

Eliot Select Board Packet Addendum
Thursday March 24, 2022 5:30PM Town Hall

The material contained in this addendum is intended as additional public information for the March 24, 2022 Selectboard Meeting. Please see full packet at https://www.eliotmaine.org/sites/g/files/vyhlif4386/f/agendas/agenda_and_meeting_packet_03-24-22.pdf

This material was submitted after the original posting of the meeting material and is intended to enhance the public understanding and Select Board's discussion on the proposed ordinances changes requested to appear on the June 2022 Town Warrant.

1. Growth Permit Allocation
2. Site Development Requirements
3. Sign Standards
4. Marijuana Establishment Standards and Uses
5. Solar Energy Systems

Proposed Warrant Article for June 2022 Town Meeting & Referendum

Establishing the Maximum Number of Growth Management Permits for 2023 (Chapter 29 of the Municipal Code of Ordinances of Eliot, Maine)

Shall the Town of Eliot allocate a maximum of 28 growth permits for new residential dwelling units for calendar year 2023, as recommended by the Eliot Planning Board, in accordance with §29-5 of the Growth Management chapter of the Municipal Code of Ordinances of Eliot, Maine?*

*Note: In the event this article does not pass, the number of growth permits allocated in 2023 will be 105% of the mean number of permits issued for new residential dwelling units during the previous ten years, as required by M.R.S.A. 30-A §4360. That number is estimated to be 18

DRAFT Proposed Town Code Amendments of Chapter 33 – Planning and Development, Related to Site Plan Review Content Requirements

*Draft for Select Board review, March 24, 2022
Planning Board recommends approval (4-0)*

Short title (DRAFT)

Proposed Town Code Amendments of Chapter 33 – Planning and Development, Related to Site Plan Review Content Requirements

Ballot question (DRAFT)

ARTICLE #__ : Shall an Ordinance entitled “Proposed Town Code Amendments of Chapter 33 – Planning and Development, Related to Site Plan Review Content Requirements” be enacted?

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

Background and rationale (DRAFT)

These ordinance amendments update Section 33-106, renaming it from “Affidavit of ownership” to “Right, title, and interest” and clarifying what documentation is needed from an applicant before the Planning Board to show that they have the legal ability to make the improvements to a site as approved by the Board. Clarification is added for the types of ownership/lease documents and options that may be necessary or sufficient. The amendments add a requirement for building elevation drawings and building heights to allow the Planning Board to better review proposals against dimensional standards and the aesthetic aspects of proposals.

**DRAFT Proposed Town Code Amendments of Chapter 33 – Planning and Development,
Related to Site Plan Review Content Requirements**

Sec. 33-106. - Affidavit of ownership. Right, title, and interest

~~The developer shall submit with the sketch plan application an affidavit of ownership or valid option of at least 90 days. The affidavit shall include the acquisition date of the property, book and page number of the recorded conveyance legal and contract owners of the property, and, if any corporations are involved, a complete list of all directors, officers and stockholders owning more than five percent of any class of stock in each corporation. The developer shall also provide the name, address and telephone number of an authorized agent who shall receive all notices required by this article.~~

The applicant shall submit, with the sketch plan application, documents and information sufficient to show that, if their application is approved, they have right, title, and interest to construct the development as approved, in compliance with the Town Code and any other applicable laws. As applicable, such documentation shall include, but shall not necessarily be limited to:

- (1) A deed, recorded in the York County Registry of Deeds, conveying the property to the current property owner (required);**
- (2) A purchase and sale agreement, or similar purchase option, valid for at least 90 days from the date of receipt of the application, between the property owner and the applicant, or the applicant's lessor;**
- (3) A lease or rental agreement, or a lease option valid for at least 90 days from the date of receipt of the application, between the property owner and the applicant;**
- (4) Any easement or right-of-way agreements applicable to the development;**
- (5) If any corporations are involved (for example S, C, and non-profit corporations; Limited Liability Companies; sole proprietorships; and partnerships), a complete list of all directors, officers and stockholders owning more than five percent of any class of stock in each corporation;**
- (6) If requested by the Planning Board, a chart summarizing ownership or lease agreements and connections between individuals and business entities involved; or**
- (7) Similar documentation as listed above**

If the applicant will have an authorized agent representing them for Planning Board review and permitting, the applicant shall provide an agent authorization letter (or similar document) with the agent's contact information.

Sec. 33-127. Contents; required information.

The developer shall submit two originals of a site plan, drawn at a scale not smaller than one inch equals 20 feet, and ten copies reduced to 11 inches by 17 inches, and showing the

1

**Growth Permit
Proposed
Change**

DRAFT Proposed Town Code Amendments of Chapter 33 – Planning and Development, Related to Site Plan Review Content Requirements

following information unless the planning board waives these requirements, upon the written request of the applicant:

- (1) Development name or identifying title and the name of the town.
- (2) Name and address of record owners, developer and designer.
- (3) Names and address of all abutters and their present land use.
- (4) Perimeter survey of the parcel made and certified by a state-registered land surveyor, relating to reference points, showing true north point, graphic scale, corners of the parcel, date of survey, total acreage, existing easements, buildings, watercourses and other essential existing physical features.
- (5) The location of temporary markers adequate to enable the planning board to locate readily and appraise the basic layout in the field.
- (6) Contour lines at intervals of not more than five feet or at such intervals as the planning board may require, based on U.S. Geological Survey topographical map datum of existing grades where change of existing ground elevation will be five feet or more.
- (7) Provisions of chapter 45 of this Code applicable to the area to be developed and any zoning district boundaries affecting the development.
- (8) Provisions for collecting and discharging storm drainage, in the form of a drainage plan.
- (9) Preliminary designs of any bridges or culverts which may be required.
- (10) The location of all natural features or site elements to be preserved.
- (11) A soil erosion and sediment control plan.
- (12) A high-intensity soils report by a state-certified soils scientist identifying the soils boundaries and names in the proposed development, with the soils information superimposed upon the plot plan. Such soils survey shall account for the water table in wet and dry seasons, slope, soil quality, etc.; and planning board approval will be conditioned upon compliance with any recommendations included in such report.
- (13) The location and size of any existing sewers and water mains, culverts and drains on the property to be developed.
- (14) Connection with existing water supply or alternative means of providing water supply to the proposed development.
- (15) Connection with existing sanitary sewerage system or alternative means of treatment and disposal proposed.
- (16) If a private sewage disposal system is proposed, location and results of tests to ascertain subsurface soil and groundwater conditions, depth to maximum groundwater level, location and results of soils testing.
- (17) An estimated progress schedule.

**DRAFT Proposed Town Code Amendments of Chapter 33 – Planning and Development,
Related to Site Plan Review Content Requirements**

(18) Construction drawings sufficient to enable the code enforcement officer to verify the following information:

a. Total floor area, ground coverage, height, and location of each proposed building, structure or addition.

b. Elevation drawings of each proposed building, structure, or addition including dimensions and architectural features

~~b.c.~~ All existing and proposed setback dimensions.

~~e.d.~~ The size, location and direction and intensity of illumination of all major outdoor lighting apparatus and signs.

~~d.e.~~ The type, size and location of all incineration devices.

~~e.f.~~ The type, size and location of all machinery likely to generate appreciable noise beyond the lot lines.

~~f.g.~~ The amount and type of any raw, finished, or waste materials to be stored outside of roofed buildings, including their physical and chemical properties, if appropriate.

~~g.h.~~ The location, type and size of all curbs, sidewalks, driveways, fences, retaining walls, parking space areas, and the layouts together with all dimensions.

~~h.i.~~ All landscaped areas, fencing and size and type of plant material proposed to be retained or planted.

~~i.j.~~ A site plan for a telecommunication structure must provide a description and construction detail of the telecommunication structure, including plot plan identifying location of the structure on the property; dimensions of the structure; structural supports, if any; lighting; color; and equipment located on the structure, if any. This description shall also identify any accessory structures that are proposed in connection with the operation of the telecommunication structure.

~~j.k.~~ Applications for subdivisions shall include all applicable submission requirements above, in addition to those required by chapter 41 of this Code. If these submission requirements conflict with the requirements of the chapter 41, the stricter standards shall apply.

(19) Site plans and construction drawings for new and existing structures listed as "SPR" in section 45-290 shall be submitted to the Eliot Fire Chief for review and comment prior to final approval by the planning board.

(T.M. of 11-2-82; T.M. of 3-19-88; T.M. of 12-20-89, (§ 204.4); T.M. of 3-27-99(1), § 8; T.M. of 6-12-2010(3); T.M. of 6-18-2011(5))

Cross reference(s)—Landscaping, § 33-175; landscape requirements under the zoning regulations, § 45-413.

#2

**Site Plan
Requirements
Proposed
Change**

DRAFT Proposed Town Code Amendments of Chapter 45 – Zoning, Related to Placement Standards for Signs and Making Minor Formatting Corrections

*Draft for Select Board review, March 24, 2022
Planning Board recommends approval (4-0)*

Short title (DRAFT)

Proposed Town Code Amendments of Chapter 45 – Zoning, Related to Placement Standards for Signs and Making Minor Formatting Corrections

Ballot question (DRAFT)

ARTICLE #__: Shall an Ordinance entitled “Proposed Town Code Amendments of Chapter 45 – Zoning, Related to Placement Standards for Signs and Making Minor Formatting Corrections” be enacted?

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

Background and rationale (DRAFT)

These ordinance amendments clarify that there are no front lot line setbacks for signs along Route 236 for properties that abut Route 236. Currently Section 45-405 and Paragraph (h) of Section 45-532 are ambiguous about whether the front lot line setback is 0 feet or 8 feet. If adopted, signs would simply have to be fully on the property and not encroach on the Route 236 right-of-way. It generally requires signs that are not designed to safely break away in the event of a motor vehicle collision (e.g. are anchored into the ground with concrete) to be at least 20 ft. from the edge of Route 236 pavement, unless a qualified, licensed engineer can demonstrate that a lesser edge-of-pavement setback complies with applicable safety standards and does not obstruct drivers’ free and clear vision, as laid out in 45-532(i). The amendments establish a one-year period for unpermitted Route 236 signs that were previously not compliant with front lot line setbacks, but are now compliant with Chapter 45, to obtain an after-the-fact permit without relocation of the sign. Finally, the amendments make various minor footnote, wording, and formatting corrections to Section 45-405. Currently, some of the footnote references are off by one letter, and the units are missing from some numerical standards.

DRAFT Proposed Town Code Amendments of Chapter 45 – Zoning, Related to Placement Standards for Signs and Making Minor Formatting Corrections

New text in bold underline

~~Deleted text in strikethrough~~

Sec. 45-405. Dimensional standards.

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

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

DRAFT Proposed Town Code Amendments of Chapter 45 – Zoning, Related to Placement Standards for Signs and Making Minor Formatting Corrections

Each additional unit	3	1	½ ^g	—	—
Assisted living facility	—	s	s	s	—
Elderly housing	—	g	g	g	—
Life care facility	—	t	t	t	—
Max. number of principal structures per lot	h	h	h	v	1
<u>Signs:</u>					
Signs <u>Max. sign area</u> (sq. ft.)	6	6	6	100	6
<u>Max. sign area (sq. ft.), c</u> Commercial establishments only	12	12	12	100 ⁱ	12
<u>Max. sign area (sq. ft.), n</u> New residential subdivisions	50 ^j	50 ^j	50 ^j		50 ^l
Min. setback (<u>ft.</u>) (front lot line only)	8 ^k	8 ^k	8 ^k	— ^k	8 ^k
Min. st. frontage (ft.) ^l	200	150	100	300	50/75/100 ⁿ
Backlots ^m					

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.

f. (Reserved.)

DRAFT Proposed Town Code Amendments of Chapter 45 – Zoning, Related to Placement Standards for Signs and Making Minor Formatting Corrections

~~f.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.

~~g.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).

~~h.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.

~~i.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.

~~j.k.~~ A sign shall not be located nearer than eight feet from the right-of-way boundary or nearer than eight feet from the edge of the travelled way. See section 45-532(h) for other **additional sign placement** requirements.

~~k.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.

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

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

6,500 feet² if served by public sewer. Minimum lot width is 50 feet.

12,000 feet² 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 feet² per dwelling. Minimum lot width is 75 feet.

20,000 feet² if served by onsite subsurface wastewater disposal. Minimum lot width is 100 feet.

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

~~o.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.

~~p.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.

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

~~r.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.

DRAFT Proposed Town Code Amendments of Chapter 45 – Zoning, Related to Placement Standards for Signs and Making Minor Formatting Corrections

s.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.

t.u. See section 45-459 for requirements.

u.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.

ARTICLE XI. SIGNS

Sec. 45-526. Definitions.

(See section 1-2).

Editor's note(s)—A Town Meeting held on Nov. 6, 2001, art. 4, revised § 45-526, which pertained to definitions. See the Code Comparative Table at the end of this Code for complete derivation. Former provisions of this section can now be found in § 1-2 of this Code.

DRAFT Proposed Town Code Amendments of Chapter 45 – Zoning, Related to Placement Standards for Signs and Making Minor Formatting Corrections

Sec. 45-527. Sign area.

The aggregate area of all signs upon a lot or premises, except where otherwise provided in this article, shall not exceed the maximum area permitted in that district.

(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, (§ 335.2))

Sec. 45-528. Measurements.

- (a) Sign measurements shall be based upon the entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside the limits of such perimeter which do not form an integral part of the display. In determining the area of a wall sign, the aggregate area of all characters shall be credited toward allowable sign area at one-half the measurement.
- (b) Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except that where two such faces are placed back to back and are at no point more than two feet from one another, the area of the sign shall be taken as the area of one face if the two faces are of equal area, or as the area of the larger face if the two faces are of unequal area.
- (c) In a commercial or industrial establishment under separate ownership on one parcel within the commercial/industrial district, a common freestanding structure shall be permitted adjacent to a town way or interior street, provided that such sign:
 - (1) Identifies establishments located within the parcel;
 - (2) Does not exceed one sign per use;
 - (3) Does not exceed ten square feet per sign in area;
 - (4) Does not exceed 100 square feet in size.
- (d) On any parcel containing two or more commercial or industrial establishments, each establishment may have one wall-mounted identification sign not exceeding 50 square feet in size. The sign may be placed on the exterior of the building housing the establishment. Signs which are placed inside store windows shall be exempt from the maximum allowable area requirement and do not require a sign permit.

(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, (§ 335.3))

Sec. 45-529. Message.

Signs shall identify or advertise only a use or activity conducted on the lot in which they are placed, unless the appeals board, upon request, makes a determination that an offsite sign conforming to those district regulations in which the sign is located is necessary to protect the

DRAFT Proposed Town Code Amendments of Chapter 45 – Zoning, Related to Placement Standards for Signs and Making Minor Formatting Corrections

interests of a use not occupying the same lot. Written authorization for such signs shall be required from the landowner of the lot in question.

(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, (§ 335.4))

Sec. 45-530. Illumination.

- (a) The color or format of any sign shall not resemble or conflict with traffic signs or signals. Signs with flashing lights or moving parts shall be prohibited, and gas-filled light tubes shall be allowed only when used for indirect illumination and when placed in such a manner that light tubes are not exposed to public view. Illumination of signs shall be designed and conducted in such a manner as to reflect light away from residential properties and motorists' vision.
- (b) Neon or tubular gas-filled signs shall be permitted in the commercial-industrial zone; provided they are located at least 200 feet from any existing residential use or are effectively screened from view of any existing residential use located less than 200 feet from such signs by trees, shrubs, fences, walls, berms or any combination thereof.
- (c) Direct or indirect illuminated signs shall not be illuminated between the hours of 11:00 p.m. and 7:00 a.m. unless the appeals board, by variance, makes a determination that the nature of the businesses or services offered require that the sign be illuminated.

(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, (§ 335.5))

Sec. 45-531. Structural characteristics.

The following limitations shall apply to freestanding, projecting, parallel and wall signs:

- (1) Freestanding signs shall not exceed 20 feet in height.
- (2) Projecting signs shall not be higher than the eave line or parapet wall of the principal building and shall have a minimum clearance of eight feet above grade when located and adjacent to or projecting over a pedestrian way. Projecting signs shall not extend horizontally in excess of four feet from the building wall, except where such sign is an integral part of an approved canopy or awning.
- (3) Wall signs and parallel signs shall not be higher than the eave line or parapet wall of the principal building. No part of a wall sign, including cutout letters, shall project more than six inches from the building wall. No part of a parallel sign, including the display surface, shall project more than 12 inches from the building wall.

(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, (§ 335.6))

DRAFT Proposed Town Code Amendments of Chapter 45 – Zoning, Related to Placement Standards for Signs and Making Minor Formatting Corrections

Sec. 45-532. Placement.

- (a) Signs of a political or promotional nature shall be permitted, provided they do not exceed three square feet in area, and are not to be in place in excess of 90 days prior to the intended use or activity. Such signs shall be removed no later than eight days after the completion of the function for which they were intended.
- (b) A sign and structure shall not be attached or placed closer than eight feet to a utility pole or structure which supports wires or cables. The owner of the utility pole or structures shall be exempt from this subsection.
- (c) Temporary construction signs shall be permitted provided they are removed upon completion of the use or activity involved. Construction signs which also advertise buildings or space for sale or lease shall be removed no later than 12 months after completion unless an extension of time is granted by the planning board.
- (d) Directional signs which are freestanding or projecting nonilluminated, conform to a standardized design, and do not exceed six inches by 30 inches in dimension may be erected in any district without a required permit.
- (e) Residential identification signs which are freestanding, projecting, or wall signs may be erected on the same lot with any single-family dwelling. Such signs shall not exceed three square feet, shall not exceed two signs per premises, and shall not require a permit.
- (f) Signs not exceeding two square feet in area and relating to trespassing and hunting shall be permitted in all districts and shall not require a permit.
- (g) Sale or rental signs which are nonilluminated or wall signs shall be permitted in any district if not exceeding six square feet in area.
- (h) **For properties abutting Route 236, no sign that will be anchored into the ground or is otherwise not designed, according to applicable safety standards, to break away in the event of a motor vehicle collision may be located wholly or partially within the Route 236 right-of-way. In no case shall such a sign be located nearer than 20 feet from the edge of the Route 236 pavement. In other locations, such a** A-sign shall not be located nearer than eight feet from the right-of-way boundary or nearer than eight feet from the edge of the travelled way, **and A lesser distance from the edge of pavement may be allowed by the permit-issuing authority upon written justification by a qualified, licensed engineer that such a sign complies with applicable clear zone standards for the adjacent roadway's design speed and complies with paragraph (i) below.**
- (i) **No sign shall be located** in such a manner as to obstruct clear and free vision or where, by reason of its position, shape, color, illumination or wording, the sign may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device or otherwise constitute a hazard to pedestrian or vehicular traffic. All such signs shall be erected in accordance with the provisions of 23 M.R.S.A. ch. 21, pertaining to outdoor advertising.

(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, (§ 335.7))

DRAFT Proposed Town Code Amendments of Chapter 45 – Zoning, Related to Placement Standards for Signs and Making Minor Formatting Corrections

Sec. 45-533. Discontinued or nonconforming signs.

- (a) It is unlawful to maintain any sign for more than 30 days which has become obsolete because of the discontinuance of the business, service, or utility which it advertises; because of the removal of the activity from the location to which the sign directs; or for any other reason. The fact that an obsolete sign is nonconforming shall not be construed as modifying any of the requirements of this article.
- (b) **Except as provided in subsection (c), n**Nonconforming signs which were in existence at the time of the adoption or applicable amendment of this article shall be permitted to remain.
- (c) **On properties abutting Route 236, signs currently installed along Route 236 that:**
 - (1) do not have a valid sign permit issued by the Code Enforcement Officer;**
 - (2) currently comply this Chapter, but were not in compliance with this Chapter prior to June 15, 2022, because they were located closer than 8 feet from the front lot line; and,**
 - (3) do not otherwise constitute a hazard to safety or public welfare;****are eligible to receive an after-the-fact sign permit and maintain their current location as long as such permit is applied for by June 15, 2023.**

(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, (§ 335.8))

Sec. 45-534. Road signs.

All roads shall bear appropriate signs installed by the person proposing or requesting acceptance of the same by the town. The signs shall comply with all applicable local and state ordinances, statutes and regulations. The road commissioner or code enforcement officer shall approve the location and size of each sign so erected. The applicant shall bear all costs of providing and installing such sign and any related fees for the same.

(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, (§ 335.9))

#3

**Marijuana
Establishment
Performance
Standards
Proposed Change**

DRAFT Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Licensing and Performance Standards for Marijuana Uses

*Draft for Select Board review, March 24, 2022
Planning Board recommends approval (4-0)*

Short title (DRAFT)

Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Licensing and Performance Standards for Marijuana Uses

Ballot question (DRAFT)

ARTICLE #__: Shall an Ordinance entitled “Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Licensing and Performance Standards for Marijuana Uses” be enacted?

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

Background and rationale

These ordinance amendments add new standards to the set of performance standards, in Section 33-190, that must be met by certain adult use and medical marijuana establishments.

If adopted, marijuana cultivation and manufacturing uses would be required to have in place a wastewater disposal plan and dispose of wastewater in compliance with all applicable local, state, and federal laws. These requirements are similar to requirements in state regulations (Adult Use Marijuana Program Rule; 18-691 C.M.R., paragraph 2.4.2(B) and Section 10).

The amendments rewrite the odor management standard, making clear that marijuana-related odors shall not be perceptible beyond lot lines or by people on abutting properties or public ways. The amendments delete existing paragraph 33-190(4)b and replace it with new subsection 33-190(14). This has the effect of removing the “exterior of the building” as a receptor point for odors – with the property line seen as a more realistic and important receptor point for mitigating odor impacts – but also now requires the demonstration of specific odor management techniques for cultivation and manufacturing uses. The amendments also move existing paragraphs 33-190(4)c and d – regarding mitigation of noxious gases, fumes, and other substances – to new subsection 33-190(14) to keep related odor/emissions provisions in one place. Other related changes: Notification on the odor management standard is required for marijuana establishment license public hearings under Section 11-8, and odor complaints may be considered during license renewal.

The amendments also include a requirement for new marijuana retail stores (or existing marijuana retail stores seeking site plan amendments involving a potential change to trip generation or traffic circulation) to include a traffic impact assessment (TIA) with their site plan review applications. While Section 33-153 already authorizes the Planning Board to require a similar study for any application it believes may have a potentially significant traffic impact, the amendments make a TIA a default requirement for applications for marijuana retail stores, for

DRAFT Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Licensing and Performance Standards for Marijuana Uses

which the trip generation and trip peaking characteristics are not well known. The amendments would also require that any approval motion include a condition (unless waived by the Planning Board) that the marijuana retail store conduct post-construction traffic counts.

The amendments increase the parking requirement for marijuana retail stores to 1 space per 100 square feet of retail floor area (with a minimum of 10 spaces), which is more spaces than required for other retail uses (1 space per 150 square feet). Since marijuana uses are only allowable in the Commercial-Industrial (C/I) zoning district, marijuana uses are, or could be, located either right on Route 236 or near it on a commercial side street. Inadequate on-site parking spaces could lead to spillover parking near or within the Route 236 right-of-way or side streets in the or informal satellite parking nearby, causing potential safety issues.

Currently, Section 33-190(5) contains a 500 ft. separation (buffering) requirement between adult use marijuana retail stores, medical marijuana caregiver retail stores, and medical marijuana dispensaries and certain sensitive uses. The separation (buffering) requirement from public and private schools may not be relaxed by variance or waiver, as it mirrors state law. Paragraph 33-190(5)b contains other sensitive uses (public facility, place of worship, residential property, or childcare facility). The amendments apply the same provision preventing the 500 ft. separation (buffering) to be relaxed by variance or waiver to these other sensitive uses.

Finally, the amendments streamline the Chapter 11 renewal application process for non-expired local marijuana licenses by allowing applicants to omit certain information if they attest that it hasn't changed and is still valid.

DRAFT Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Licensing and Performance Standards for Marijuana Uses

New text in bold underline

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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.

(b) Upon the filing of a completed application for a marijuana license, the town manager shall immediately schedule a public hearing on the application before the town select board to occur within 30 days. The town manager shall provide written notice of the public hearing to the applicant and to the select board within five 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.**

(1) 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) 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 the following criteria:

a. An applicant is less than 21 years of age.

DRAFT Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Licensing and Performance Standards for Marijuana Uses

- 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 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 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 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.
- (e) **Except as provided in this paragraph and in Section 11-10(b), a**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.**

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

DRAFT Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Licensing and Performance Standards for Marijuana Uses

Sec. 11-10. - License expiration and renewal.

(a) Each local marijuana license issued shall be effective for one year from the date of issuance.

(b) Renewal applications must be submitted at least 30 days prior to the date of expiration of the annual local marijuana license. **Renewal applications for non-expired licenses may omit certain content required Section 11-7(b) if they include a signed letter from the licensee attesting that such information is unchanged from their previous application and attesting that each license, form of identification, statement, approval, agreement, or other documentation required by Section 11-7(b) is still valid and current. Otherwise, renewal applications shall include the information required in Section 11-7(b).** An application for the renewal of an expired license shall be treated as a new license application.

DRAFT Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Licensing and Performance Standards for Marijuana Uses

Sec. 33-190. Performance standards for marijuana establishments and medical marijuana establishments.

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 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~~ **Section** 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

DRAFT Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Licensing and Performance Standards for Marijuana Uses

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 plans; security.~~

a. All activities of marijuana including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors. Marijuana establishments and medical marijuana establishments are not permitted to conduct outdoor sales or services of any kind. 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.

[see new subsection below] ~~b. Odor management. For all marijuana establishments and medical marijuana establishments, odor of marijuana must not be perceptible at the exterior of the building at the premises or at any adjoining use of the property. Marijuana stores, marijuana product manufacturing facilities, marijuana testing facilities, medical marijuana caregiver retail stores, medical marijuana product manufacturing facilities, and medical marijuana testing facilities are not required to install filtration equipment on the licensed premises but must satisfy the same odor standard contained herein. While the town does not mandate any particular equipment specifications with regard to filtration, all marijuana establishments are strongly encouraged to adopt best management practices with regard to implementing state-of-the-art technologies in mitigating marijuana odor, such as air scrubbers and charcoal filtration systems.~~

[see new subsection below] ~~c. Noxious gases and fumes. Marijuana product manufacturing facilities, marijuana testing facilities, medical marijuana 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 the production.~~

[moved to new subsection below] ~~d. Sufficient measures and means of preventing smoke, debris, dust, fluids and other substances from exiting a marijuana establishment must be provided at all times.~~

~~e.b.~~ Prior to planning board approval and for the duration of their operation;

1. Aall 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.

DRAFT Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Licensing and Performance Standards for Marijuana Uses

- 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.**

f.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, 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;
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 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 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, medical marijuana caregiver retail store, or medical marijuana dispensary shall be sited within 500 feet of the lot lines of any public facility,

DRAFT Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Licensing and Performance Standards for Marijuana Uses

place of worship, residential property, or childcare facility. **This standard may not be relaxed by variance or waiver.**

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.

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.

DRAFT Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Licensing and Performance Standards for Marijuana Uses

- (9) Drive-through and home delivery. Marijuana establishments and medical marijuana establishments are prohibited from having drive-through pick-up facilities. Marijuana stores are prohibited from providing home delivery services. Adult use marijuana customers may only purchase and obtain adult use marijuana products from within a marijuana store.
- (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) 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.**
- ~~(10)~~(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.
- ~~(11)~~(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.
- ~~(12)~~(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,

DRAFT Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Licensing and Performance Standards for Marijuana Uses

such change of use or additional use must be reviewed and approved by the planning board for compliance with this section.

(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, medical marijuana cultivation facilities, marijuana products manufacturing facilities, and medical marijuana products manufacturing facilities must demonstrate appropriate 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.

~~(13)~~**(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)

DRAFT Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Licensing and Performance Standards for Marijuana Uses

Sec. 45-409. - Odor.

(a) No nonfarming land use or establishment shall be permitted to produce offensive or harmful odors perceptible beyond their lot lines, measured either at ground or habitable elevation.

(b) In addition to subsection (a), marijuana establishments and medical marijuana establishments are subject to the odor management requirements in Section 33-190(14). For the purpose of this section, marijuana cultivation facilities and medical marijuana cultivation facilities shall be considered nonfarming land uses or establishments. Any substantiated complaints received by the Code Enforcement Officer pursuant to Section 33-190(14) and division 2 of article III of this chapter shall be logged, and such log may be presented to the Select Board in their review of a license renewal application pursuant to Section 11-8(e).

DRAFT Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Licensing and Performance Standards for Marijuana Uses

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	1 space for each 150 square feet of retail floor area; <u>1 space for each 100 square feet of retail floor area (minimum 10 spaces) for marijuana retail stores</u>
(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	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

DRAFT Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Licensing and Performance Standards for Marijuana Uses

(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))

#4

**Solar System
Standards
Proposed
Change**

DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Solar Energy Systems

Draft for Select Board review, March 24, 2022
Planning Board recommends approval (4-0)

Short title (DRAFT)

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Solar Energy Systems

Ballot question (DRAFT)

ARTICLE #__: Shall an Ordinance entitled “Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Solar Energy Systems” be enacted?

Background and rationale (DRAFT)

Currently, there are no land use regulations in the Town Code specific to utility-scale solar energy systems. The Town Code definition of “solar energy system” limits the applicability of such a system to “a principal use or structure located on the same lot as the system, or on an abutting lot in the case of a common system serving more than one principal use or structure”. The current definition therefore does not cover larger systems used or subscribed to by a greater number of users that are farther from the system than the same lot or abutting lot. These ordinance amendments establish specific land use regulations for utility-scale solar energy systems. The need for such amendments has been expressed by the Planning Board, Select Board, and State Representative Meyer.

The amendments add several definitions related to solar energy to Section 1-2. The current definition of “solar energy system” is replaced by a definition that distinguishes two types of systems based on size and location. “SES-SR” refers to smaller-scale, ground-mounted solar energy systems (less than 15,000 square feet in ground coverage) or roof-mounted systems of any size. “SES-LG” refers to larger-scale (15,000 square feet or greater) ground-mounted systems. Another Section 1-2 change clarifies how lot coverage is measured for solar energy systems. The definition of “public utility” is changed to sync with the State law definition, such that solar energy systems would no longer be applicable to that definition.

The amendments clarify allowability for the two system types in the land use tables in Chapter 44 (Shoreland Zoning) and Chapter 45 (Zoning). An SES-SR, like the currently-defined “solar energy system”, would continue to be a “by right” use in all zones – allowed with just the pertinent building permits – and allowed in shoreland zones. SES-LGs would be SPR uses, except they would be prohibited in the Village district and all shoreland zoning districts. Section 33-191 establishes new application content requirements for SES-LGs, and current Section 45-462 is overhauled to establish a set of performance standards, primarily for SES-LGs, with goals of protection of habitat, ecologically sensitive areas, and agricultural land, as well as decommissioning and removal requirements.

(New text underlined in bold)

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

[abridged to only show changes]

[...]

Distributed generation resource means an electric generating facility with a nameplate capacity of less than 5 megawatts that uses a renewable capacity resource and is located within the service territory of a transmission and distribution utility in the State.

State law reference – 35-A MRSA 3481(5)

[...]

Lot coverage (as applied to a lot with a solar energy system) means the percentage of the lot covered by all buildings plus the percentage of the lot whose airspace (vertical space above the ground) includes a solar panel or a solar panel support, rack, or mounting pole. Roof-mounted solar energy systems do not add to lot coverage in excess of the building to which they are mounted, except that any portion of a roof-mounted solar energy system that overhangs a roof above ground shall be counted toward lot coverage. Lot coverage for ground-mounted solar energy systems installed with tracking devices shall account for all airspace through which a panel passes in its tracking course.

[...]

~~Public utility means any person, firm, corporation, municipal department, board or commission authorized to furnish gas, steam, electricity, waste disposal, transportation or water to the public.~~ **a “public utility” as defined by 35-A MRSA Section 102, as may be amended.**

[...]

Rated nameplate capacity (of a photovoltaic solar energy system) means the maximum rated output of electric power production of the system in watts of direct current (DC).

[...]

Renewable capacity resource means a source of electrical generation:

- (1) Whose total power production capacity does not exceed 100 megawatts and relies on one or more of the following:**
 - (a) Fuel cells;**
 - (b) Tidal power;**
 - (c) Geothermal installations;**
 - (d) Hydroelectric generators that meet all state and federal fish passage requirements applicable to the generator;**
 - (e) Biomass generators that are fueled by wood, wood waste or landfill gas; or**
 - (f) Anaerobic digestion of by-products of waste from animals or agricultural crops, food or vegetative material, algae or organic refuse; or**
- (2) That relies on wind power installations or solar power installations.**

State law reference – 35-A MRSA 3481(5)

[...]

~~Solar energy system means a system designed and used to obtain energy from the sun in order to supply energy to a principal use or structure located on the same lot as the system, or on an abutting lot in the case of a common system serving more than one principal use or structure, for the purpose of reducing the consumption of fuel for heating or electricity. A solar energy system may include solar hot water or air heating or photovoltaic systems. Solar energy systems are allowed only as accessory uses or structures.~~

Solar energy system means a system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means. It may be roof-mounted or ground-mounted. Solar energy systems are categorized by a combination of area and location as follows:

1. A small-scale or roof-mounted solar energy system (SES-SR) is either:

- (a) a ground-mounted solar energy system whose area, based on total airspace projected over the ground, is less than 15,000 square feet (approximately one-third of an acre); or**
- (b) a roof-mounted solar energy system**

2. A larger-scale solar energy system (SES-LG) is a ground-mounted solar energy system whose area, based on total airspace projected over a roof or the ground, is equal to or greater than 15,000 square feet. Within any three-year period, construction of two or more ground-mounted solar energy systems on the same

property, where the total combined area, based on total airspace projected over the ground, of those systems is equal to or greater than 15,000 square feet, shall be collectively considered an SES-LG.

Solar energy system, agrivoltaic means a solar energy system co-located on the same parcel of land as agricultural production, including crop production, grazing, apiaries, or other agricultural products or services.

Solar energy system, ground-mounted means a solar energy system that is structurally mounted to the ground and is not roof-mounted.

Solar energy system, photovoltaic means a solar energy system whose primary purpose is to generate electricity.

Solar energy system, roof-mounted means a solar energy system that is mounted on the roof of a building or structure.

[...]

DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Solar Energy Systems

Section 1-25. Fee schedule.

[abridged to only show changes]

PLANNING BOARD			
PURPOSE		FEE	
Site Plan Review (Sec. 33-128) <i>(Public hearing fees not included)</i>	Rural, Suburban, Village, Commercial/Industrial Zoning Districts	General site plan review application (non Shoreland zone)	\$100.00 per acre up to 5 acres; \$50.00 each additional acre (minimum fee \$100.00)
		Change of use (no site changes or major structural changes or additional square footage)	\$25.00
		Home business; home occupation	\$25.00
		Lodging businesses (bed & breakfasts, hotels, motels, boarding homes, inns, etc.)	\$25.00 per room for lodging businesses in lieu of acreage-based fee
		<u>Larger-scale solar energy systems (SES-LG), in addition to general site plan review fee</u>	<u>\$500.00</u>
	Shoreland Zoning Districts	General site plan review application	\$100.00/acre up to 5 acres. \$50.00 each additional acre

DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Solar Energy Systems

			(minimum fee \$100.00)
		Piers, docks, wharves, bridges and other structures extending over or below the high-water line	\$50.00
		Road & driveway construction permits	\$50.00
		Non-conforming structures, uses and lots per Sec. 44-32	\$75.00
	Revisions to final site plans after planning board approval (Sec. 33-140)	\$100.00	
Subdivisions (Sec. 41-142)	Subdivision application fee	\$200.00 per lot or dwelling unit	
	Mobile home park application fee	\$50.00 per unit	
	Final plan fee for subdivisions and mobile home parks (Sec. 41-171)	\$50.00	
	Revisions to final subdivision plans after approval (Sec. 41-182)	\$200.00 per lot or dwelling unit affected by change	
Public hearing fees (includes abutter notification via certified mail and advertising in 2 local newspapers)		\$175.00	

Sec. 33-175. Commercial and industrial establishments—Landscaping.

- (a) Where no vegetative buffering at least ten feet in width and eight feet in height exists or can be maintained, all side and rear yards abutting any other district or residential use shall be effectively screened from view by a continuous landscaped area not less than ten feet in width containing large trees, shrubs, fences, walls, berms, or similar condition forming a visual barrier not less than eight feet in height along such side and rear lot lines. Fences must conform to the requirements of section 45-423.
- (b) Front yards, especially those along Rte. 236, shall have an extensive vegetative cover, including large shade trees. Areas along Rte. 236 shall be 50 feet in width, beginning at the 50-foot setback line and extending to the rear of the front yard so as to screen the proposed use. Similarly, half of the front yard for commercial or industrial uses on other streets shall be landscaped.
- (c) A partial foundation planting shall be provided in front and side yard areas.

(T.M. of 11-2-82; T.M. of 3-19-88; T.M. of 12-20-89, (§ 404.1); T.M. of 3-20-04)

Cross reference(s)—Site plan requirements for commercial and industrial establishments, § 33-127; landscaping requirements under the zoning regulations, § 45-413; **performance standards for solar energy systems, § 45-462.**

[Add a new section:]

Sec. 33-191. – Larger-scale solar energy systems

In addition to the required elements in Section 33-127, all larger-scale solar energy system (SES-LG) site plan review applications must include the following:

- (a) A decommissioning plan consistent with Section 45-462(d)(10). A decommissioning plan (or advanced draft of such plan) required by 35-A MRSA 3491 through 3496 may be provided as long as it is consistent with Section 45-462(d)(10).
- (b) Documentation of the financial guarantee required by 35-A MRSA 3491 through 3496. The Town shall have the option to be an obligee on a surety bond or otherwise hold a financial assurance.
- (c) Environmental information, as applicable:
 - (1) Summary of known occurrences of species or habitats of concern for the project site provided by the Maine Department of Inland Fisheries and Wildlife (MDIFW)
 - (2) Documentation regarding Endangered, Threatened, or Rare/Special Concern species or their habitat on the project site, pursuant to the Maine Endangered Species Act (MESA; 12 M.R.S.A. §12801 eq. seq.)
 - (1) Significant Wildlife Habitats (SWHs) defined and protected pursuant to the Natural Resources Protection Act (NRPA; 38 M.R.S.A §480-B (10)) and Maine Department of Environmental Protection (DEP) SWH rules (06-096 CMR 335; 09-137 CMR 10), including, but not necessarily limited to, Deer Wintering Areas (DWAs) or Travel Corridors
 - (3) Mapped vernal pools on, or within 250 feet of the property, and the following related information: Maine State Vernal Pool Assessment Forms completed by a qualified wetland scientist, vernal pool significance determinations from MDIFW; mapped Critical Terrestrial Habitat (CTH) buffers, as required by NRPA (38 M.R.S.A. §480-BB) and DEP CTH rules (06-096 CMR 305 and 335); and associated CTH impact calculations. An applicant may omit the aforementioned assessment forms and-or vernal pool determinations if:
 - i. because of the time of year at which the application is submitted, conducting a seasonally valid vernal pool survey would delay application review by at least two months; and
 - ii. the applicant treats all vernal pools on the property as “potentially significant” and designs the project as if they were significant and DEP CTH rules apply
 - (4) Delineated wetlands. Wetland delineation for wetlands shown on the site plan must have been completed by a qualified wetland scientist within the last five years.

- (5) Archaeological and historical resources, including but not limited to correspondence from the State Historic Preservation Commission
 - (6) A summary of DEP NRPA permit requirements and the status of applications for said permits
 - (7) An estimate of the location of prime farmland or soils of statewide importance
 - (8) Environmental assessment and alternatives analysis. Applicants for SES-LGs shall submit an environmental assessment and alternatives analysis that documents how the siting decision was made; an assessment of different locations and sizes of solar array on the parcel to be developed; a narrative describing impacts to wildlife, documented significant natural areas, watersheds; and a discussion of how these impacts will be avoided, minimized, or mitigated.
- (d) *Environmental information exemptions.* Applications for SES-LG systems, at least 90 percent of which would cover already impervious area (such as a parking lot), or which are entirely within documented brownfield sites, are exempt from providing the above information, unless the Planning Board makes a motion to require it.
- (e) Locations of proposed new power lines serving the site, information about anticipated upgrades to existing power distribution lines or poles, and a summary of the project's status with power company/grid operator required approvals/documents
- (f) *Operations and Maintenance Plan.* The applicant shall submit a plan for the operation and maintenance of the SES-LG, which shall include measures for maintaining safe access to the installation as well as other general procedures for operational maintenance of the installation.
- (b) *Emergency Services.* The applicant shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. The owner or operator shall cooperate with the Fire Department in developing an emergency response plan. All means of shutting down the system shall be clearly marked. The owner or operator shall provide to the Code Enforcement Officer the name and contact information of a responsible person for public inquiries throughout the life of the installation.

DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Solar Energy Systems

Sec. 44-34. Table of land uses.

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

Key to table 1:

Yes	-	Allowed (no permit required but the use must comply with all applicable land use standards)
No	-	Prohibited
SPR	-	Allowed with site plan review and approval by the planning board
CEO	-	Allowed with permit issued by the code enforcement officer
LPI	-	Allowed with permit issued by the local plumbing inspector

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 shorefront parks.

Table 1. Land Uses in the Shoreland Zone

Land Uses		Districts				
		SP	RP	LR	LC	GD
Uses or Activities Without Structures						
(1)	Clearing of vegetation for activities other than timber harvesting	CEO	CEO ¹	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

DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Solar Energy Systems

(5)	Mineral exploration	no	no	no	yes ²	yes ²
(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 ⁴	SPR ⁹	CEO	CEO	CEO
	b. Multifamily dwelling	no	no	SPR	SPR	SPR
	c. Commercial (not listed elsewhere)	no ¹³	no ¹³	no ¹³	SPR	SPR ⁵
	d. Industrial	no	no	no	no	SPR
	e. Governmental and institutional	no	no	no	SPR	SPR
	f. Small nonresidential facilities for educational, scientific or nature interpretation purposes	SPR ⁴	SPR	CEO	CEO	CEO
(13)	Agriculture	CEO	SPR	CEO	CEO	CEO
(14)	Aquaculture	SPR ¹⁰	SPR ¹⁰	SPR ¹⁰	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 ¹⁰	SPR ¹⁰	SPR
(21)	Boardinghouse	no	no	SPR ¹⁰	SPR	SPR
(22)	Campgrounds	no	no ⁷	no	no	SPR
(23)	Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI
(24)	Fireworks sales	no ¹⁷	no ¹⁷	no ¹⁷	no ¹⁷	no ¹⁷

DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Solar Energy Systems

(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
(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 ⁷	no	no	no
(30)	Public and private recreational areas involving minimal structural development	SPR	SPR	SPR	SPR	CEO
(32)	<u>Solar energy system, larger-scale</u>	<u>no</u>	<u>no</u>	<u>no</u>	<u>no</u>	<u>no</u>
Accessory Structures or Uses						
(31)	Structures accessory to allowed uses, not otherwise listed	SPR ⁴	SPR	CEO	CEO	CEO
(32)	Essential services	SPR ⁶	SPR ⁶	SPR	SPR	SPR
	a. Roadside distribution lines (34.5kV and lower)	CEO ⁶	CEO ⁶	yes ¹²	yes ¹²	yes ¹²
	b. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	SPR ⁶	SPR ⁶	CEO	CEO	CEO
	c. Non-roadside or cross-country distribution lines	SPR ⁶	SPR ⁶	SPR	SPR	SPR

DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Solar Energy Systems

		involving 11 or more poles in the shoreland zone					
	d.	Other essential services	SPR ⁶	SPR ⁶	SPR	SPR	SPR
(33)	Fences		yes ^{11A}	yes ^{11A}	yes ^{11A}	yes ^{11A}	yes ^{11A}
(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 ^{12A}	no ^{12A}	SPR ^{10A}	SPR ^{10A}	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 ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹
	b.	Permanent residential	SPR	SPR	SPR	SPR	SPR
	c.	Permanent commercial	SPR ¹⁴	SPR ¹⁴	SPR ¹⁴	SPR	SPR
	d.	Limited commercial	SPR ⁵	SPR ⁵	SPR ⁵	SPR	no
(41)	Private sewage disposal systems for allowed uses		LPI	LPI	LPI	LPI	LPI
(42)	Road and driveway construction		SPR	no ⁸	SPR	SPR	SPR
(43)	Service drops, as defined, to allowed uses		yes	yes	yes	yes	yes
(44)	Signs.		yes ^{9A}	yes ^{9A}	yes ^{9A}	yes ^{9A}	yes ^{9A}
(45)	Solar energy system, <u>small-scale ground-mounted or roof mounted</u>		CEO ¹⁵	CEO ¹⁵	CEO ¹⁵	CEO ¹⁵	CEO ¹⁵
(46)	Small wind energy system		SPR ¹⁶	SPR ¹⁶	SPR ¹⁶	SPR ¹⁶	SPR ¹⁶
(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 ^{5A}	CEO ^{5A}	CEO ^{5A}	CEO ^{5A}	CEO ^{5A}

Footnotes:

DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Solar Energy Systems

- ¹ In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.
- ² Requires permit from the code enforcement officer if more than 100 square feet of surface area, in total, is disturbed.
- ³ In RP not allowed in areas so designated because of wildlife value.
- ⁴ Provided that a variance from the setback requirement is obtained from the board of appeals.
- ⁵ Functionally water-dependent uses and uses accessory to such water dependent uses only (see note on previous page).
- ^{5A} Only as an accessory use to an allowed principal use on the lot. Must conform to the requirements of [section] 45-422, Waste containers.
- ⁶ See further restrictions in subsection 44-35(1)(2), essential services.
- ⁷ 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.
- ⁸ Except as provided in subsection 44-35(h).
- ⁹ 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.
- ^{9A} See sign ordinance section.
- ¹⁰ Except for commercial uses otherwise listed in this table, such as marinas and campgrounds, that are allowed in the respective district.
- ^{10A} Must conform to the requirements of section 45-456.1, Home business.
- ¹¹ Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
- ^{11A} Must conform to the requirements of section 45-423, Fences.
- ¹² Permit not required, but must file a written "notice of intent to construct" with CEO.
- ^{12A} "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.
- ¹³ Use is "No" except when permitted under another specific land use entry.
- ¹⁴ 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,

DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Solar Energy Systems

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.

¹⁵ Must conform to the requirements of section 45-462.

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

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

(T.M. of 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)

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 ¹	12	SPR ^{1&8}	no
Animal husbandry	yes ¹	yes ¹	yes ¹	no
Apartment house, see multiple-family dwelling	—	—	—	—
Apartment, see single-family dwellings	—	—	—	—
Aquaculture	13	13	SPR ⁸	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 ⁸	SPR
Auto service stations	no	9	no	SPR
Banks	no	no	SPR	SPR

DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Solar Energy Systems

Bathhouse	11	11	no	no
Bathing beach	yes	yes	yes	no
Bed and breakfasts	14	14	SPR ⁸	SPR
Boarding homes, see lodging businesses	—	—	—	—
Boarding kennel	no	no	no	SPR
Bulk oil fuel tanks	no	no	no	SPR ²
Business office	14	14	SPR ⁸	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 ⁸	SPR
Earth material removal, less than 100 cubic yards	yes	yes	yes	yes
100 cubic yards or greater	SPR	SPR	SPR	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 ⁵	yes ⁵	yes ⁵	yes ⁵
Firewood sales	yes	13	SPR ⁸	no
Fireworks sales	no ¹⁹	no ¹⁹	no ¹⁹	no ¹⁹
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 ⁸	SPR ⁸	SPR ⁸	no
Home occupations	10	10	no	no
Home office	CEO	CEO	CEO	CEO
Hospitals	no	no	no	SPR

DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Solar Energy Systems

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 ⁸	SPR
Manufacturing	SPR ⁸	SPR ⁸	SPR ⁸	SPR
Marijuana establishment*	no	no	no	SPR ²⁰
Medical marijuana establishment*	no	no	no	SPR ²⁰
Mobile home parks	SPR/ SD ⁷	SPR/SD ⁷	SPR/SD ⁷	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
New construction of telecommunication structure less than 70 feet high	CEO	CEO	CEO	CEO
Nurseries, plants	CEO	17	SPR ⁸	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 ⁸	SPR
Produce and plants raised locally, seasonal sales	yes	yes	yes	no
Professional offices	14	14	SPR ⁸	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 ⁸	SPR
Restaurant, takeout	no	no	no	SPR
Retail stores, local, other	18	18	SPR ⁸	SPR
Road construction	CEO	CEO	CEO	SPR
Schools	SPR	SPR	SPR	SPR
Sewage disposal systems, private	CEO	CEO	CEO	CEO

DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Solar Energy Systems

Signs, 6 square feet	CEO	CEO	CEO	CEO
Signs, other	CEO	CEO	CEO	CEO
Single-family dwellings	CEO	CEO	CEO	no ⁶
Small wind energy system	SPR	SPR	SPR	SPR
Solar energy system, <u>small-scale ground mounted or roof-mounted</u>	CEO ²¹	CEO ²¹	CEO ²¹	CEO ²¹
<u>Solar energy system, larger-scale</u>	<u>SPR²¹</u>	<u>SPR²¹</u>	<u>No</u>	<u>SPR²¹</u>
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 ⁶
Veterinary hospital	15	15	No	SPR
Warehouse	no	no	no	SPR
Waste containers	CEO ³	CEO ³	CEO ³	CEO ³
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.
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); 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)

DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Solar Energy Systems

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

DRAFT

Sec. 45-462. – Solar energy systems.

~~Solar energy systems must comply with all applicable building, plumbing and electrical codes and with all applicable dimensional requirements of this chapter (Zoning) and chapter 44 (Shoreland Zoning).~~

[Add new language:]

- (a) *Purpose.* The purpose of this section is to establish performance standards for solar energy systems. This section is intended to achieve the following general objectives:
- (1) Support the goals of the 2009 Comprehensive Plan, such as Critical Natural Resource Policy 1: “Work to preserve rare and endangered plant and animal habitat and other important natural resource systems within Eliot and adjacent communities”
 - (2) Avoid or minimize potential adverse impacts of solar energy systems on abutting properties and the environment, including rare plant populations; habitat for rare or exemplary natural communities; and large, undeveloped blocks of forestland
 - (3) Encourage the siting of solar energy systems on land that has already been developed or disturbed, such as:
 - a. on top of buildings
 - b. in parking lots
 - c. on closed landfills
 - d. on significantly disturbed sites such as brownfields
 - e. on land where previous development was located or significant grading has taken place, and,
 - f. in regenerating wooded areas that are not comprised primarily of important farmland soils
 - (4) Encourage the siting of solar energy systems on land that is not prime farmland or soils of statewide importance
 - (5) Provide performance standards appropriate for the scale of the proposed solar energy system and its potential adverse impacts
 - (6) Provide for the proper decommissioning and removal of panels and supporting structures when the panels have indefinitely stopped producing electricity
- (b) *Objectives are not performance standards.* The general objectives in subsection (a) should not be interpreted as performance standards themselves. However, they are intended to relate to the performance standards, and applicants are encouraged to address the objectives to the extent practicable.
- (c) *Performance standards for all solar energy systems.* Solar energy systems must comply with all applicable building, plumbing and electrical codes and with all applicable dimensional requirements of this chapter (Zoning) and chapter 44 (Shoreland Zoning).
- (d) *Performance standards for larger-scale ground-mounted solar energy systems.* The following standards shall apply to the development and maintenance of all larger-scale solar energy systems (SES-LGs). Planning Board site plan review applications shall provide adequate information to demonstrate how the proposed development will comply with these standards.

- (1) *Buffering and screening.* SES-LGs shall comply with buffering and screening requirements in Section 33-175 and Section 45-417. Without limiting the generality of the foregoing:
 - a. SES-LGs shall be visually screened from abutting properties that have existing residential use or from streets, town ways, or public ways, by a continuous vegetated buffer that is at least 50 feet in depth.
 - b. An opening in the buffer along a street, public way, or town way is allowed only to the extent needed for vehicular access.
- (2) *Fencing.* SES-LGs shall comply with the fence requirements in Section 33-175 and Section 45-423. Without limiting the generality of the foregoing:
 - a. Fencing for SES-LGs shall be provided if required by the National Electrical Code (NEC), and shall be designed, installed, and maintained in accordance with the NEC.
 - b. When used, fencing around the perimeter of an SES-LG shall be elevated by a minimum of 6 inches to allow for passage of small terrestrial animals.
 - c. Where there is a documented potential or need for passage of larger wildlife, the Planning Board may require that an SES-LG include fence or gate design features at reasonable intervals to allow for such passage while ensuring site security and NEC compliance, including, but not necessarily limited to game fences designed with larger openings at the bottom and progressively smaller openings moving to the top of the fence, or wooden escape poles of five-inch or larger diameter, and no more than 3 feet higher than the height of the fence, in at least two locations along the fence
- (3) *Land Clearing.* Clearing of natural vegetation shall be limited to what is necessary for the construction, operation, and maintenance of SES-LGs or as otherwise prescribed by applicable laws, regulations, and bylaws/ordinances. Removal of mature trees shall be avoided to the extent possible. No prime agricultural soil or significant volume of topsoil shall be removed from the site for installation of the system.
- (4) *Wetlands.* Wetland alteration shall be avoided or minimized to the extent practicable. If the project is subject to a Natural Resources Protection Act permit from the Maine Department of Environmental Protection and the applicant has not provided such approved permit as part of application review, the Planning Board may make the provision of such permit prior to, or along with, the building permit application a condition of approval.
- (5) *Habitat.* SES-LGs shall comply with the following performance standards regarding protection of sensitive wildlife habitat and corridors, as applicable:
 - a. Significant, potentially significant, or assumed significant vernal pools, and their associated Critical Terrestrial Habitat (CTH), shall be protected to the extent required by DEP
 - b. Documented habitats for State Endangered, Threatened, or Special Concern bat species shall be avoided, including but not necessarily limited to winter hibernacula and maternity roost trees

- c. Deer Wintering Areas, Deer Travel Corridors, Northern Black Racer habitat, and New England Cottontail habitat shall be protected to the extent required by MDIFW
 - d. Unless otherwise required by DEP or MDIFW, SES-LGs shall not be located within 250 feet of:
 - 1. Known or discovered Great Blue Heron colonies
 - 2. Wetlands with documented use by ribbon snakes, Blanding's turtles, or spotted turtles
 - 3. Wetlands with confirmed or probable use by the ringed boghaunter dragonfly
 - e. SES-LGs shall not be allowed in Focus Areas of Statewide Ecological Significance as defined by the Maine Natural Areas Program, except for land within such focus areas where significant grading has already taken place, such as quarries, or where development has already occurred.
 - f. Without limiting the foregoing, impacts to sensitive wildlife habitats shall be avoided or minimized to the extent practicable
- (6) *Ecological site maintenance.* Native, pollinator-friendly seed mixtures shall be planted and maintained to the extent possible. Mowing shall be minimized to the extent practicable. Herbicide and pesticide use shall be prohibited. Only mechanical means of weed and pest control is allowed.
- (7) *Archaeological Resources.* Sign-off by the State Historic Preservation Commission regarding archaeological and historical resources shall be provided with all applications.
- (8) *Utility Connections.* Overhead or pole-mounted electrical wires shall be avoided to the extent possible within the facility.
- (9) *Signage.* A sign identifying the owner of an SES-LG and providing a 24-hour emergency contact phone number shall be placed such that it is clearly visible at the entrance of the facility.
- (10) *Fire safety.* Knox Box access and adequate vehicle turnaround areas for emergency vehicles shall be provided.
- (11) *Decommissioning and removal.* All ground-mounted solar energy systems that have discontinued operation shall be removed. For the purpose of this paragraph, "discontinued operation" means that the system has operated at 10 percent or less of its rated nameplate capacity for a continuous period of at least twelve (12) months. The owner or operator shall physically remove the installation no more than 365 days after the date of discontinued operations. The owner or operator shall notify the Code Enforcement Officer by certified mail of the proposed date of discontinued operations and plans for removal. At minimum, decommissioning shall consist of:
- a. Physical removal of all solar energy systems, structures, equipment, security barriers, and transmission lines from the site.
 - b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

- c. Stabilization or re-vegetation of the site as necessary to minimize erosion. Native, pollinator-friendly seed mixtures shall be used to the maximum extent possible.
- d. For SES-LGs, in addition to the above requirements, decommissioning shall be consistent with the decommissioning plan required by Section 33-191. Where there is a conflict between two requirements, the stricter shall control.

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