitled “Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 11 – Marijuana Establishments, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, Related to Marijuana Licensing and Performance Standards” be enacted?

*(A copy of this ordinance is available in the Town Clerk’s Office)*

### **Background and rationale**

These ordinance amendments make changes to marijuana-related land use regulations and licensing provisions.

LD1827, enacted by the Maine State Legislature and codified primarily in 28-B M.R.S.A. §504, requires that adult use marijuana stores be allowed to offer curbside pickup and home delivery services. These activities are currently prohibited by Section 33-190(9). To accord with the state legislation while regulating such activities under the Town’s home rule authority, the amendments change 33-190(9) to allow curbside pickup and home delivery and establish performance standards for these activities. Drive-through service for marijuana and medical marijuana retail products remains prohibited. The amendments change Chapter 11 to add licensing provisions specific to curbside pickup and home delivery and Section 45-495 to update parking requirements accordingly. Associated definitions are added to Section 11-3. Site plans for curbside pickup or home delivery must show parking spaces devoted to curbside pickup or for home delivery vehicles. These activities would need to be assessed in the traffic impact assessment required for marijuana stores in 33-190(10). A maximum of two curbside pickup spaces would be allowed, the spaces would need to be provided in addition to other required parking spaces, security and lighting requirements would extend to these spaces, and the establishment’s license would need to be displayed to be viewable at these spaces. A maximum of one home delivery vehicle could be active at any one time, and marijuana license applicants would need to attest that home delivery drivers would be trained on how to properly verify the age of a person making a purchase for delivery and how to ensure that no deliveries are made to a person under 21 years of age, pursuant to 28-B M.R.S.A. §504(9).

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The amendments also make changes to the maximum number of local marijuana and medical marijuana licenses prescribed by Section 11-6.1. The maximums per establishment type, or group of establishment types, are somewhat rearranged such that similar establishments (adult use and medical) are in the same group, e.g. retail, cultivation, and manufacturing. The overall maximum is increased by one, to 29 establishments, reflecting an increase in the maximum for marijuana/medical marijuana manufacturing, while there is a decrease of one for marijuana stores, and no change in the maximum for cultivation establishments. These changes are intended to balance the community's support for maximums while accommodating marijuana/medical marijuana establishments that are at some point in the approval and licensing process.

Section 11-6.1 currently includes language that automatically reduces the maximums in the case of a revocation, expiration, or voluntary termination of a local license. This language has been updated to reflect the new arrangement of overall maximums. Also, in response to input from marijuana establishments, language is added clarifying that the mere transfer of ownership of a marijuana establishment (which requires a new license under Section 11-12) does not by itself constitute a voluntary termination with respect to the automatic reduction. In effect, this is intended to clarify that marijuana and medical marijuana establishments are allowed to change ownership while holding their license "spot" under a maximum.

The amendments also make certain procedural changes to noticing Select Board public hearings for local licenses, including shifting some of the responsibility for noticing from the Town to the applicant. They also make various other clarifications to marijuana licensing and land use regulations, such as the manner in which marijuana/medical marijuana products manufacturing facilities are subject to odor management standards under Section 33-190(14) and deleting a sign content regulation from 33-190(3) based on Town Counsel's assessment that it cannot be enforced due to Supreme Court jurisprudence and First Amendment protections. Finally, the amendments make various other editorial changes.

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**New text underlined in bold**

~~Deleted text in strikethrough~~

***[Text in brackets, bold, and italics introduces a large block of new text:]***

*[Text in brackets and italics is a temporary explanatory note]*

Chapter 11 – MARIJUANA ESTABLISHMENTS

Sec. 11-3. – Definitions.

*[abridged to only show changes]*

*[...]*

***Curbside pickup means retrieval of a sales order containing adult use marijuana and- or adult use marijuana products at an outdoor vehicle parking space immediately adjacent, or as close as possible, to the primary public ingress and egress of the marijuana store, designated for curbside pickup by a consumer 21 years of age or older, where the consumer’s vehicle may park or stand in the space. Curbside pickup does not mean a drive-through.***

*[...]*

***Home delivery means the transportation by a marijuana store licensee, from the licensed premises of the marijuana store to private residences, of sales orders of adult use marijuana and marijuana products to consumers 21 years of age or older who request such sales orders through a telephonic or internet-based platform.***

*[...]*

*Marijuana products manufacturing facility* shall mean a “products manufacturing facility” as that term is defined in 28-B M.R.S.A. § 102(4243), as may be amended. A *marijuana products manufacturing facility* is an entity licensed to purchase adult use marijuana; to manufacture, label and package adult use marijuana products; and to sell adult use marijuana products from a marijuana cultivation facility only to other *marijuana products manufacturing facilities*, or marijuana stores and marijuana social clubs.

*[...]*

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Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 11 – Marijuana Establishments, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, Related to Marijuana Licensing and Performance Standards

Sec. 11-4. – Allowed.

Marijuana establishments and medical marijuana establishments shall be allowed, subject to the requirements and restrictions of this chapter and chapters, 33, 44 and 45 of this Code.

(T.M. of 11-5-2019(2); T.M. of 6-8-2021(4) , art. 31)

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Sec. 11-6.1. – Maximum number of local marijuana **and medical marijuana** licenses.

- (a) Except pursuant to subsection ~~(d)~~**(c)** of this section, for each type of marijuana establishment **or medical marijuana establishment**, the maximum number of local marijuana **or medical marijuana** licenses issued by the local licensing authority that may be active at any one time is as follows:
- (1) Marijuana store, **medical marijuana caregiver retail store, or medical marijuana dispensary (combined total): ~~Eight (8)~~ **Eleven (11); no more than seven (7) of which shall be a marijuana store****
  - (2) Marijuana cultivation facility or ~~marijuana products manufacturing facility~~ **medical marijuana cultivation facility (combined total): ~~Thirteen (13)~~ **Eight (8), no more than six (6) of which shall be a marijuana cultivation facility****
  - (3) **Marijuana products manufacturing facility or medical marijuana products manufacturing facility (combined total): ~~Ten (10)~~ **Ten (10), no more than eight (8) of which shall be a marijuana products manufacturing facility****
- (b) ~~Except pursuant to subsection (d) of this section, for each type of medical marijuana establishment, the maximum number of local marijuana licenses issued by the local licensing authority that may be active at any one time are as follows:~~
- ~~(1) Medical marijuana caregiver retail store or medical marijuana dispensary (combined total): Four (4)~~
  - ~~(2) Medical marijuana cultivation facility or medical marijuana products manufacturing facility (combined total): Three (3)~~
- ~~(e)~~**(b)** Marijuana testing facilities and medical marijuana testing facilities are not subject to this section.
- ~~(d)~~**(c)** The maximum numbers of local marijuana licenses for an applicable establishment type, or group of establishment types, in subsections (a) ~~and (b)~~, shall be reduced when the following occurs:
- (1) If a local marijuana license is revoked pursuant to subsection 11-8(c), and, if appealed under Section 11-13, such revocation is upheld by court action, then the maximum number for that establishment type (or group of establishment types) shall be reduced by one (1).
  - (2) If a local marijuana license has expired pursuant to Section 11-10 or has been otherwise voluntarily terminated by the licensee, then the maximum number for that establishment type (or group of establishment types) shall be reduced by one (1). **For the purpose of this paragraph, the mere transfer of ownership of an establishment, pursuant to Section 11-12, by itself does not constitute a voluntary termination by the seller of the establishment.**
  - (3) The maximum numbers shall not be reduced below the following:
    - i. Marijuana store, **medical marijuana caregiver retail store, or medical marijuana dispensary (combined total): ~~Four (4)~~ **Six (6); no more than four (4) of which shall be a marijuana store****

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- ii. ~~Marijuana cultivation facility or marijuana products manufacturing facility~~ **medical marijuana cultivation facility** (combined total): ~~Seven (7)~~ **Four (4), no more than three (3) of which shall be a marijuana cultivation facility**
- iii. ~~Medical marijuana caregiver retail store or medical marijuana dispensary~~ (combined total): ~~Two (2)~~ **Marijuana products manufacturing facility or medical marijuana products manufacturing facility (combined total): Five (5), no more than four (4) of which shall be a marijuana products manufacturing facility**
- iv. ~~Medical marijuana cultivation facility or medical marijuana products manufacturing facility~~ (combined total): ~~Two (2)~~

~~(e)~~**(d)** The following rules apply to review of local marijuana license applications with regard to this section:

(1) The intent of the maximum numbers in subsections (a) ~~and (b)~~ is to account for the number of establishments (or proposed establishments) that are currently in operation, have their state license, have received Planning Board approval, and/or have, as of (and including) ~~August 16, 2022~~ **March 21, 2023**, active applications before the Planning Board that have received at least one Planning Board review.

(2) **Except as provided in the following subparagraphs,** Applications for new local marijuana licenses shall be reviewed on a first-come, first-served basis.

**(3) An application for a new license required by Section 11-12 for the mere transfer of ownership of an existing establishment shall be given priority of review, with respect to subsections (a) through (c), over an application for a new license for a new establishment. For example, if a licensed establishment seeks a transfer of ownership and therefore needs a new license, their status under the applicable establishment type or group maximum cannot be superseded by a contemporaneous license application for a new establishment solely because the former is seeking a new license for a mere transfer of ownership.**

~~(3)~~**(4)** Applications that are not complete, pursuant to Section 11-7, are not guaranteed any priority order of review. If a local license is granted pursuant to Section 11-8, but the applicant has not yet paid any or all fees pursuant to Section 11-9, the local license application is not considered active with respect to this section until said fees have been paid.

~~(4)~~**(5)** The Town finds that the requirements for medical marijuana licenses were added to this section after some medical marijuana establishments had begun operation and that a grace period is warranted to allow medical marijuana establishments to obtain a local marijuana license pursuant to this chapter. Medical marijuana establishments that have been approved by the Planning Board, are in operation as of the effective date of this ordinance amendment, and are in good standing with respect to the Maine Medical Use of Marijuana Program Rule (18-691 Code of Maine Rules, Chapter 2) and the Town Code shall be given until ~~May~~ **October** 15, 2023, to apply for a local marijuana license for

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their existing operation and shall be given priority order with respect to subsection (b) of this section.

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Sec. 11-7. – Marijuana licensing procedures.

[...]

(b) *Application.* [...]

**(19) If a marijuana store proposes a home delivery service, an attestation that training will be provided to any employee that will provide the service, in accordance with the requirements of 28-B M.R.S.A. §504(9), as may be amended, and associated state rulemaking, and a description of the training to be provided.**

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Sec. 11-8. - Issuance of local marijuana license.

(a) Responsibilities and review authority.

- (1) The local licensing authority shall have the authority to impose any conditions on a license that may be necessary to ensure compliance with the requirements of this chapter or to address concerns about operations that may be resolved through the conditions. The failure to comply with such conditions shall be considered a violation of the license.
- (2) No local marijuana license shall be granted by the local licensing authority until the police chief, the fire chief, the code enforcement officer, and if applicable the health inspector have all made their recommendation upon the applicant's ability to comply with this article. Whenever inspections of the premises used for or in connection with the operation of a licensed business are provided for or required by ordinance or state law, or are reasonably necessary to secure compliance with any ordinance provision or state law, it shall be the duty of the applicant or licensee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the town authorized to make the inspection at any reasonable time that admission is requested.
- (3) No local marijuana license for a specific type of marijuana establishment or medical marijuana establishment shall be granted by the local licensing authority if the maximum number of local marijuana licenses for that type of marijuana establishment or medical marijuana establishment, pursuant to Section 11-6.1, is met.

(b) Upon the filing of a completed application for a marijuana license, unless the maximum number of licenses has been met pursuant to subsection (a), paragraph (3) of this section, the town manager shall immediately schedule a public hearing on the application before the town select board to occur within ~~30~~ 45 days. **The following procedures shall be followed for the public hearing:**

**(1)** The town manager shall provide written notice of the public hearing to the applicant and to the select board within five **business** days of the filing of a completed application. At least ten days before such hearing, notices shall be posted in at least three prominent places, ~~advertised in a newspaper with local circulation,~~ and forwarded to the clerk of an adjacent municipality in the case where the premises for which the local marijuana license is sought is located within 500 feet of a municipal boundary. ~~Abutters shall be notified by certified mail, return receipt requested.~~ Notices to ~~abutters~~ for new or renewal license applications for marijuana cultivation facilities, medical marijuana cultivation facilities, marijuana products manufacturing facilities, and medical marijuana products manufacturing facilities shall include summary information on odor management standards in Section 33-190.

**(2) The applicant shall send the notice to a newspaper with local circulation to allow it to be published at least seven days before such hearing. The applicant shall mail the notice to abutters by certified mail, return receipt requested, postmarked at least seven days before the hearing. The applicant shall provide documentation to the Town showing proof of newspaper publication and**

**certified mailing. The applicant shall bear the cost of newspaper publication and certified mailing.**

- (1)(3) At the public hearing on the local marijuana license application, the select board shall take testimony of the applicant and any interested members of the public. The hearing shall focus upon the criteria for issuance of a permit.
- (2)(4) The select board shall issue to the applicant written notice of its decision to grant or deny the license. If the board denies the permit, the written notice shall set forth the board's reasons for the denial. The select board shall grant a marijuana license unless it finds that the issuance of the license would be detrimental to public health, safety or welfare, as demonstrated by **any of** the following criteria:
- a. An applicant is less than 21 years of age.
  - b. An applicant has failed to provide information required by this article for issuance of a license or has falsely answered a question or request for information on the application form.
  - c. The establishment is in a location where a marijuana establishment **or medical marijuana establishment** is not permitted.
  - d. Any establishment in which an applicant has had an influential interest, has, in the previous five years (and at a time during which the applicant had the influential interest):
    1. Been declared by a court of law to be a nuisance; or
    2. Been subject to an order of closure.
    3. Been convicted of or pled guilty or nolo contendere to a specified criminal activity.
  - e. ~~A person who~~ **An applicant** has had a license for a marijuana establishment and/or medical marijuana establishment revoked by the town or by the state.
  - f. ~~An Applicant who~~ **applicant** has not acquired all necessary state approvals and licenses and other required local approvals prior to the issuance of a local marijuana license.
- (c) The town may suspend or revoke a license for any violation of this chapter, chapter 45 or any other applicable building and life safety code requirements. The town may suspend or revoke a license if the licensee has a state license for a marijuana establishment and/or medical marijuana establishment suspended or revoked by the state. The licensee shall be entitled to notice and a hearing prior to any suspension or revocation.
- (d) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and the address of the business. The license shall be posted in a conspicuous place at or near the entrance to the business so that it may be read at any time that the business is occupied by patrons or is open to the public. **If a license for a marijuana store includes curbside pickup, a copy of the license shall also be displayed in a**

**conspicuous place so that it can be seen by curbside pickup customers. If a license for a marijuana store includes a delivery service, a copy of the license shall be stored in each delivery vehicle while it is making deliveries.**

- (e) Except as provided in this paragraph and in Section 11-10(b), a local marijuana license renewal application shall be subject to the same review standards as applied to the initial issuance of the license and the same notice requirement as a new application. As part of the renewal process, the select board shall consider compliance from prior years, and based upon that review, may add conditions to any future license to correct, abate or limit past problems. This may include a version of the odor complaint log referenced in Section 45-409(b) that redacts the name and address of complainants.

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Sec. 11-9. – License fees.

The initial license and annual renewal fees for **local** marijuana establishments **and** **medical marijuana establishment** licenses shall follow the town's master fee schedule.

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Notwithstanding anything to the contrary of 1 M.R.S.A. § 302 or any other law, to any application relating to the establishment or operation of a proposed marijuana establishment or medical marijuana establishment, whether or not such application had become "pending proceeding" as defined in 1 M.R.S.A. § 302 prior to the enactment of this section.

All marijuana establishments and medical marijuana establishments require site plan review and approval from the planning board prior to the issuance of any building permit or certificate of occupancy. The review of an application for a marijuana establishment shall not begin until the applicant has submitted to the town a valid state-issued conditional license to operate the marijuana establishment pursuant to 28-B M.R.S.A. § 205. The review of an application for a marijuana establishment or medical marijuana establishment, where such type of establishment has, at the time of said application, reached the maximum number of licenses pursuant to Chapter 11, shall not begin until the applicant submits a signed statement acknowledging that they are aware of the maximum having been reached and that they may not be able to obtain a local marijuana license until such time as one becomes available. The following performance standards are to be used by the planning board in reviewing site plan applications and compliance with the same shall serve as requirements for approval of such site plans.

Reference section 11-3 for definitions related to this section.

- (1) All marijuana establishments and medical marijuana establishments shall be screened in accordance with section 33-175.
- (2) All marijuana establishments and medical marijuana establishments shall comply with applicable parking requirements of subsection 45-495(15).
- (3) Signage and advertising.
  - a. All signage and advertising for any marijuana establishment or medical marijuana establishment shall comply with the signage, advertising, and marketing provisions in 22 M.R.S.A § 2429-B and 28-B M.R.S.A § 702, as may be amended, in addition to all applicable provisions of chapter 45 in this Code. No interior signage, advertising as described above shall be visible from the exterior of the building in which the marijuana establishment is located. Signage containing misleading or deceptive marketing or marketing towards individuals under the age of 21 is prohibited.
  - b. ~~There is a compelling governmental interest to the town in marijuana establishments and medical marijuana establishments abiding by the signage, advertising, and marketing provisions in 22 M.R.S.A § 2429 B and 28 B M.R.S.A § 702, as may be amended, including, but not limited to, reducing the likelihood of reaching persons under 21 years of age, who may frequently ride in (or may be old enough to drive) vehicles upon streets, town ways, or public ways from which signage is visible and legible. Many persons in this age range may understand words such as "marijuana" and "cannabis", or any other word, phrase or symbol commonly understood to refer to marijuana. The use of these terms may increase the appeal or awareness of marijuana establishments, medical marijuana establishments, or marijuana use to these persons. To reduce the likelihood of this appeal and awareness, no signage visible from a street, town way, or public way~~

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~~may use the word "marijuana" or "cannabis", or any other word, phrase or symbol commonly understood to refer to marijuana.~~

- (4) Area of activities for all marijuana establishments and medical marijuana establishments; control of odors and emissions; sealed walls; disposal plan; security.
- a. All activities of marijuana including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors, **except as provided in subsection (9)**. Marijuana establishments and medical marijuana establishments are not permitted to conduct outdoor sales or services of any kind, **except as provided in subsection (9)**. Any common areas, including, but not limited to, storage areas and building facilities, shared with another marijuana establishment and/or medical marijuana establishment must be clearly identified as such on the site plan application.
  - b. Prior to planning board approval and for the duration of their operation:
    1. All marijuana establishments shall have in place an operational plan for proper disposal of marijuana and related byproducts in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations. Dumpsters and trash containers must not be overflowing, and the surrounding area must be kept free of litter and trash. All dumpsters and containers shall be screened from public view. All trash receptacles on the premises used to discard marijuana products must have a metal cover or lid that is locked at all times. Security cameras must be installed to record activities in the area of such trash receptacles.
    2. All marijuana cultivation facilities, medical marijuana cultivation facilities, marijuana products manufacturing facilities, and medical marijuana products manufacturing facilities shall have in place a plan for disposal of wastewater from the facility. Wastewater generated during the cultivation or manufacturing of marijuana or medical marijuana shall be disposed of in compliance with all applicable local, state, and federal laws.
  - c. Sufficient and appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana must be provided at all times. Security measures shall include, at a minimum, the following:
    1. Security surveillance cameras installed and operating 24 hours a day, seven days a week to monitor all entrances, along with the interior and exterior of the premises, **including curbside pickup areas**, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;
    2. Door and window intrusion robbery and burglary alarm systems with audible and police department notification components that are professionally monitored and maintained in good working condition;

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3. A locking safe or secure storage container permanently affixed to the premises that is suitable for storage of all adult use marijuana product and cash stored overnight on the premises;
4. Exterior lighting that illuminates the exterior walls of the premises, **and any curbside pickup areas,** and complies with applicable provisions of this Code;
5. Deadbolt locks on all exterior doors and locks or bars on any other access points (e.g. windows); and
6. Identification checks ensuring that areas within the premises where marijuana or marijuana product cultivation, storage, weighing, manufacturing, sampling, packaging, preparation for testing, transfer or retail sale, **including curbside pickup areas,** take place are only accessed by authorized persons displaying individual identification cards or authorized contractors of the marijuana establishment or medical marijuana establishment who are aged 21 and older and who display a valid visitor identification badge.

All security recordings shall be preserved as the state requires. All marijuana establishments shall provide the police chief or their designee with the name and functioning telephone number of a 24-hour on-call staff person to whom the town may provide notice of any operating problems associated with the establishment.

(5) Separation (buffering) from sensitive uses.

- a. No marijuana establishment or medical marijuana establishment shall be sited within 500 feet of the lot lines of a public or private school. This standard may not be relaxed by variance or waiver.
- b. No marijuana store, **marijuana cultivation facility, medical marijuana cultivation facility,** medical marijuana caregiver retail store, or medical marijuana dispensary shall be sited within 500 feet of the lot lines of any public facility, place of worship, residential property, or childcare facility. This standard may not be relaxed by variance or waiver. **A variance or waiver previously granted to a medical marijuana caregiver retail store or medical marijuana dispensary shall be deemed to apply to the conversion of such establishment to a marijuana store, or the inclusion of a co-located marijuana store in such establishment.**

The planning board will not preclude a sensitive use listed in a. and b. above from opening at a location within the applicable buffer zones solely because the sensitive use is within such buffer zones.

A marijuana store, medical marijuana caregiver retail store, or medical marijuana dispensary may continue to operate in its present location as a pre-existing use if a sensitive use as listed in a. and b. above later locates within the applicable buffer zone; however, the marijuana store-does so at its own risk, and town-issued licenses, permits or approvals provide no protection or indemnification against enforcement of federal or other applicable laws that may prohibit operation of a marijuana store, near a sensitive use listed in a. and b. above.

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The distance cited in this subsection shall be measured as the aerial straight-line distance between the nearest point of the operating boundary of the marijuana establishment or medical marijuana establishment and the nearest point along a lot line of the site of the use listed in a. or b. above.

For purposes of this measurement, if a marijuana establishment or medical marijuana establishment is in a freestanding building, the operating boundary shall consist of the outer walls of the building. If a marijuana establishment or medical marijuana establishment leases a room or suite of rooms within a building, including, without limitation, individual units within a shopping plaza or shopping mall, the operating boundary of such establishment shall be the outer wall of the room or suite of rooms being leased by the establishment.

- (6) Hours of operation. Marijuana stores, medical marijuana caregiver retail stores and medical marijuana dispensaries are limited to the same hours of operation as those for establishments serving or selling alcoholic beverages or products in accordance with chapter 6 section 11 or as may be set forth in state statute. When there is a conflict between state statute and local zoning, the more restrictive hours of operation shall apply.
- (7) Cultivation area limitation. The number of plants or area of the plant canopy in a marijuana cultivation facility shall not exceed the number of plants or area of the plant canopy allowed by the facility's cultivation facility license tier issued by the state in accordance with 28-B M.R.S.A. § 301. The number of plants or area of the plant canopy in a medical marijuana cultivation facility shall not exceed the number of plants or area of the plant canopy allowed by 22 M.R.S.A. § 2423-A, para. 2, as may be amended. The site plan shall include the facility's cultivation area allowance and show or list the square footage of the proposed cultivation area.
- (8) Sale of edible products. No food products shall be sold, prepared, produced or assembled by a marijuana establishment except in compliance with all operating and other requirements of state, local law and regulation, and compliance with this Code including, without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.
- (9) Drive-through, **curbside pickup**, and home delivery.
  - a.** ~~Marijuana establishments and medical marijuana establishments are prohibited from having drive-through pick-up facilities. Marijuana stores are prohibited from providing home delivery services.~~ **Except as provided in subparagraphs b. and c.,** adult use marijuana customers may only purchase and obtain adult use marijuana products from within a marijuana store.
  - b.** **Marijuana stores may offer curbside pickup of immature marijuana plants, seedlings, adult use marijuana, and adult use marijuana products at a designated location outside of the marijuana store by persons 21 years of age or older, on the same lot as the marijuana store, in accordance with 28-B M.R.S.A. §504(10), as may be amended, associated state rulemaking, and this section. No more than two parking spaces shall be designated as curbside**

**pickup locations, and the spaces shall be indicated by appropriate signage. Curbside pickup areas shall be clearly shown on site plans. Curbside pickup areas shall be as close to the primary public ingress and egress of the marijuana store building as practicable, without interfering with Americans with Disabilities Act-accessible parking spaces, their access aisles, or accessible routes from those spaces to building ingress and egress.**

- c. Marijuana stores may operate a limited home delivery service for the delivery of immature marijuana plants, seedlings, adult use marijuana, and adult use marijuana products to persons 21 years of age or older, in accordance with the requirements of 28-B M.R.S.A. §504(9), as may be amended, associated state rulemaking, and this section. Only one vehicle may engage in the home delivery service at any one time. Site plans shall include an exclusive parking space or designated use of a loading bay, pursuant to Chapter 45, Article X, for the home delivery vehicle.**
- (10) Applications for new marijuana-retail-stores (or existing marijuana-retail stores seeking site plan amendments involving a potential change to trip generation or traffic circulation, **including, but not limited to, the addition of curbside pickup or home delivery service**) shall include a traffic impact assessment that addresses, at minimum, sections 33-153 and 45-406. Unless waived by the planning board, any approval motion shall include a condition requiring the applicant to collect turning movement counts for all site driveways for, at minimum, one full weekday and one full weekend day that the marijuana retail store is open, and submit such data to the town planner. Such count data shall be disaggregated by the hour, or a shorter time period, to show peaking characteristics. Nothing in this paragraph is intended to prevent the planning board from requiring traffic information or otherwise exercising its review authority under the aforementioned sections when reviewing applications for other marijuana establishments or medical marijuana establishments.
- (11) Pesticides. The only pesticides allowed to be used in marijuana establishments and medical marijuana establishments are non-synthetic substances, unless specifically listed as "prohibited" on the National List of Allowed and Prohibited Substances in 7 CFR Part 205, as may be amended from time to time, and pesticides determined to be "minimum risk pesticides" pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and listed in 40 C.F.R. § 152.25(f)(1) or (2), as may be amended from time to time. All marijuana establishments and medical marijuana establishments shall comply with all packaging and labeling requirements from the state.
- (12) Inspections. The code enforcement officer or their designee will inspect all marijuana establishments and medical marijuana establishments prior to issuance of a certificate of occupancy, to verify that the facilities are constructed and can be operated in accordance with the application submitted, the land use approval(s) issued and the requirements of this section, local and state building codes and electrical codes. The fire chief or their designee will inspect all marijuana establishments prior to issuance of a certificate of occupancy, to verify that the facilities are constructed

and can be operated in accordance with the requirements of all applicable state and local fire codes. The initial inspection shall occur after the establishment is ready for operation, but no marijuana, marijuana products will be permitted on the premises until the inspection is complete and a certificate of occupancy is issued. Nothing herein shall prevent the fire chief or their designee from inspecting marijuana establishments at random intervals, but not to exceed four times a year, and without advance notice provided that the inspection is during normal business hours of the establishment.

- (13) ~~Change of use/addition of use. If any type of marijuana establishment or medical marijuana establishment is to change to another type of establishment or to add another type of marijuana establishment or medical marijuana establishment to its existing operations, such change of use or additional use must be reviewed and approved by the planning board for compliance with this section.~~ **New marijuana establishments or medical marijuana establishments, changes of use from one marijuana establishment or medical marijuana establishment to another, or site plan changes involving marijuana establishments or medical marijuana establishments require Planning Board site plan review in accordance with the procedures and performance standards in Divisions 3 through 6 of this chapter, except that applicants may seek approval for minor site plan revisions, pursuant to Section 33-140, when all of the following criteria have been met:**
- a. The application does not propose to add any new marijuana establishments or medical marijuana establishments or change from one marijuana establishment or medical marijuana establishment to another, except if such an addition or change is limited to:**
    - 1. The addition of a medical marijuana products manufacturing facility to a marijuana products manufacturing facility**
    - 2. A change of use from a marijuana products manufacturing facility to a medical marijuana products manufacturing facility;**
  - b. The application does not propose an increase to the total gross floor area devoted to marijuana or medical marijuana uses; and,**
  - c. The application does not propose any change that is likely to increase trip generation for a marijuana store.**
- (14) Management of odors and emissions.
- a. Marijuana establishments and medical marijuana establishments shall provide odor control measures so that marijuana-related odor generated on site is contained within the building containing the marijuana-related use and not perceptible by people on abutting properties or traveling on streets, town ways, or public ways.
  - b. Applications for marijuana cultivation facilities; **and** medical marijuana cultivation facilities; ~~marijuana products manufacturing facilities, and medical marijuana products manufacturing facilities~~ must demonstrate appropriate

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measures, such as carbon filtration, ventilation and exhaust systems, facility plans, or other additional practices adequate to mitigate odors for the scale of operations for the uses proposed.

- c. Marijuana establishments and medical marijuana establishments not listed in subparagraph b. may either demonstrate compliance with subparagraph b. or demonstrate that the nature of their operation will not, under normal circumstances, cause marijuana-related odor to be perceptible by people on abutting properties or traveling on streets, town ways, or public ways.
  - d. Noxious gases and fumes. Marijuana products manufacturing facilities, marijuana testing facilities, medical marijuana products manufacturing facilities, and medical marijuana testing facilities shall include appropriate ventilation systems to mitigate noxious gases or other fumes used or created as part of production or testing.
  - e. Sufficient measures and means of preventing smoke, debris, dust, fluids and other substances from exiting a marijuana establishment or medical marijuana establishment must be provided at all times.
- (15) Other laws remain applicable. A marijuana establishment or medical marijuana establishment shall meet all operating, local and state licensing and other requirements of state and local laws and regulations. To the extent the state has adopted or adopts in the future any stricter law or regulation governing adult use marijuana and/or medical marijuana establishments, the stricter law or regulation shall control.

(T.M. of 11-5-2019(4); T.M. of 6-8-2021(4) , art. 31; T.M. of 6-14-2022(3) , art. 26)

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 11 – Marijuana Establishments, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, Related to Marijuana Licensing and Performance Standards

Sec. 45-495. – Schedule of minimum required offstreet parking spaces.

	Use	Standards
(1)	Dwelling units	alternately, 2 for the first unit, 3 for the second unit, 2 for the third unit, and so on
(2)	Lodging business and motels	1 space for each sleeping room and for each person anticipated to be employed on the largest shift
(3)	Home occupation	1 for each employee and customer up to 10 maximum, not counting residential use
(4)	Camper park	1 space per site
(5)	Takeout restaurant	minimum 25 parking spaces plus 1 space for each 50 square feet (or fraction thereof) of floor space in excess of 900 square feet, and 1 space for every exterior table
(6)	Other restaurants or places serving food	1 space for each 3 seats, permanent or otherwise
(7)	Wholesale or retail sales, or service establishment; <b><u>marijuana retail store</u></b>	1 space for each 150 square feet of retail floor area; <b><u>Marijuana retail store: 1 space for each 100 square feet of retail floor area (minimum 10 spaces)–for marijuana retail stores), plus 1 space per curbside pickup space (max. 2), plus 1 space for a home delivery vehicle (if home delivery is provided; alternatively, a loading bay in accordance with 45-494 may meet this requirement)</u></b>
(8)	Automobile, truck and tractor repair and filling stations	1 parking space for each regular employee plus 1 space for each 50 square feet of floor area used for service work
(9)	Public building and professional offices (excluding medical and dental offices), nonprofit medical marijuana dispensaries	1 parking space for each 200 square feet, or major fraction thereof, of floor area exclusive of bulk storage areas
(10)	Medical and dental offices	7 parking spaces for each physician, dentist or other medical practitioner

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(11)	Commercial and industrial uses not specifically enumerated	1 space for each person employed or anticipated to be employed on the largest shift
(12)	Schools	Day nursery—2 parking spaces for each nursery room plus 1 space for each adult instructor
		Elementary and junior high schools—1 parking space for each adult employee plus 15 parking spaces for each 100 students, or major fraction thereof, of total enrollment
(13)	Theaters, auditoriums, churches, arenas, and libraries	1 parking space for every 4 seats, or for every 100 square feet of assemblage space if no fixed seats
(14)	Hospital, sanitariums or nursing homes	1 space for each 500 square feet (or major fraction thereof) of floor area, exclusive of basement
(15)	Adequate spaces shall be provided to accommodate customers, patrons, and employees for permitted uses not listed above	

(T.M. of 11-2-82; T.M. of 6-26-85; T.M. of 11-23-85; T.M. of 11-4-86; T.M. of 4-21-87; T.M. of 3-19-88; T.M. of 12-20-89, (§ 333.3); T.M. of 6-18-2011(6); T.M. of 6-14-2022(3) , art. 26)

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, and the Creation of a New Chapter 5 – Business Licensing, Related to Mobile Vendors

*Planning Board recommends \_\_\_\_\_ (#-#)*

*Select Board recommends \_\_\_\_\_ (#-#)*

*DRAFT for March 7, 2023 Planning Board review*

### **Short title**

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, and the Creation of a New Chapter 5 – Business Licensing, Related to Mobile Vendors

### **Ballot question – Town Meeting and Referendum, June 6, 2023**

ARTICLE #\_\_ : Shall an Ordinance entitled “Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, and the Creation of a New Chapter 5 – Business Licensing, Related to Mobile Vendors” be enacted?

*(A copy of this ordinance is available in the Town Clerk’s Office)*

### **Background and rationale**

These amendments establish a permitting process for mobile vendors to operate in Eliot. There has been an interest in setting up temporary locations to sell products. This would provide additional options for businesses while preventing or minimizing negative impacts through operating standards and a licensing process.

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, and the Creation of a New Chapter 5 – Business Licensing, Related to Mobile Vendors

**New text underlined in bold**

~~Deleted text in strikethrough~~

***[Text in brackets, bold, and italics introduces a large block of new text:]***

*[Text in brackets and italics is a temporary explanatory note]*

Sec. 1-2. - Definitions and rules of construction.

*[abridged to only show changes]*

*[...]*

**Mobile vendor means any mobile vehicle or unit, or bicycle, used to prepare, sell, or serve food, or to sell non-food products, at a number of sites and capable of being moved from its vending site at any time. It shall also include a tent, booth, stand, or table used for the same purpose if it is accompanied by a mobile vehicle or bicycle capable of moving it from its vending site at any time. Mobile vendor does not include any such equipment or appurtenances if they are used for the seasonal sales of produce and plants raised locally.**

*[...]*

***[Add a new chapter:]***

Chapter 5 – BUSINESS LICENSES

Secs. 5-1 to 5-5 – Reserved

Sec. 5-6. – Mobile Vendors

- (a) *Purpose.* The purpose of this section is to control the issuance of licenses for mobile vendors in the town.
- (b) *Applicability.* This article shall apply to any entity that meets the definition of “mobile vendor” in Section 1-2 but does not apply to the following:
  - (1) A “temporary mobile vendor” as described in subsection (c);
  - (2) A mobile vendor that is part of an agricultural tourism activity pursuant to Chapter 10, Article II; or
  - (3) Seasonal sales of produce and plants raised locally.
- (c) *Temporary mobile vendors.* For the purpose of this section, “temporary mobile vendor” refers to a mobile vendor that is only operated for a limited number of days each year or at a single location for a short duration, such as to serve an event. This shall be defined as engaging in sales for no more than 12 days in any one-year period and engaging in sales for no more than 3 consecutive days at the same location. This subsection shall not be construed to prevent the Town from regulating or limiting temporary mobile vendors under subsection (k) of this section, or to protect health, safety, and welfare under authority granted elsewhere in this code.
- (d) *License required; application requirements.* No person may operate a mobile vendor within the town unless licensed to do so by the Town, unless specifically waived by the Town. Applications for mobile vendor licenses are to be made in writing upon forms supplied by the Town, shall be signed, and shall include the following information:
  - (1) Name of the applicant
  - (2) Residence, mailing address, and email address of the applicant
  - (3) Name of the business to be conducted
  - (4) Business address
  - (5) Location(s) to be used
  - (6) Dates and hours of operation for each location
  - (7) A photograph or sketch, or plan of the mobile vendor vehicle, unit, or bicycle
  - (8) A description of those items which the applicant proposes to sell and dispense
  - (9) For each location, documentation of permission from the property owner
  - (10) Date of the application

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, and the Creation of a New Chapter 5 – Business Licensing, Related to Mobile Vendors

- (11) Documentation of insurance coverage
  - (12) For food service mobile vendors, as needed:
    - a. A Mobile Vendor License from the Maine Department of Agriculture, Conservation, and Forestry;
    - b. A Health Inspection Program License from the Maine Department of Health and Human Services; and,
    - c. Any other required state licenses
  - (13) Title and registration for the vehicle used, if applicable
- (e) *Hearing.* The Select Board shall hold a hearing on any original application for a license for a mobile vendor within 30 days of the date of the application received, at which time the testimony of the applicant and that of any interested members of the public is to be taken. The applicant must be notified of the hearing date. At least ten days before such hearing, notices shall be posted in at least three prominent places, advertised in a newspaper with local circulation, and forwarded to the clerk of an adjacent municipality in the case at least one location for which the mobile vendor license is sought is located within 500 feet of a municipal boundary.
- (f) *Granting of license.* The Select Board shall grant a license unless they find that issuance of such license will be detrimental to the public health, safety or welfare or would be in violation of any Town or state ordinance, rules or regulations.
- (g) *Suspensions and revocations.* The Town may suspend or revoke a license for any violation of this chapter, Chapter 45, or any other applicable building and life safety code requirements. The town may suspend or revoke a license if the licensee has a state license or registration described in paragraph (d)(12) or (13) suspended or revoked by the state. The licensee shall be entitled to notice and a hearing prior to any suspension or revocation.
- (h) *Display of license.* The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and the address of the business. The license shall be posted in a conspicuous place near the customer service window of a vehicle, or otherwise shall be stored by the operator of the mobile vendor, so that it may be read at any time that the business is open to the public.
- (i) *Fees and license term.* Every person licensed to operate a mobile vendor must pay to the Town Clerk an annual fee as may be established and maintained by the Select Board pursuant to Section 1-25 and Section 2-80. All licenses, unless otherwise provided, are for 12 months' duration.
- (j) *Renewal.* Licenses shall be renewed before the end of the license term. A license renewal application shall be subject to the same review standards as applied to the initial issuance of the license and the same notice requirement as a new application, except that renewal applications for non-expired licenses may omit certain content required subsection (d) of this section if they include a signed letter from the licensee attesting that

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, and the Creation of a New Chapter 5 – Business Licensing, Related to Mobile Vendors

such information is unchanged from their previous application and attesting that each license, form of identification, statement, approval, agreement, or other documentation required by subsection (d) of this section is still valid and current.

- (k) *Restrictions on operating locations.* No mobile vendor or temporary mobile vendor shall be operated:
  - (1) In or upon any town roadway, sidewalk, right-of-way, property, or park, except at Town-sponsored events or as otherwise approved by the Town;
  - (2) In such a manner as to obstruct or impede the normal flow of vehicular or pedestrian traffic, or obstruct emergency vehicle access or egress, or to expose any pedestrian to a risk of injury; or
  - (3) Within 250 ft. of a marijuana establishment or medical marijuana establishment. The method for measuring this distance shall be the same as described in Section 33-190(5).
- (l) *Violations and penalties*
  - (1) The operation of any mobile vendor without the required local license or in violation of the requirements of this chapter shall be a violation of this chapter.
  - (2) Fines shall be set forth for violation of any of the provisions of this article; violators shall be punished by a civil penalty of not less than \$50.00 and not more than \$100.00 for each violation, plus attorneys' fees and costs, to be recovered on complaint, to the use of the town. Each day a violation is committed, or permitted to continue, shall constitute a separate violation, and shall be fined as such.
  - (3) *Operating standards for licensed mobile vendors*
    - a. Hours of operation: Hours of operation shall be the same as specified in Section 6-11.
    - b. In addition to any signage incorporated into the exterior of the vehicle, equipment, or appurtenance of the mobile vendor, an additional temporary freestanding sign of no greater than 6 square feet sign in area (or a double-sided or a-frame sign with its largest face no greater than 6 square feet) may be posted in the vicinity of the mobile vendor to advertise the items sold.
    - c. Any mobile vendor that serves prepared food and provides an area adjacent to the mobile vendor where that food can be consumed must offer and manage a trash receptacle for food and packaging waste.

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Sec. 45-290. – Table of permitted and prohibited uses.

*[additional changes to this section are proposed by other draft ordinance amendments]*

The following table of land uses designates permitted uses by a yes and prohibited uses by a no. Any use not listed is a prohibited use. The letters CEO, SPR, and SD are explained in section 45-402.

*Table of Land Uses*

Land uses	R	S	V	C/I
Accessory dwelling unit	CEO	CEO	CEO	CEO
Agriculture, except animal breeding and care	yes	yes	yes	no
Animal breeding	yes <sup>1</sup>	12	SPR <sup>1&amp;8</sup>	no
Animal husbandry	yes <sup>1</sup>	yes <sup>1</sup>	yes <sup>1</sup>	no
Apartment house, see multiple-family dwelling	—	—	—	—
Apartment, see single-family dwellings	—	—	—	—
Aquaculture	13	13	SPR <sup>8</sup>	no
Assisted living facility	no	SPR/SD	SPR/SD	SPR/SD
Auto graveyards	SPR	no	no	no
Auto hobbyist storage area	SPR	SPR	no	no
Auto junkyard	no	no	no	no
Auto recycling business	9	9	no	SPR
Auto recycling operation, principal	9	no	no	SPR
Auto recycling operation, limited	9	9	no	SPR
Auto repair garages	14	14	SPR <sup>8</sup>	SPR
Auto service stations	no	9	no	SPR
Banks	no	no	SPR	SPR

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Bathhouse	11	11	no	no
Bathing beach	yes	yes	yes	no
Bed and breakfasts	14	14	SPR <sup>8</sup>	SPR
Boarding homes, see lodging businesses	—	—	—	—
Boarding kennel	no	no	no	SPR
Bulk oil fuel tanks	no	no	no	SPR <sup>2</sup>
Business office	14	14	SPR <sup>8</sup>	SPR
Campgrounds	SPR	no	no	no
Cemeteries	SPR	SPR	SPR	no
Clearing	yes	yes	yes	yes
Clinics	no	no	no	SPR
Clustered housing	SPR	no	no	no
Commercial adult enterprise	no	no	no	SPR
Commercial establishment, 2 or more where allowed	-	9	no	SPR
Day nurseries	SPR	16	SPR <sup>8</sup>	SPR
Earth material removal, less than 100 cubic yards 100 cubic yards or greater	yes SPR	yes SPR	yes SPR	yes SPR
Elderly housing	no	SPR/SD	SPR/SD	SPR/SD
Emergency operations	yes	yes	yes	yes
Equipment storage, trucks, 3 or more	no	no	no	yes
Essential services	yes	yes	yes	yes
Expansion of an existing telecommunication structure or collocation of antenna on a existing telecommunication structure or alternate tower structure	CEO	CEO	CEO	CEO

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Farm equipment stores	SPR	10	no	SPR
Fences	yes <sup>5</sup>	yes <sup>5</sup>	yes <sup>5</sup>	yes <sup>5</sup>
Firewood sales	yes	13	SPR <sup>8</sup>	yes
Fireworks sales	no <sup>19</sup>	no <sup>19</sup>	no <sup>19</sup>	no <sup>19</sup>
Forest management, except timber harvesting	yes	yes	yes	yes
Funeral establishment	no	no	SPR	SPR
Gambling casino	no	no	no	no
Gardening	yes	yes	yes	yes
Gasoline stations	no	9	no	SPR
Governmental buildings or uses	SPR	SPR	SPR	SPR
Grain or feed stores	SPR	10	no	SPR
Harvesting wild crops	yes	yes	yes	yes
Home business	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR <sup>8</sup>	no
Home occupations	10	10	no	no
Home office	CEO	CEO	CEO	CEO
Hospitals	no	no	no	SPR
Indoor commercial, recreational and amusement facilities	no	no	no	SPR
Industrial and business research laboratory	no	no	no	SPR
Industrial establishments and uses	no	no	no	SPR
Institutional buildings and uses, indoor	no	9	no	no
Junkyards	no	no	no	no
Landfill, dump	no	no	no	no

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Libraries	SPR	SPR	SPR	SPR
Life care facility	no	SPR/SD	SPR/SD	SPR/SD
Lodging businesses, including bed and breakfasts, boarding homes or houses, hotels, inns, lodginghouses, rooming homes, and the like	14	14	SPR <sup>8</sup>	SPR
Manufacturing	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR
Marijuana establishment*	no	no	no	SPR <sup>20</sup>
Medical marijuana establishment*	no	no	no	SPR <sup>20</sup>
Mobile home parks	SPR/ SD <sup>7</sup>	SPR/SD <sup>7</sup>	SPR/SD <sup>7</sup>	no
<b><u>Mobile vendor site</u></b>	<b><u>no</u></b>	<b><u>no</u></b>	<b><u>SPR</u></b>	<b><u>SPR</u></b>
Motel	no	no	no	SPR
Multiple-family dwelling	no	SPR	SPR	no
Museums	SPR	SPR	SPR	SPR
New construction of telecommunication structure 70 feet and higher	9	9	no	SPR
New construction of telecommunication structure less than 70 feet high	CEO	CEO	CEO	CEO
Nurseries, plants	CEO	17	SPR <sup>8</sup>	no
Nursing facility	no	SPR	SPR	SPR
Off-site parking	no	no	no	no
Parks	SPR	SPR	SPR	no
Places of worship	SPR	SPR	SPR	SPR
Playgrounds	SPR	SPR	SPR	no
Printing plant	14	14	SPR <sup>8</sup>	SPR

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Produce and plants raised locally, seasonal sales	yes	yes	yes	no
Professional offices	14	14	SPR <sup>8</sup>	SPR
Public utility facilities	SPR	SPR	SPR	SPR
Recreational facilities, nonintensive	SPR	SPR	SPR	no
Recreational use not requiring structures	SPR	yes	yes	no
Restaurant	9	9	SPR <sup>8</sup>	SPR
Restaurant, takeout	no	no	no	SPR
Retail stores, local, other	18	18	SPR <sup>8</sup>	SPR
Road construction	CEO	CEO	CEO	SPR
Schools	SPR	SPR	SPR	SPR
Sewage disposal systems, private	CEO	CEO	CEO	CEO
Signs, 6 square feet	CEO	CEO	CEO	CEO
Signs, other	CEO	CEO	CEO	CEO
Single-family dwellings	CEO	CEO	CEO	no <sup>6</sup>
Small wind energy system	SPR	SPR	SPR	SPR
Solar energy system, small-scale ground mounted or roof-mounted	CEO <sup>21</sup>	CEO <sup>21</sup>	CEO <sup>21</sup>	CEO <sup>21</sup>
Solar energy system, larger-scale	SPR <sup>21</sup>	SPR <sup>21</sup>	no	SPR <sup>21</sup>
Surveying and resource analysis	yes	yes	yes	yes
Timber harvesting	yes	yes	yes	yes
Truck terminals and storage	no	no	no	SPR
Two-family dwellings	CEO	CEO	CEO	no <sup>6</sup>
Veterinary hospital	15	15	No	SPR

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, and the Creation of a New Chapter 5 – Business Licensing, Related to Mobile Vendors

Warehouse	no	no	no	SPR
Waste containers	CEO <sup>3</sup>	CEO <sup>3</sup>	CEO <sup>3</sup>	CEO <sup>3</sup>
Wholesale	no	no	no	SPR
Wholesale business facilities	no	no	no	SPR
Uses similar to allowed uses	CEO	CEO	CEO	CEO
Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO
Uses similar to uses requiring a planning board permit	SPR	SPR	SPR	SPR

\*Marijuana establishment and medical marijuana establishment are defined in section 11-3 of this Code.

*Notes:*

1. Buildings housing animals shall be no less than 100 feet from property lines.
2. Each bulk oil fuel tank shall not exceed 50,000 gallons in size and use shall be limited to local use only.
3. Only as an accessory to an allowed principal use on the lot. Must conform to the requirements of 45-422, Waste containers.
4. Individual stores shall not have more than 2,500 square feet of gross floor area, except stores located on Route 236 may have up to 5,000 square feet. Customer sales areas shall be confined to one floor.
5. Must conform to the requirements of section 45-423.
6. See section 45-192(b) for an exception on accessory uses and structures.
7. See division 2 of article V of chapter 41 of this Code for specific areas where mobile home parks are allowed.
8. Must conform to the requirements of section 45-456.1 Home business.
9. Use is prohibited unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) non-commercial properties.

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, and the Creation of a New Chapter 5 – Business Licensing, Related to Mobile Vendors

10. Use is prohibited unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) non-commercial properties.
11. Use is prohibited unless property abuts Route 236. If property abuts Route 236, use is "CEO" and must be visually screened from abutting (same street side) non-commercial properties.
12. Use is "SPR 1 & 8" unless property abuts Route 236. If property abuts Route 236, use is "SPR 1" and must be visually screened from abutting (same street side) non-commercial properties.
13. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "yes" and must be visually screened from abutting (same street side) non-commercial properties.
14. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) non-commercial properties.
15. Use is prohibited unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) non-commercial properties in accordance with Sec. 33-175(a). Overnight boarding and outdoor kenneling of animals is prohibited in the rural and suburban zoning districts.
16. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) noncommercial properties.
17. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "CEO" and must be visually screened from abutting (same street side) noncommercial properties.
18. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "SPR 4" and must be visually screened from abutting (same street side) noncommercial properties.
19. See chapter 12 for additional regulations pertaining to the sale and use of fireworks.
20. Must conform to the requirements of section 33-190. Marijuana establishments and medical marijuana establishments may only be authorized as principal uses, and not as accessory uses.
21. Must conform to the requirements of section 45-462.

(T.M. of 11-2-82; T.M. of 6-26-85; T.M. of 11-23-85; T.M. of 11-4-86; T.M. of 4-21-87; T.M. of 3-19-88; T.M. of 12-20-89, (§ 207); T.M. of 12-15-93; Amend. of 3-25-95; T.M. of 3-27-99(1), § 5; Ord. of 3-25-00(1); T.M. of 3-16-02, (art. 3), (art. 4); T.M. of 6-19-01, (art. 6), (art. 7); T.M. of 11-5-02; T.M. of 11-4-03; T.M. of 11-4-03; T.M. of 3-20-04; T.M. of 6-14-08; T.M. of 6-12-2010(3); T.M. of 6-18-2011(6); T.M. of 11-8-2011; T.M. of 6-16-2012(1); T.M. of 6-16-2012(2);

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T.M. of 11-5-2019(5); T.M. of 7-14-2020(5) ; T.M. of 6-8-2021(2) , art. 33; T.M. of 6-8-2021(4) , art. 31; T.M. of 11-2-2021(4) , art. 5; T.M. of 6-14-2022(2) , art. 25)

Cross reference(s)—Review procedures and standards for site review requirements in the zoning table of uses, § 33-56 et seq.

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, and the Creation of a New Chapter 5 – Business Licensing, Related to Mobile Vendors

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, Related to Child Care

*Planning Board recommends \_\_\_\_\_ (#-#)*

*Select Board recommends \_\_\_\_\_ (#-#)*

*DRAFT for March 7, 2023 Planning Board review*

### **Short title**

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, Related to Child Care

### **Ballot question – Town Meeting and Referendum, June 6, 2023**

ARTICLE # \_\_: Shall an Ordinance entitled “Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, Related to Child Care” be enacted?

*(A copy of this ordinance is available in the Town Clerk’s Office)*

### **Background and rationale**

These ordinance amendments make changes to definitions, site plan review requirements, and zoning related to child care and schools.

The definition changes occur in Section 1-2 and, for the most part, mirror state law definitions. The changes:

- Delete the definition of “day nurseries” and replace it with an umbrella definition of a “child care facility” and definitions for three types of child care facilities: “child care center”, “small child care facility”, and “nursery school”.
- Add “family child care provider” and “youth camp” definitions. Generally, a family child care is a smaller child care service operated out of a person’s home for up to 12 children, and a youth camp includes a program and facilities providing an outdoor group living experience for children with social, recreational, spiritual, and educational objectives.
- Delete the current definition of “school” and replace it with new definitions of “school”, “public school”, and “private school” based on state law definitions.
- Add a state-law-based definition of “adult day care”, but do not make associated site plan review or zoning changes for this use.
- Add a definition of “outdoor education program”, which is similar to a nursery school with the key difference being that it is conducted primarily outdoors.

The intended result of these definition changes is to increase clarity, specificity, and state law consistency.

The amendments propose new site plan review requirements for child care facilities and family child care providers in proposed Section 33-192. While acknowledging that these facilities and providers are subject to the State of Maine Child Care Facility Licensing Rule, which is not in the

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, Related to Child Care

Town’s jurisdiction, Section 33-192 requires that site plans demonstrate consistency with the parts of that rule that are relevant to site plan review, such as showing sufficient minimum usable space per child, sufficient outdoor play area that is protected from hazardous conditions, and safe and orderly pickup and drop-off.

The amendments update the table of land uses in Section 45-290 to delete the “day nurseries” row and replace it with “child care facility” and “family child care provider” rows. They propose to make child care facilities allowable, subject to site plan review (also known as “SPR” uses), in the commercial-industrial (C/I) zoning district, and in other zoning districts for lots abutting Route 236. They propose to make family child care providers SPR uses in the C/I district and “SPR 8” uses in all other zoning districts. “SPR 8” refers to uses allowable only as home businesses, subject to site plan review. To clear up possible confusion, the amendments also make home businesses allowable in the C/I district. While there are not many homes in the C/I district, there are some, so parity is established for homes in all zoning districts. In summary, if the amendments are approved, child care facilities will be continue to be allowable along Route 236 and in the C/I district, while child care home businesses will be allowable in all zoning districts.

The amendments also make youth camps SPR uses in all zoning districts, similar to schools, and make outdoor education programs allowed “by right” in all zoning districts, meaning no local land use or building/code permitting review is required for this use.

**New text underlined in bold**

~~Deleted text in strikethrough~~

*[Text in brackets, bold, and italics introduces a large block of new text:]*

*[Text in brackets and italics is a temporary explanatory note]*

Sec. 1-2. - Definitions and rules of construction.

*[abridged to only show changes]*

*[...]*

**Adult day care means an ongoing program of health, social, maintenance, and rehabilitative services available to persons needing this level of service, as determined by an assessment of their functional abilities and need for health and social services.**

**State law reference – 22 M.R.S.A. §6202(1)**

*[...]*

**Child care center means: (1) a house or other place in which a person maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for 13 or more children under 13 years of age; or (2) Any location or locations operated as a single child care program or by a person or persons when there are more than 12 children being cared for.**

**State law reference – 22 M.R.S.A. §8301-A(1-A)**

**Child care facility means a child care center, small child care facility, or nursery school. “Child care facility” does not include a facility operated by a family child care provider, a youth camp licensed under 22 M.R.S.A. §2495, programs offering instruction to children for the purpose of teaching a skill such as karate, dance or basketball, a formal public or private school in the nature of a kindergarten or elementary or secondary school approved by the Maine Commissioner of Education in accordance with M.R.S.A. Title 20-A or a private school recognized by the Maine Department of Education as a provider of equivalent instruction for the purpose of compulsory school attendance. Any program for children under 5 years of age that is located in a private school and programs that contract with one or more Child Development Services System sites are required to be licensed as a child care facility.**

**State law reference – 22 M.R.S.A. §8301-A(1-A)**

*[...]*

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, Related to Child Care

~~*Day nurseries* means a house or other place in which a person maintains or otherwise carries out, for consideration, a regular program which provides care for three or more children. This term includes day care centers.~~

[...]

***Family child care provider* means a person who provides day care in that person's home on a regular basis, for consideration, for 3 to 12 children under 13 years of age who are not the children of the provider or who are not residing in the provider's home.**

**State law reference – 22 M.R.S.A. §8301-A(1-A)**

[...]

***Nursery school* means a house or other place in which a person or combination of persons maintains or otherwise carries out for consideration during the day a regular program that provides care for 3 or more children 33 months of age or older and under 8 years of age, provided that:**

- (1) No session conducted for the children is longer than 3 1/2 hours in length;**
- (2) No more than 2 sessions are conducted per day;**
- (3) Each child in attendance at the nursery school attends only one session per day; and**
- (4) No hot meal is served to the children.**

**"Nursery school" does not include any facility operated as a child care center or small child care facility licensed under subsection 22 MRSA 8301-A(2), a youth camp licensed under section 22 MRSA 2495, a public or private school in the nature of a kindergarten approved by the Maine Commissioner of Education, in accordance with MRSA Title 20-A, or an outdoor education program as defined in this section.**

**State law reference – 22 M.R.S.A. §8301-A(1-A)**

~~*Nursery schools.* See "day nurseries."~~

[...]

***Outdoor education program* means a program that provides education and enrichment for children 2 years of age or older and is primarily conducted outdoors, provided that:**

- (1) No session conducted for the children is longer than 3 1/2 hours in length;**

- (2) **No more than 2 sessions are conducted per day;**
- (3) **Each child in attendance at the outdoor education program attends only one session per day;**
- (4) **No hot meal is served to the children; and,**
- (5) **The program is not located within a building, except that it may make incidental use of buildings to meet the essential needs of the children or the program, to provide for occasional indoor educational or administrative activities, or to provide shelter from inclement or extreme weather conditions. The extent and nature of the use of a building is a primary factor in differentiating between an outdoor education program and a nursery school or other child care facility. This differentiation may also be informed by State child care provider licensing requirements or other factors.**

[...]

**Private school means an academy, seminary, institute or other private corporation or body formed for educational purposes covering kindergarten through grade 12 or any portion thereof.**

**State law reference – 20-A M.R.S.A. §1(22)**

[...]

**Public school means a school that is governed by a school board of a school administrative unit and funded primarily with public funds.**

**State law reference – 20-A M.R.S.A. §1(24)**

[...]

**School means ~~any institution at which instruction is given in a particular discipline.~~ a public school or private school. It does not mean a child care facility, although a child care facility may be located within a school as provided in the definition of child care facility in this section.**

[...]

**Small child care facility means a house or other place, not the residence of the operator, in which a person or combination of persons maintains or otherwise carries out a**

**regular program, for consideration, for any part of a day providing care and protection for 3 to 12 children under 13 years of age.**

**State law reference – 22 M.R.S.A. §8301-A(1-A)**

[...]

**Youth camp means a combination of program and facilities established for the primary purpose of providing an outdoor group living experience for children with social, recreational, spiritual, and educational objectives and operated and used for 5 or more consecutive days during one or more seasons of the year. “Youth camp” includes day camps, residential camps, and trip and travel camps. “Youth camp” does not include programs overseen by employees or volunteers of municipalities and educational institutions when the activities generally take place at municipal or institutional properties and buildings.**

**State law reference – 22 M.R.S.A. §2491(16)**

***[Add a new section:]***

Sec. 33-192. – Child care facilities and family child care providers

- (a) The Town finds that child care facilities and family child care providers must comply with the requirements of the State of Maine Child Care Facility Licensing Rule (10-148 Code of Maine Rules, Chapter 32), as may be amended. While the Town does not have jurisdiction to enforce this rule, to avoid a conflict between an approved site plan and said rule, site plans (or related application materials) for proposed child care facilities or family child care provider home business applications to be reviewed by the Planning Board shall demonstrate how they intend to comply with the parts of this rule that are relevant to site plan review, including, but not necessarily limited to:
  - (1) Sufficient minimum usable space for the maximum number of children proposed to be served; and
  - (2) Sufficient outdoor play area(s), protection of such areas from hazardous conditions, and location and dimensions of fences and gates for such areas.
- (b) Site plans for child care facilities or family child care provider home business applications shall demonstrate adequate provision for safe and orderly pickup and drop-off of children, as well as access to and egress from parking areas, consistent with Sections 33-179, 45-406, and 45-486 et seq.

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, Related to Child Care

Sec. 45-290. - Table of permitted and prohibited uses.

The following table of land uses designates permitted uses by a yes and prohibited uses by a no. Any use not listed is a prohibited use. The letters CEO, SPR, and SD are explained in section 45-402.

*Table of Land Uses*

Land uses	R	S	V	C/I
Accessory dwelling unit	CEO	CEO	CEO	CEO
Agriculture, except animal breeding and care	yes	yes	yes	no
Animal breeding	yes <sup>1</sup>	12	SPR <sup>1&amp;8</sup>	no
Animal husbandry	yes <sup>1</sup>	yes <sup>1</sup>	yes <sup>1</sup>	no
Apartment house, see multiple-family dwelling	—	—	—	—
Apartment, see single-family dwellings	—	—	—	—
Aquaculture	13	13	SPR <sup>8</sup>	no
Assisted living facility	no	SPR/SD	SPR/SD	SPR/SD
Auto graveyards	SPR	no	no	no
Auto hobbyist storage area	SPR	SPR	no	no
Auto junkyard	no	no	no	no
Auto recycling business	9	9	no	SPR
Auto recycling operation, principal	9	no	no	SPR
Auto recycling operation, limited	9	9	no	SPR
Auto repair garages	14	14	SPR <sup>8</sup>	SPR
Auto service stations	no	9	no	SPR
Banks	no	no	SPR	SPR
Bathhouse	11	11	no	no
Bathing beach	yes	yes	yes	no
Bed and breakfasts	14	14	SPR <sup>8</sup>	SPR
Boarding homes, see lodging businesses	—	—	—	—
Boarding kennel	no	no	no	SPR
Bulk oil fuel tanks	no	no	no	SPR <sup>2</sup>

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, Related to Child Care

Business office	14	14	SPR <sup>8</sup>	SPR
Campgrounds	SPR	no	no	no
Cemeteries	SPR	SPR	SPR	no
<b><u>Child care facility</u></b>	<b><u>16</u></b>	<b><u>16</u></b>	<b><u>16</u></b>	<b><u>SPR</u></b>
<b><u>Child care provider, family</u></b>	<b><u>SPR<sup>8</sup></u></b>	<b><u>SPR<sup>8</sup></u></b>	<b><u>SPR<sup>8</sup></u></b>	<b><u>SPR</u></b>
Clearing	yes	yes	yes	yes
Clinics	no	no	no	SPR
Clustered housing	SPR	no	no	no
Commercial adult enterprise	no	no	no	SPR
Commercial establishment, 2 or more where allowed	-	9	no	SPR
Day nurseries	SPR	16	SPR <sup>8</sup>	SPR
Earth material removal, less than 100 cubic yards 100 cubic yards or greater	yes SPR	yes SPR	yes SPR	yes SPR
Elderly housing	no	SPR/SD	SPR/SD	SPR/SD
Emergency operations	yes	yes	yes	yes
Equipment storage, trucks, 3 or more	no	no	no	yes
Essential services	yes	yes	yes	yes
Expansion of an existing telecommunication structure or collocation of antenna on a existing telecommunication structure or alternate tower structure	CEO	CEO	CEO	CEO
Farm equipment stores	SPR	10	no	SPR
Fences	yes <sup>5</sup>	yes <sup>5</sup>	yes <sup>5</sup>	yes <sup>5</sup>
Firewood sales	yes	13	SPR <sup>8</sup>	yes
Fireworks sales	no <sup>19</sup>	no <sup>19</sup>	no <sup>19</sup>	no <sup>19</sup>
Forest management, except timber harvesting	yes	yes	yes	yes
Funeral establishment	no	no	SPR	SPR
Gambling casino	no	no	no	no
Gardening	yes	yes	yes	yes
Gasoline stations	no	9	no	SPR

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, Related to Child Care

Governmental buildings or uses	SPR	SPR	SPR	SPR
Grain or feed stores	SPR	10	no	SPR
Harvesting wild crops	yes	yes	yes	yes
Home business	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR <sup>8</sup>	<del>no</del> <u>SPR<sup>8</sup></u>
Home occupations	10	10	no	no
Home office	CEO	CEO	CEO	CEO
Hospitals	no	no	no	SPR
Indoor commercial, recreational and amusement facilities	no	no	no	SPR
Industrial and business research laboratory	no	no	no	SPR
Industrial establishments and uses	no	no	no	SPR
Institutional buildings and uses, indoor	no	9	no	no
Junkyards	no	no	no	no
Landfill, dump	no	no	no	no
Libraries	SPR	SPR	SPR	SPR
Life care facility	no	SPR/SD	SPR/SD	SPR/SD
Lodging businesses, including bed and breakfasts, boarding homes or houses, hotels, inns, lodginghouses, rooming homes, and the like	14	14	SPR <sup>8</sup>	SPR
Manufacturing	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR
Marijuana establishment*	no	no	no	SPR <sup>20</sup>
Medical marijuana establishment*	no	no	no	SPR <sup>20</sup>
Mobile home parks	SPR/ SD <sup>7</sup>	SPR/SD <sup>7</sup>	SPR/SD <sup>7</sup>	no
Motel	no	no	no	SPR
Multiple-family dwelling	no	SPR	SPR	no
Museums	SPR	SPR	SPR	SPR
New construction of telecommunication structure 70 feet and higher	9	9	no	SPR

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, Related to Child Care

New construction of telecommunication structure less than 70 feet high	CEO	CEO	CEO	CEO
Nurseries, plants	CEO	17	SPR <sup>8</sup>	no
Nursing facility	no	SPR	SPR	SPR
Off-site parking	no	no	no	no
<b><u>Outdoor education program</u></b>	<b><u>yes</u></b>	<b><u>yes</u></b>	<b><u>yes</u></b>	<b><u>yes</u></b>
Parks	SPR	SPR	SPR	no
Places of worship	SPR	SPR	SPR	SPR
Playgrounds	SPR	SPR	SPR	no
Printing plant	14	14	SPR <sup>8</sup>	SPR
Produce and plants raised locally, seasonal sales	yes	yes	yes	no
Professional offices	14	14	SPR <sup>8</sup>	SPR
Public utility facilities	SPR	SPR	SPR	SPR
Recreational facilities, nonintensive	SPR	SPR	SPR	no
Recreational use not requiring structures	SPR	yes	yes	no
Restaurant	9	9	SPR <sup>8</sup>	SPR
Restaurant, takeout	no	no	no	SPR
Retail stores, local, other	18	18	SPR <sup>8</sup>	SPR
Road construction	CEO	CEO	CEO	SPR
Schools	SPR	SPR	SPR	SPR
Sewage disposal systems, private	CEO	CEO	CEO	CEO
Signs, 6 square feet	CEO	CEO	CEO	CEO
Signs, other	CEO	CEO	CEO	CEO
Single-family dwellings	CEO	CEO	CEO	no <sup>6</sup>
Small wind energy system	SPR	SPR	SPR	SPR
Solar energy system, small-scale ground mounted or roof-mounted	CEO <sup>21</sup>	CEO <sup>21</sup>	CEO <sup>21</sup>	CEO <sup>21</sup>
Solar energy system, larger-scale	SPR <sup>21</sup>	SPR <sup>21</sup>	no	SPR <sup>21</sup>
Surveying and resource analysis	yes	yes	yes	yes

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, Related to Child Care

Timber harvesting	yes	yes	yes	yes
Truck terminals and storage	no	no	no	SPR
Two-family dwellings	CEO	CEO	CEO	no <sup>6</sup>
Veterinary hospital	15	15	No	SPR
Warehouse	no	no	no	SPR
Waste containers	CEO <sup>3</sup>	CEO <sup>3</sup>	CEO <sup>3</sup>	CEO <sup>3</sup>
Wholesale	no	no	no	SPR
Wholesale business facilities	no	no	no	SPR
<b><u>Youth camp</u></b>	<b><u>SPR</u></b>	<b><u>SPR</u></b>	<b><u>SPR</u></b>	<b><u>SPR</u></b>
Uses similar to allowed uses	CEO	CEO	CEO	CEO
Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO
Uses similar to uses requiring a planning board permit	SPR	SPR	SPR	SPR

\*Marijuana establishment and medical marijuana establishment are defined in section 11-3 of this Code.

*Notes:*

1. Buildings housing animals shall be no less than 100 feet from property lines.
2. Each bulk oil fuel tank shall not exceed 50,000 gallons in size and use shall be limited to local use only.
3. Only as an accessory to an allowed principal use on the lot. Must conform to the requirements of 45-422, Waste containers.
4. Individual stores shall not have more than 2,500 square feet of gross floor area, except stores located on Route 236 may have up to 5,000 square feet. Customer sales areas shall be confined to one floor.
5. Must conform to the requirements of section 45-423.
6. See section 45-192(b) for an exception on accessory uses and structures.
7. See division 2 of article V of chapter 41 of this Code for specific areas where mobile home parks are allowed.
8. Must conform to the requirements of section 45-456.1 Home business.
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Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, Related to Child Care

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12. Use is "SPR 1 & 8" unless property abuts Route 236. If property abuts Route 236, use is "SPR 1" and must be visually screened from abutting (same street side) non-commercial properties.
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15. Use is prohibited unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) non-commercial properties in accordance with Sec. 33-175(a). Overnight boarding and outdoor kenneling of animals is prohibited in the rural and suburban zoning districts.
16. Use is ~~"SPR 8"~~ **prohibited** unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) noncommercial properties.
17. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "CEO" and must be visually screened from abutting (same street side) noncommercial properties.
18. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "SPR 4" and must be visually screened from abutting (same street side) noncommercial properties.
19. See chapter 12 for additional regulations pertaining to the sale and use of fireworks.
20. Must conform to the requirements of section 33-190. Marijuana establishments and medical marijuana establishments may only be authorized as principal uses, and not as accessory uses.
21. Must conform to the requirements of section 45-462.

(T.M. of 11-2-82; T.M. of 6-26-85; T.M. of 11-23-85; T.M. of 11-4-86; T.M. of 4-21-87; T.M. of 3-19-88; T.M. of 12-20-89, (§ 207); T.M. of 12-15-93; Amend. of 3-25-95; T.M. of 3-27-99(1), § 5; Ord. of 3-25-00(1); T.M. of 3-16-02, (art. 3), (art. 4); T.M. of 6-19-01, (art. 6), (art. 7); T.M. of 11-5-02; T.M. of 11-4-03; T.M. of 11-4-03; T.M. of 3-20-04; T.M. of 6-14-08; T.M. of 6-12-2010(3); T.M. of 6-18-2011(6); T.M. of 11-8-2011; T.M. of 6-16-2012(1); T.M. of 6-16-2012(2); T.M. of 11-5-2019(5); T.M. of 7-14-2020(5) ; T.M. of 6-8-2021(2) , art. 33; T.M. of 6-8-2021(4) , art. 31; T.M. of 11-2-2021(4) , art. 5; T.M. of 6-14-2022(2) , art. 25)

Cross reference(s)—Review procedures and standards for site review requirements in the zoning table of uses, § 33-56 et seq.

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, Related to Child Care

Sec. 45-495. – Schedule of minimum required off-street parking spaces.

	Use	Standards
(1)	Dwelling units	alternately, 2 for the first unit, 3 for the second unit, 2 for the third unit, and so on
(2)	Lodging business and motels	1 space for each sleeping room and for each person anticipated to be employed on the largest shift
(3)	Home occupation	1 for each employee and customer up to 10 maximum, not counting residential use
(4)	Camper park	1 space per site
(5)	Takeout restaurant	minimum 25 parking spaces plus 1 space for each 50 square feet (or fraction thereof) of floor space in excess of 900 square feet, and 1 space for every exterior table
(6)	Other restaurants or places serving food	1 space for each 3 seats, permanent or otherwise
(7)	Wholesale or retail sales, or service establishment	1 space for each 150 square feet of retail floor area; 1 space for each 100 square feet of retail floor area (minimum 10 spaces) for marijuana retail stores)
(8)	Automobile, truck and tractor repair and filling stations	1 parking space for each regular employee plus 1 space for each 50 square feet of floor area used for service work
(9)	Public building and professional offices (excluding medical and dental offices), nonprofit medical marijuana dispensaries	1 parking space for each 200 square feet, or major fraction thereof, of floor area exclusive of bulk storage areas
(10)	Medical and dental offices	7 parking spaces for each physician, dentist or other medical practitioner
(11)	Commercial and industrial uses not specifically enumerated	1 space for each person employed or anticipated to be employed on the largest shift
(12)	Schools	<del>Day nursery</del> <b>Child care center</b> —2 parking spaces for each <del>nursery</del> <b>child care</b> room plus 1 space for each adult instructor
		<b><u>Family child care provider—See Section 45-456.1</u></b>

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 45 – Zoning, Related to Child Care

		Elementary and junior high schools—1 parking space for each adult employee plus 15 parking spaces for each 100 students, or major fraction thereof, of total enrollment
(13)	Theaters, auditoriums, churches, arenas, and libraries	1 parking space for every 4 seats, or for every 100 square feet of assemblage space if no fixed seats
(14)	Hospital, sanitariums or nursing homes	1 space for each 500 square feet (or major fraction thereof) of floor area, exclusive of basement
(15)	Adequate spaces shall be provided to accommodate customers, patrons, and employees for permitted uses not listed above	

(T.M. of 11-2-82; T.M. of 6-26-85; T.M. of 11-23-85; T.M. of 11-4-86; T.M. of 4-21-87; T.M. of 3-19-88; T.M. of 12-20-89, (§ 333.3); T.M. of 6-18-2011(6); T.M. of 6-14-2022(3) , art. 26)

Proposed Town Code Amendments of Chapter 31 – Non-Stormwater Discharges, Related to Enforcement of Non-Stormwater Discharges

*Planning Board recommends \_\_\_\_\_ (#-#)*

*Select Board recommends \_\_\_\_\_ (#-#)*

*DRAFT for March 7, 2023 Planning Board review*

**Short Title**

Proposed Town Code Amendments of Chapter 31 – Non-Stormwater Discharges, Related to Enforcement of Non-Stormwater Discharges

**Ballot question – Town Meeting and Referendum, June 6, 2023**

ARTICLE # \_\_: Shall an Ordinance entitled “Proposed Town Code Amendments of Chapter 31 – Non-Stormwater Discharges, Related to Enforcement of Non-Stormwater Discharges” be enacted?

*(A copy of this ordinance is available in the Town Clerk’s Office)*

**Background and rationale**

The Town of Eliot is subject to a Clean Water Act permit designed to protect waters from stormwater pollution. The permit, called the General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (“MS4 Permit”), is issued by Maine Department of Environmental Protection (DEP). DEP periodically issues updated versions of the permit, most recently in 2021.

The new MS4 Permit requires that, by June 30, 2023, municipalities update their ordinances to ensure that any pollutants discharged to the storm drain system be removed within 60 days of identification of the source of the pollutant. If removal within 60 days is not possible, the owner or discharger may work with the Code Enforcement Officer to set an alternate schedule to remove the source of the pollutant.

The Town of Eliot enacted Chapter 31 Non-Stormwater Discharges in 2004 prohibit pollutants from being discharged to the storm drain system. This ordinance includes a list of a few allowed non-stormwater discharges such as uncontaminated groundwater and spring water. The changes are proposed to be made to the Notice of Violation section of the Chapter. Additional changes are being made to Section 31-11 to correct the basis for the ordinance.

Proposed Town Code Amendments of Chapter 31 – Non-Stormwater Discharges, Related to Enforcement of Non-Stormwater Discharges

**(New text underlined in bold)**

~~Deleted text in strikethrough~~

***[Text in brackets, bold, and italics introduces a large block of new text:]***

*[Text in brackets and italics is a temporary explanatory note]*

Sec. 31-9. – Enforcement.

In order to determine compliance with this chapter, the enforcement authority may enter upon and inspect the property of the premises subject to this chapter at reasonable hours or any building on the premises with the consent of the premises' owner, occupant or agent: to inspect the premises and connections thereon to the storm drainage system; and to conduct monitoring, sampling and testing of the discharge to the storm drainage system.

- (1) *Notice of violation.* Whenever the enforcement authority believes that a person has violated this chapter, the enforcement authority may order compliance with this chapter by written notice of violation to that person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:
  - a. The elimination of non-stormwater discharges to the storm drainage **system within 60 days of identification of the source**, including, but not limited to, disconnection of the premises from the MS4;
  - b. The cessation of discharges, practices, or operations in violation of this chapter;
  - c. At the person's expense, the abatement or remediation (in accordance with best management practices in DEP rules and regulations) of non-stormwater discharges to the storm drainage system and the restoration of any affected property; and/or
  - d. The payment of fines, of the municipality's remediation costs and of the municipality's reasonable administrative costs and attorneys' fees and costs.

If abatement of a violation and/or restoration of affected property is required, **or if elimination of the Non-Stormwater Discharge is not possible within 60 days of identification of the source**, the notice shall set forth a deadline within which such **elimination**, abatement, or restoration must be completed

## Proposed Town Code Amendments of Chapter 31 – Non-Stormwater Discharges, Related to Enforcement of Non-Stormwater Discharges

### Sec. 31-11. - Basis.

The town enacts this Non-Stormwater Discharge Ordinance (the "ordinance") pursuant to 30-A M.R.S.A. § 3001 (Municipal Home Rule Ordinance Authority), 38 M.R.S.A. § 413 (the "Wastewater Discharge Law"), 33 U.S.C. § 1251 et seq. (the "Clean Water Act"), and 40 CFR Part 122 (U.S. Environmental Protection Agency's regulations governing the National Pollutant Discharge Elimination System ("NPDES")). The Maine Department of Environmental Protection, through its promulgation of the "General permit for the discharge of stormwater from small municipal separate storm sewer systems" dated ~~June 3, 2003~~, has listed the Town of Eliot as having a regulated small municipal separate storm sewer system ("Small MS4"); under this general permit, listing as a regulated small MS4 necessitates enactment of this chapter as part of the municipality's stormwater management program