

TOWN OF ELIOT, MAINE

PLANNING BOARD AGENDA

TYPE OF MEETING: PUBLIC HEARING & WORKSHOP
PLACE: ELIOT TOWN HALL - 1333 STATE RD.

DATE: Tuesday, February 4, 2020
TIME: 7:00 P.M.

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

- 1) **ROLL CALL**
- 2) **PLEDGE OF ALLEGIANCE**
- 3) **MOMENT OF SILENCE**
- 4) **10-MINUTE PUBLIC INPUT SESSION**
- 5) **REVIEW AND APPROVE MINUTES**
 - a) January 21, 2020
- 6) **OLD BUSINESS**
 - a) Update from Planning Office regarding ordinance amendment to Chapter 44 – Shoreland Zoning- Section 44-34. - Table of land uses
- 7) **NEW BUSINESS**
- 8) **PUBLIC HEARING**
 - a) Amendment to existing Ordinance: Chapter 1- General Provisions, Section 1-2: Definitions and rules of construction
 - b) Amendment to existing Ordinance: Chapter 33 – Planning and Development, Section 33-189: Nonprofit medical marijuana dispensaries and registered primary caregivers.
 - c) Amendment to existing Ordinance: Section 45-290: Table of permitted and prohibited uses
 - d) Amendment to existing Animal Control Ordinance: Chapter 61, Section 61- 2: Definitions.
- 9) **WORKSHOP**
 - a) Workshop with the Aging in Place Committee to discuss Accessory Dwelling Unit Ordinance.
- 10) **CORRESPONDENCE**
- 11) **SET AGENDA AND DATE FOR NEXT MEETNG**
 - a) Next Planning Board Meeting is Scheduled for February 18, 2020 at 7:00pm
- 12) **ADJOURN**


Dennis Lentz, Chair

POSTED
1/30/20

1 **ITEM 1 - ROLL CALL**

2
3 Present: Dennis Lentz - Chairman, Ed Cielezsko, Christine Bennett, Melissa Horner,
4 Carmela Braun, Bill Olsen – Alternate.

5
6 Also Present: David Galbraith, Interim Planner; Kristina Goodwin, Land Use Planning
7 Assistant.

8
9 Absent: Bill Olsen – Alternate (excused).

10
11 Voting members: Dennis Lentz, Ed Cielezsko, Christine Bennett, Melissa Horner and
12 Carmela Braun.

13
14 **ITEM 2 – PLEDGE OF ALLEGIANCE**

15
16 **ITEM 3 – MOMENT OF SILENCE**

17
18 **ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION**

19
20 There was no public input.

21
22 **ITEM 5 – REVIEW AND APPROVE MINUTES**

23
24 **Mr. Cielezsko moved, second by Ms. Horner, to approve the minutes of January 7,**
25 **2020, as amended.**

26 **VOTE**
27 **5-0**
28 **Motion approved**

29
30 **ITEM 6 – OLD BUSINESS**

31
32 **A. 483 Harold L. Dow Highway (Map 54/Lot 2) PB19-19: Request to amend a**
33 **previously-approved Site Plan by changing the use of two existing greenhouse**
34 **structures from Wholesale Business Facility to Registered Primary Caregiver for**
35 **the purpose of medical marijuana cultivation. Applicant: Sweet Dirt, Inc. Owner:**
36 **The Flower Companies, Inc.**

37
38 **Received: September 17, 2019**
39 **1st Heard: October 29, 2019**
40 **Public Hearing: _____**
41 **2nd Hearing: January 21, 2020**
42 **Site Walk: _____**
43 **Approval: _____, 2020**

44
45 Mr. Brian Nielsen, EIT (Attar Engineering), Attorney Rines and Hughes Pope, applicant,
46 were present for this application.

139 **Motion approved**

140
141 **Drainage Plan §33-127(8):**

142
143 Mr. Nielsen said that one exists on the site already. There is an operational stormwater
144 retention pond that is treating the site in its current condition. And because we're not
145 offering any further construction, we liked to waive that.

146
147 **Ms. Bennet moved, second by Mr. Cielezsko, that the Planning Board waive §33-**
148 **127(8) Drainage Plan for this application.**

149 **VOTE**

150 **5-0**

151 **Motion approved**

152
153 **Soil Erosion & Sediment Control Plan §33-127(11):**

154
155 Mr. Nielsen said that these are typically provided to make sure there is no undue
156 sediment or erosion to other sites from construction activity. Because of no construction,
157 we are asking to waive that.

158
159 **Ms. Bennet moved, second by Mr. Cielezsko, that the Planning Board waive §33-**
160 **127(11) Soil Erosion & Sediment Control Plan because there is no construction with**
161 **this application.**

162 **VOTE**

163 **5-0**

164 **Motion approved**

165 **High Intensity Soils Report §33-127(12):**

166
167 Mr. Nielsen said that typically we provide these when we're doing an additional septic
168 plan or as to assist in the creation of a stormwater or erosion control plan. Since none of
169 those are in place and we are doing no construction, we are asking for a waiver.

170
171 **Ms. Bennet moved, second by Mr. Cielezsko, that the Planning Board waive §33-**
172 **127(12) High Intensity Soils Report due to the fact that this plan does not involve**
173 **installation of a septic system nor an erosion control plan.**

174
175 **VOTE**

176 **5-0**

177 **Motion approved**

178
179 **Location and size of any existing sewer & water mains, culverts & drains on the**
180 **property to be developed §33-127(13):**

181
182 Mr. Nielsen said that, typically, we do this to make sure we're not destroying any existing
183 systems. Because there's no construction, we're asking for a waiver.

184

185 **Ms. Bennet moved, second by Mr. Cielezsko, that the Planning Board waive §33-**
186 **127(13) Location and size of any existing sewer & water mains, culverts & drains on**
187 **the property to be developed because there will be no construction on this site.**

188
189 **VOTE**
190 **5-0**
191 **Motion approved**

192
193 **Connection with existing water supply or alternative means of providing water**
194 **supply to the proposed development §33-127(14):**

195
196 Mr. Nielsen said that the water demand remains the same other than the fact that there
197 may be some irrigation off-season, as is typical now. All of the existing services will
198 remain the same use, essentially. We are asking for a waiver.

199
200 **Ms. Bennet moved, second by Mr. Cielezsko, that the Planning Board waive §33-**
201 **127(14) Connection with existing water supply or alternative means of providing**
202 **water supply due to the fact that the site plan will not change water demands**
203 **currently being serviced on the property.**

204 **VOTE**
205 **5-0**
206 **Motion approved**

207
208 **Connection with existing sanitary sewerage system or alternative means of**
209 **treatment and disposal proposed §33-127(15):**

210
211 Mr. Nielsen said we are not putting any additional demand on the existing sewer system,
212 employee numbers will remain the same, and the system remains in place, as is.

213
214 **Ms. Bennet moved, second by Mr. Cielezsko, that the Planning Board waive §33-**
215 **127(15) Connection with existing sanitary sewerage system or alternative means of**
216 **treatment and disposal proposed due to the fact that there will be no net change to**
217 **the demands on any sewerage system or alternative means of treatment.**

218 **VOTE**
219 **5-0**
220 **Motion approved**

221
222 **If a private sewage disposal system is proposed, location and results of tests to**
223 **ascertain subsurface soil and groundwater conditions, depth to maximum**
224 **groundwater level, location and results of soils testing §33-127(16):**

225
226 Mr. Nielsen said that this is for private sewage disposal and essentially the same request
227 as above; that there is no private sewage disposal system proposed.

228
229 **Ms. Bennet moved, second by Mr. Cielezsko, that the Planning Board waive §33-**
230 **127(16) If a private sewage disposal system is proposed, location and results of tests**

231 **to ascertain subsurface soil and groundwater conditions, depth to maximum**
232 **groundwater level, location and results of soils testing for the same reason as §33-**
233 **127(15).**

234 **VOTE**

235 **5-0**

236 **Motion approved**

237
238 **Construction drawings sufficient to enable the code enforcement officer to verify the**
239 **following information §33-127(18).**

240
241 Mr. Nielsen asked if the PB wanted to go down each subsection or the whole thing since
242 we're not doing any construction.

243
244 Mr. Cieleuszko said that he would prefer to do each subsection.

245
246 The PB agreed.

247
248 **§33-127(18)(a) Total floor area, ground coverage and location of each proposed**
249 **building, structure or addition:**

250
251 We are requesting a waiver because we are not adding any additional structures.

252
253 Mr. Lentz asked if the applicant didn't also have State restrictions.

254
255 Attorney Rines said that we do.

256
257 Ms. Horner said that I would like to see the building sized noted on the site plan.

258
259 Mr. Galbraith said that they have dimensions of the buildings listed as 30'X100' on the
260 Contour Plan that was submitted.

261
262 Ms. Horner asked what would be part of the file.

263
264 Ms. Lemire clarified that all the documents would become part of the file but the site plan
265 would be the document that is signed.

266
267 **NOTE: Placing dimensions of structures on the site plan is made a condition of**
268 **approval by PB consensus.**

269
270 **§33-127(18)(c) The size, location and direction and intensity of illumination of all**
271 **major outdoor lighting apparatus and signs:**

272
273 Mr. Nielsen asked if the PB had a copy of the lighting plan.

274
275 The PB did not have the lighting plan.

276

277 Mr. Nielsen said that a lighting plan was submitted. It is typical for us to have those items
278 separated. That's why we're not requesting a waiver on this.

279
280 Mr. Galbraith confirmed that a lighting plan was submitted.

281
282 **§33-127(18)(d) The type, size and location of all incineration devices:**

283
284 Mr. Nielsen said that there are none proposed.

285
286 **§33-127(18)(e) The type, size and location of all machinery likely to generate**
287 **appreciable noise beyond the lot lines:**

288
289 Mr. Nielsen said that there is none.

290
291 **§33-127(18)(f) The amount and type of any raw, finished, or waste materials to be**
292 **stored outside of roofed buildings, including their physical and chemical properties,**
293 **if appropriate:**

294
295 Mr. Nielsen said that we have a proposed material waste dumpster that is only going to
296 be used for by-products and is noted on the site plan.

297
298 **§33-127(18)(g) The location, type and size of all curbs, sidewalks, driveways, fences,**
299 **retaining walls, parking space areas, and the layouts together with all dimensions:**

300
301 Mr. Nielsen said that we are requesting a waiver because we are not performing those
302 constructions.

303
304 **NOTE:** Copies of the lighting plan were distributed from the case file.

305
306 **NOTE:** Mr. Cielezsko confirmed that the finished and raw materials, **§33-127(18)(f)**, are
307 on the site plan so we are all set.

308
309 Parking was delineated on the site plan. Dimensions were not shown for curbs,
310 driveways, etc., although they are depicted.

311
312 Mr. Nielsen said that everything is existing and we are not proposing any changes to what
313 is there now.

314
315 Mr. Cielezsko said that this is not a retail store so there is nobody coming in or out.

316
317 Mr. Nielsen said that that was correct.

318
319 Mr. Galbraith said that parking dimensions are listed on the contour plan and listed as
320 typically 10'X18'.

321

322 **Ms. Bennet moved, second by Mr. Cielezsko, that the Planning Board waive §33-127**
323 **(18)(g) The location, type and size of all curbs, sidewalks, driveways, fences,**
324 **retaining walls, parking space areas, and the layouts together with all dimensions**
325 **for the reason that there is no additional curbs, sidewalks, fences being installed**
326 **with the site plan and the existing ones are depicted on the Contour Plan submitted.**

327 **VOTE**

328 **5-0**

329 **Motion approved**

330
331 **§33-127(18)(h) All landscaped areas, fencing and size and type of plant material**
332 **proposed to be retained or planted:**

333
334 Mr. Nielsen said that we are requesting a waiver because we are not retaining or planting
335 anything that's not part of the business, being a landscaping business.

336
337 Ms. Horner asked how difficult it would be to depict those.

338
339 Mr. Nielsen said that, because of the type of business, it would be difficult.

340
341 Ms. Horner said that, in an effort to help future planning boards, it would be nice to have
342 a current map – a picture of what the property looks like so that if it ever exchanges
343 hands there could be an argument made for not clear-cutting something. We try to
344 preserve vegetation on Route 236.

345
346 Mr. Cielezsko said that he sees this as just a change to the interior but the existing
347 business has not changed.

348
349 Ms. Horner said that she just wanted to capture an accurate snapshot of the property as it
350 is.

351
352 Mr. Cielezsko said that he would rather waive this unless there was a major change of
353 use.

354
355 **Ms. Bennet moved, second by Mr. Cielezsko, that the Planning Board waive §33-127**
356 **(18)(h) All landscaped areas, fencing and size and type of plant material proposed to**
357 **be retained or planted due to the fact that there is going to be no change to the**
358 **existing planting on the property.**

359 **VOTE**

360 **5-0**

361 **Motion approved**

362
363 Mr. Lentz asked if we met with the Fire Chief to go over all this.

364
365 Mr. Nielsen said that he did not personally.

366

367 Mr. Galbraith said that we have talked internally with the Fire Chief and he recognizes
368 that this is the same operation that was going on before. Knox boxes for the fencing and
369 things like that.

370
371 Ms. Horner asked if the Fire Chief provided a memo.

372
373 Mr. Cieleuszko said that, to tie up loose ends, we should go back to the original part of
374 §33-127 (18). The applicant is asking for a waiver for the whole thing and I don't think
375 he should get that waiver – "sufficient to enable the code enforcement officer to verify the
376 following information".

377
378 Mr. Galbraith said, to go back to the question regarding the Fire Chief, I do remember
379 when I was meeting with the applicants, I didn't have a memo because the Fire Chief was
380 out of the office. We did verify with the Fire Department that that was okay and I will
381 make sure we get a copy for our file. They did say it was okay.

382
383 **Mr. Cieleuszko moved, second by Ms. Horner, that the Planning Board accept the**
384 **Site Plan for PB19-19 as complete, with conditions as discussed tonight.**

385 **VOTE**
386 **5-0**
387 **Motion approved**

388
389 **NOTE:** For this particular application, it was the **consensus of the Planning Board** to
390 dismiss §33-127 (18), itself, because individual subsections have been addressed.

391
392 The Public Hearing is scheduled for February 18, 2020.

393
394 **ITEM 7 – NEW BUSINESS**

395
396
397 **A. 43 Harold L. Dow Highway (Map 54/Lot 2) PB19-19; Request to amend a**
398 **previously-approved Site Plan by converting the garage unit into a Restaurant,**
399 **Take-out.**

400
401 **Received: December 2, 2019**
402 **1st Heard: January 21, 2020**
403 **Public Hearing: _____**
404 **2nd Hearing: _____**
405 **Site Walk: _____**
406 **Approval: _____, 2020**

407
408 Mr. Jonathan Blakeslee (owner) was present for this application.

409
410 Mr. Blakeslee said that we are not looking to make any changes to the property itself. We
411 are just proposing to take the base-level of the garage and convert it into a small take-out
412 restaurant. I own White Heron Tea and Coffee Maine LLC and that is essentially a tea

413 and coffee shop, mostly to-go, with limited seating. I am looking to keep the
414 office/warehouse use for the rest of the building, as has been the case.

415
416 Ms. Braun asked if it would be strictly take-out or would there be places to come in and
417 sit.

418
419 Mr. Blakeslee said that there would be limited seating. Probably in the ballpark of 8 seats.
420 Initially, we came and spoke with a couple of previous interim planners and to the CEO
421 and, due to the fact that it's not on public sewer, yet - it has an on-site 1,000-gallon
422 driveable septic system and a well – that seemed to limit the amount of seats there. There
423 would be no take-out window and no drive-thru. Hours of operation would be, at the
424 most, 7AM to 6PM.

425
426 Mr. Cielezsko asked how many parking spots are dedicated to the applicant's use.

427
428 Mr. Blakeslee said that he thinks there are about 20 spaces proposed. Basically, the
429 submitted site plan is just an updated site plan based on the prior owner. We got
430 permission from the prior owner to talk with the same guy who did his site plan. When
431 we came to the Town to find out what we needed, we had him update the site plan based
432 on adding a few additional things. I think it was the same number of parking spaces but it
433 didn't have dimensions.

434
435 Mr. Cielezsko said that I have either missed, or have not seen, how the applicant will
436 change the garage set-up.

437
438 Mr. Blakeslee said that it has two garage-bay doors on the front and one on the side. The
439 idea is to, within the frame of those doors, reframe with windows and/or smaller doors.
440 They are not looking to cut into the frame of the structure. We have not decided but the
441 entry door will be either on the side or where one of the current garage-bay doors is.

442
443 Mr. Cielezsko said that I would like to see that layout envisioned on paper.

444
445 Ms. Braun said that, on the sketch plan, there are 9 proposed parking spaces to the left of
446 the structure and 19 proposed spaces in the front and to the right side of the structure. I
447 am assuming that those 19 spaces are for the offices that are in there.

448
449 Mr. Blakeslee said no. We can make dedicated uses for those but the offices are probably
450 single occupancy and there may be only one or two people in the office at a time; so,
451 most of these spaces can be dedicated for the project.

452
453 Ms. Braun said that I would like to have the spaces noted on the site plan. How many are
454 for the applicant's business and how many are for the other businesses.

455
456 Ms. Horner said that you need one space for every three seats.

457
458 Ms. Horner asked if we were just approving a new use or unpacking a site plan right now.

459
460 Mr. Lentz said that we are judging project completeness.

461
462 Ms. Horner asked if we didn't need to do the change of use first.

463
464 Mr. Galbraith said that this is an allowed use there.

465
466 It was determined that Thermo Dynamics was the prior use. The garage has office space
467 above, which will remain as is, and the coffee shop will be below in the garage space,
468 which is an additional use within the garage space.

469
470 Mr. Galbraith said that there was an approved site plan back in 1985, which showed the
471 parking spaces and setbacks. Then, the prior owner came through and got approval to
472 build the garage, with the office, onto the original building. It seemed like the site plan
473 shifted around that time and didn't have the setbacks on it. The parking got expanded and
474 shifted when they put the garage on. The property line is illustrated on the plan but there
475 aren't setbacks provided almost anywhere on the site with the exception of the west-hand
476 side. He added that he thinks we need some clarification and didn't know if there are
477 some property pins; that it may be that one of the parking spaces may be just a hair onto
478 the adjoining property and, in looking at aerial photos and scaling it out, the existing sign
479 may be in the ROW and not on the property, itself. In the file, there was an approval,
480 building permit, and occupancy permit issued for the garage space; that there were some
481 notes from a former CEO that said that it was acceptable and showed the lot being paved.
482 No fault of these guys but I think, for the long term, that we should have those property
483 pins identified.

484
485 One of the applicants said that this existing garage, as it appears here, was actually built
486 ten years ago. The plan we're asking to revise is one that was approved about two years
487 ago and it was the construction of an additional garage on the property.

488
489 Ms. Bennett asked if we could get a copy of the last approved site plan.

490
491 The applicant said, for the record, that the property pins are in existence and can be found
492 easily.

493
494 Mr. Lentz said that we are now going to mixed use. He asked about the second floor of
495 the garage and if it would change.

496
497 Mr. Blakeslee said that it would remain an office.

498
499 Mr. Cielezsko said that the part of the building that is not the garage is not going to be
500 used by the applicants.

501
502 Mr. Blakeslee said no, not by the restaurant.

503
504 Mr. Cielezsko asked what use we are changing from.

505
506 Mr. Blakeslee said that, from 1985, it was office/warehouse and has continued
507 throughout iterations. We are just looking to change the base-level of the garage to get
508 permission for a restaurant, take-out.
509
510 Mr. Cielezsko asked if this was just a change of use or should we be looking for a new
511 site plan.
512
513 Mr. Lentz agreed that it was a change of use and it is a site plan review, to include a
514 public hearing. I remember this. It was a proposed small garage and a pass-thru between
515 the offices and, then originally, he increased that because he wanted more warehouse
516 space.
517
518 Mr. Blakeslee agreed, saying that he then ran out of space so he's building a new facility.
519
520 Mr. Lentz asked what we need to see on the site plan.
521
522 Plan that is certified
523 Parking spaces – one per three seats
524
525 Mr. Blakeslee reiterated that this is just an update to the plan that was previously
526 approved by the PB. What we asked Frank Fortunato, who is selling the property to us, is
527 if we could talk to the guy that did the site plan and ask him to do an update; that he did
528 and added additional information that was requested by the Town.
529
530 The other applicant said that we removed the (prior) proposed building. There is no
531 change to the footprint, no change to the lot, no change to the existing parking.
532
533 Mr. Lentz said that they are doing no new construction or earthwork changes but the sign
534 bothers him a bit.
535
536 Mr. Galbraith said that that is why he wants to identify the location of the four pins and,
537 if it is in the ROW, then the sign should be relocated.
538
539 Mr. Blakeslee said that we would be happy to do that if that's the case.
540
541 Mr. Lentz said that they should talk to the CEO about that as that comes under her
542 purview.
543
544 Mr. Blakeslee said that we found out about the size. When Sundance Signs went out to
545 look, he did say he thought it looked a little close to the property line. Being new to the
546 Town of Eliot, we figured we'd come before you to see what we needed to do.
547
548 Mr. Lentz suggested they also look at the frontage on Route 236 to make sure they were
549 back far enough.
550

551 The applicants will verify the setback from Route 236 and add all setbacks to the site
552 plan.

553
554 Ms. Braun asked if they were adding any additional lighting to the property.
555

556 Mr. Blakeslee said that we are proposing to add some lighting to the sign post and he
557 thinks he indicated some lighting on either side of the sign on the building (garage),
558 itself.

559
560 Ms. Braun asked if it was possible to put the dimensions of the restaurant on the site plan.
561

562 The applicants agreed.
563

564 Ms. Horner said that she thinks it would be helpful for us, when we get another copy of
565 this, to have it be your vision – throw the door on, the windows in, the seats in, etc. Show
566 an as-is potential as what we're looking at right now is what is currently there and we
567 want to see the applicant's plan for what's going to be there.
568

569 Mr. Blakeslee said that the PB would essentially like an updated site plan but with added
570 detail.
571

572 Ms. Bennett said that we would like two versions – the existing conditions and the
573 proposed conditions of what you want to do.
574

575 Mr. Galbraith asked the PB if they wanted an inside floor plan as part of the packet. Are
576 they able to take an existing, current photo, rather than an architectural drawing, and
577 photoshop and proposed changes onto that photo.
578

579 Mr. Lentz agreed.
580

581 Mr. Cielezsko said, regarding the photoshop, our CEO has to be able to verify; that it
582 should be a regular schematic. Not dimensionally, but how many people are envisioned,
583 what's the capacity of the restaurant, and lined up with the parking.
584

585 Mr. Lentz said that we can ask for that.
586

587 Mr. Galbraith said that, as far as the interior space, part of the occupancy load is going to
588 be determined by the Fire Department and CEO.
589

590 Mr. Cielezsko said that he wanted a general outline of what they want.
591

592 The PB wants to make sure the applicants are meeting the ordinance.
593

594 The applicants said that they were happy to meet the requirements to include the Fire
595 Department and CEO.
596

597 Ms. Bennett asked if, in any of the prior approvals, there was there any indication that the
598 parking area would be paved and striped. I know that one of the existing conditions right
599 now is that it is a gravel parking area and that what is being shown to us is really
600 theoretical parking and nobody can provide this sort of parking. The parking doesn't
601 actually exist, formally, in that there's no indication as to where people are supposed to
602 park.

603
604 Mr. Galbraith said that the 1985 site plan does have a note that says "paved area".

605
606 The applicant said that there is a small paved area. My fear would be that because it is
607 wooded all around, the gravel parking area is, environmentally, probably a very good
608 idea. If you were to pave that entire parking lot, I think that would be a negative
609 environmental impact.

610
611 Ms. Horner said that we can't require them to pave the parking lot but what I think would
612 answer these questions would be to provide the numbers- the dimensions - to show that
613 you can divide the area into so many parking spots.

614
615 Mr. Blakeslee said that it is actually noted in the lower, right-hand corner of the property
616 – "19 proposed parking spaces. One parking space equals 9'X18".

617
618 Ms. Horner discussed showing a particular area as to the exact number of feet from 'here'
619 to 'here' using the plan.

620
621 Ms. Bennett, regarding paving, read §33-179 (b): "All parking areas, driveways, and other
622 areas shall be paved, tarred, or prepared with suitable material that will adequately support
623 parking and traffic, and shall not produce objectionable dust or other negative effects upon
624 abutting property." I concur that paving all of this would have a negative effect, possibly
625 on abutting property. Do you need all this parking that is indicated on this plan.

626
627 The applicant said no; that that is a lot of parking.

628
629 Mr. Lentz said to define the amount of parking the applicants need for their business.
630 There are ways to define parking without putting stripes down; for example, concrete
631 barriers in front of each one.

632
633 Ms. Bennet agreed something formalized.

634
635 Mr. Cielezsko pointed out that, in the front corner, it shows two spaces – one a parallel
636 parking slot and one a drive-in slot – the guy who parallel parks there is dead meat.

637
638 Mr. Blakeslee agreed it would be good to clarify the parking. A lot of this is exactly as it
639 was drawn a few years back when it was submitted.

640

641 Mr. Cielezsko said that my understanding is that the applicants are presenting a pretty full
642 package that we have to accept the whole thing and there will be changes from the
643 original. That parking is really rough.

644
645 Mr. Lentz suggested we wrap this up and tell them exactly what they need to come back
646 with.

- 647
648 ➤ Modified parking with boundaries
649 ➤ All setback dimensions, including the sign
650 ➤ Any lighting
651 ➤ Modifications to the exterior of the building
652 ➤ Interior design – proposed floor plan (schematic) and showing capacity
653 ➤ Meet with Fire Department before coming back, as the Fire Chief’s okay would
654 be really helpful.
655 ➤ §33-127(18) – if there is a non-applicable, that needs to be a waiver request, with
656 a rationale
657 ➤ Property lines/setbacks
658

659 Mr. Galbraith said that he would be more than happy to meet with the applicants to see if
660 we can make it as clear as possible.

661
662 Ms. Horner asked if we needed to approve a change of use so these people don’t have to
663 spend money if we decide against that. Don’t we have to add the use for the property.

664
665 Mr. Galbraith said that it is a permitted use in that zoning district.

666
667 Ms. Lemire said that it will be in the Findings of Fact. It has to be.

668
669 Mr. Lentz asked if we needed to do that.

670
671 The PB agreed that they did not.

672
673 This application will be scheduled for a second hearing on February 18th.

674
675 **B. 787 Main Street & 0 Main Street (Map 6/Lot 44 & 154) PB19-24; Subdivision**
676 **Application – Applicant submitted an application for a Subdivision Sketch Plan.**

677
678 **Received: December 20, 2019**
679 **1st Heard: January 21, 2020**
680 **Public Hearing: _____**
681 **2nd Hearing: _____**
682 **Site Walk: _____**
683 **Approval: _____, 2020**

684
685 Mr. (Tom) Harmon, P.E., Civil Consultants, and the owners (Lauren Chase?/Kris
686 Glidden) were present for this application.

687
688 Mr. Harmon said this is actually two properties being made into one subdivision.
689
690 Mr. Lentz said that there are two other applications that were tabled and pending. They
691 are still open, on docks. He asked if that was going to be part of this application or are we
692 throwing them away, what is going to happen with those.
693
694 Mr. Harmon said that those will remain as an open application. Right now, we are here
695 with a sketch plan application, which really has no standing with the PB. It's for
696 information. So, the actual application you have that's active, the two docks, it was our
697 intent to be on the agenda tonight. The docks would go first, get their approval, and then
698 have this discussion for the sketch plan to get the PB's input on what we wanted to do.
699 However, the docks aren't on the agenda and he thinks we wanted to go to the next
700 meeting agenda we can get on and get that taken care of. One-week turn-around for us to
701 go from sketch plan to preliminary. It's really tight for us to be back in in February. So,
702 we would plan that the docks come in next month and, then, we would bring the
703 subdivision back in in March. They are separate applications.
704
705 Mr. Harmon discussed the proposed subdivision sketch plan. What we have is a property
706 purchased a year ago that was sold in two parcels – one went to the Chases and one went
707 to the Gliddens and we came in with applications to put docks on each one of these lots.
708 We came in and talked with several people and a legality question arose about these two
709 lots. They are done as a back lot, with an approved ROW to service those two, so those
710 are two conforming lots. Now, we have dock applications for the two conforming lots.
711 These folks would like to come in and get that done. That is their priority so they are
712 ready at the start of the season. Then, we would move forward with the subdivision. We
713 are proposing a 7-lot subdivision. We come in through Main Street, with an existing
714 gravel roadway that these folks put in to be conforming with the two lots. We are
715 proposing to take 'this' (pointed out on plan) section and turn it into a road built to Town
716 standards. We will change the ROW a little bit in 'this' area, come into a cul-de-sac of
717 less than 900 feet from Main Street and, of that, we will develop seven lots. The two lots
718 down 'here' (closest to river) will remain in the ownership they are in, which will have
719 the docks on them. We will divide the rest into the other five lots. The lots are
720 conforming by zoning. They will have public water. I originally thought they would be
721 on septic systems but, in talking with the Planner and Public Works, we will be putting
722 them on public sewer. There is a gravity sewer out on Main Street. I believe the way this
723 will be serviced is it falls away from the road from Main Street and we will probably put
724 individual pumps in here with a small 1½ "force main. That force main will be installed
725 when we put the road in, as the lots are developed, and that would come back up into the
726 gravity sewer. I talked with Public Works about it but I haven't really gotten into the
727 details of that with them. One of the first things, when we started looking at the properties
728 to split it in two, was that our survey person went to the DOT to talk about the entrance.
729 We put in for an entrance permit for a 5-unit entrance, but now we're a 7-unit entrance,
730 so we have a new entrance permit from the DOT and I have it with me if you want a copy
731 now. Discussing the sketch plan, we have all the contours on here, high intensity
732 mapping, wetlands have been mapped out by the water. Basically, I think we have most

733 of the information on here that a preliminary plan requires. Town water...I haven't talked
734 to the water district, yet, but I don't see a problem with that. Essentially, that's it. The
735 road will be built to Town standards by your ordinance, discussing that process and,
736 based on the applicants' wishes, they can bring it to the Town to ask them to accept it. It
737 doesn't mean they will or that the Town will accept it, but it does mean that, to get the
738 subdivision, it does have to be built to that standard. The idea is that these two folks will
739 keep the two waterfront lots with the docks. We can't say this for sure but they are
740 thinking this would be a family compound with lots going to kids; that that is not written
741 in stone. I think what we would like is an approval so they can have the work done to get
742 the road in there this construction season.

743
744 Mr. Lentz said that somewhere in there he read "private ROW" and other places I think I
745 read "accessway", clarifying that there is a difference and asked which one it is.

746
747 Mr. Harmon said that it is a deeded ROW at this point in time.

748
749 Mr. Lentz asked if that was going to stay.

750
751 Mr. Harmon said that it will be a ROW until Town acceptance. Probably what you would
752 do with this is turn it over to a homeowner's association (HOA) so all the lots have a
753 share in the road and responsible for the maintenance of it. In talking with Public Works,
754 they are saying that they don't want to take over that force main in the road so there will
755 be a HOA that will have maintenance and ownership responsibility for that. That would
756 go to a sewer district because they did not want to. The ROW, of course, will have
757 Kittery Water District come in so they have the right to be on that ROW.

758
759 Mr. Lentz said that there are several existing structures on those lots. What is going to
760 become of those structures, as well as the cemetery.

761
762 Mr. Harmon said that my intent for the cemetery is that we will put a ROW on one of
763 these lots from the access ROW to that cemetery to ensure there is access to it.

764
765 Mr. Lentz asked Ms. Goodwin to let the Eliot Historical Society know.

766
767 Ms. Goodwin said yes.

768
769 Mr. Lentz said that I think there's an existing barn and a house.

770
771 Mr. Harmon said that the house is going to stay. The barn and shed are going.

772
773 One of the owners said that where the camp is his intent would be to build using the camp
774 footprint.

775
776 Mr. Cielezsko said that, according to a note, it is 150 feet from Aqua Avenue, asking if
777 that wasn't a deal-breaker.

778

779 Mr. Harmon said that we have a DOT entrance permit.
780
781 Mr. Cieleuszko said that that is not Town approval, that's DOT approval. The Town says
782 you need 400 feet and at least a minimum of 200 feet between roads but I'm doing this
783 from memory. Have you addressed the issue, in your mind, that you're too close to Aqua
784 Avenue right now.
785
786 Mr. Harmon said that my answer to that is that I have addressed it by the authority that
787 has Main Street, I have an entrance permit from them (DOT). I haven't gone any further
788 than that.
789
790 Mr. Cieleuszko said that the applicants are short meeting the Town ordinance because of
791 the road.
792
793 Mr. Harmon asked if Mr. Cieleuszko felt we needed to address that.
794
795 Mr. Cieleuszko said yes.
796
797 Mr. Harmon said okay, that's why we're here tonight.
798
799 Mr. (John) Crosier, abutter, asked what the Town frontage requirement was.
800
801 Mr. Harmon said that what you originally had was a non-conforming lot of record. Then,
802 the zoning ordinance for back lots, a back lot can be constructed on a dirt road up to a
803 certain standard that has a certain amount of frontage.
804
805 Mr. Crosier said as long as you don't make it more non-conforming.
806
807 Mr. Harmon said that this makes it less non-conforming. By putting this road in with the
808 frontage 'here' and 'here', these lots became conforming.
809
810 Mr. Crosier asked what the backlot ordinance says once you have the third lot.
811
812 Mr. Harmon said that, now, what we're doing is putting in a road built to Town standards
813 so that back lot situation goes away. It's no longer a back lot and has frontage on a road
814 built to Town standards.
815
816 Mr. Lentz said that we will have more to talk about as we go on.
817
818 Mr. Galbraith said that the way the lot was originally split I don't think is legal. You
819 cannot make a non-conforming lot more non-conforming than it already is. I think they
820 can get this done and, eventually, if they move ahead with the subdivision plan to build a
821 street, then I think, if they turn that ROW over, then, all of a sudden, you've created
822 frontage. I think they could get the issue resolved and what I mentioned at the last
823 meeting would be keeping all the existing street frontage on Main Street currently and
824 pulling that back and then putting a ROW over that street frontage. I'm not an attorney

825 but I think you need to keep that with the original lot and I think you could make that
826 happen by just modifying the original deed and then put a ROW to serve however many
827 lots it ends up being. I do have a bit of a problem with how it was broken out. I have
828 unfortunately not had a chance to talk to the Town attorney, yet. I did talk with the CEO
829 who agrees with the way I see it. But, again, I do want to get a legal standard. If they
830 move forward with the subdivision, I think they can eliminate that issue if that ROW gets
831 turned over.

832
833 Mr. Lentz said that that was why he asked if that was a deeded ROW, and I didn't want
834 to go any further than that, but what Mr. Galbraith is saying is that those first two lots are
835 non-conforming and we would be making them more non-conforming.

836
837 Mr. Galbraith said that that was correct.

838
839 Mr. Harmon said that we turned this application in on December 20th and this is the first
840 time I have heard you say that since that meeting.

841
842 Mr. Lentz said that we have some checking to do.

843
844 Mr. Galbraith said yes.

845
846 Mr. Lentz said that we would get back to Mr. Harmon.

847
848 Mr. Cielezsko said that he watched the meeting on the docks and he has seen that there is
849 still a question as to whether the two lots are legal. Is that what I'm hearing. He added
850 that an appeals period is still probably open on that because nothing was done on that
851 except the selling of the lots, which means there's really no action to be taken. You can
852 sell a lot as long as you don't call it a _____ until you try for a permit. This looks like it's
853 in the appeals period and, if no one appeals it, then you are good. He agreed that we
854 would get a legal opinion. He said that I want the answer on the road and to know the
855 legality of the original sale before we can proceed.

856
857 Mr. Harmon said that, before you can act on those docks, this needs to be resolved. He
858 does agree that, if those are illegal lots, the dock application cannot go forward.

859
860 Mr. Harmon said that what I think we need to do is get together with the Town CEO and
861 Planner and ensure we have an understanding of what these lots are. Then you're going to
862 be able to act on them. I think it's out of your purview right now.

863
864 Ms. Bennett said that I would recommend that we actually get a legal opinion from the
865 Town attorney on this matter because it really is a legal matter.

866
867 Mr. Galbraith said that I have Town Manager approval to do so.

868
869 Ms. Bennett suggested we go forward with our Town attorney guidance on this one
870 instead of laying this at the feet of our staff.

871
872 Mr. Lentz asked if the PB wanted to table this until we hear back from the attorney.

873
874 Ms. Horner said that it's a sketch plan, anyway.

875
876 Mr. Cielezsko said, to schedule the next meeting, we should wait until the chips fall.
877 Does that say table or just wait until those things are done.

878
879 Mr. Harmon said that I don't think the sketch plan needs to be tabled. It's informal and
880 we have no standing with it. We're coming in to get your opinion of it. He did add that
881 the PB does need to resolve it so the applicants can move forward on their docks.

882
883 Mr. Galbraith said that he would get a legal opinion in time to get them on the February
884 18th meeting for the docks.

885
886 The PB agreed that this is an incomplete sketch plan.

887
888 **C. 423 River Road (Map 33/Lot 1) PB19-25; Applicant proposes to add second floor**
889 **above existing 28'X26' first floor and convert 14'X10'6" screened porch to new**
890 **finished sunroom with deck above. Property is a small, two-bedroom home on a**
891 **narrow lot.**

892
893 **Received: December 23, 2019**
894 **1st Heard: January 21, 2020**
895 **Public Hearing: _____**
896 **2nd Hearing: _____**
897 **Site Walk: _____**
898 **Approval: _____, 2020**

899
900 Ms. Michelle Shields, representative, and Ms. Pamela Mijal, owner, were present for this
901 application.

902
903 Ms. Shields said that the owner initially hired me to do an interior renovation to try to
904 make this incredibly tiny home a little more useful. We were challenged to come up with
905 much and, in talking with her builder we talked about maybe going up a little bit. We
906 talked with the CEO to find out what our options were and, because it's non-conforming,
907 we had a height restriction of 20 feet. We were just barely able to get that to work but
908 nevertheless, we did, with an inch to spare. We are not going to be expanding beyond the
909 footprint, not changing the foundation. She would have office space and a bedroom
910 upstairs so that she can still have a functioning living room. There is an existing roofed,
911 screened porch that we would like to convert to year-round living then a deck on top.

912
913 Mr. Lentz said that we did not get a memo from the Planner.

914
915 Mr. Galbraith explained that he and the CEO were reviewing the ordinance, State and
916 local, that changed a couple years back regarding what the standards were and what they

917 are now. It seems to be a very complete application. He wanted the CEO to go through,
918 jointly with me, to make sure the numbers were correct. Apart from that, it is a very, very
919 tight lot. The house (porch), itself, is only about 15' off the water. At the widest point, the
920 lot is 75' and is almost triangular down to 12'.
921

922 Ms. Shields said that, with the Shoreland restrictions, there's nowhere to go but up.
923

924 Mr. Lentz said that I don't have a problem with going up, it's going out with that
925 screened porch and making it an additional, livable area.
926

927 Mr. Galbraith said that he looked at it as livable area because it has a roof on it and is not
928 a deck; that they are not suddenly building a structure around it.
929

930 Mr. Lentz said that I am not stuck on that.
931

932 Mr. Galbraith said that it is my opinion that that could just have windows put in it and
933 finish off the inside of it.
934

935 Mr. Lentz said that, with that, the footprint doesn't change at all.
936

937 Mr. Galbraith said that that was correct.
938

939 Mr. Lentz said, regarding Sheet E1, it shows 728 sq. ft. of living space, asking if that
940 includes the screened porch (147 sq. ft.).
941

942 Ms. Shields said no. The 875-square-foot footprint includes the screened porch.
943

944 Mr. Cielezsko discussed his concern for whether the roofed, screened porch could be
945 used as living space; that it was dependent on if the PB accepted that the formula can use
946 that area, with regard to Shoreland. He added that I would like to make sure we accept
947 this porch as living area, if we are going to, in writing.
948

949 Mr. Lentz said that I am in favor of accepting this roofed, screened porch as living space.
950

951 It was the **consensus of the Planning Board** to accept the roofed, screened porch as
952 living space.
953

954 Mr. Cielezsko said that there is no picture of existing. I know I have dimensionals but no
955 photographs of the actual place that is there now. I think it would be nice to have that.
956

957 Mr. Galbraith said that they provided existing elevations on Sheet E2 and, then, there are
958 proposed elevations on Sheet P2, which is the proposed dimensional measurements.
959 There are also some schematics of what the finished product would look like on Sheet
960 3D.
961

962 Mr. Lentz asked if this home was recently purchased.

963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000
1001
1002
1003
1004
1005
1006
1007
1008

The applicant agreed.

Mr. Cielezsko said that we don't have a layout for septic, or anything.

The PB agreed that it would be good to see the septic layout – well and septic.

Mr. Cielezsko asked if there was any approach to the DEP on this application.

Mr. Lentz said that I'm not sure. There should be.

Ms. Shields said that there was an indication from the CEO that we would need it. The owner had the septic tested before she purchased the property and it is well water. It is currently a 2-bedroom and will remain a 2-bedroom.

Ms. Mijal said that, upon inspection, they fixed a pipe in the leach field. There was no schematic of it. It was built in 1976.

Mr. Cielezsko asked if the applicant was going to tear the house down and start over.

Ms. Shields said no; that they would just take the roof off. The existing walls will remain and the foundation.

Mr. Cielezsko asked if they were going to change the footage under the porch.

Ms. Shields said that she would have to confer with the builder to determine if those footings were adequate.

Mr. Lentz asked if the Planner had any recommendations.

Mr. Galbraith said that I think you could say the application is complete. I just want to make sure that we have the numbers correct. The porch looks like it's going to remain on piers rather than have a new foundation.

Ms. Bennett said that I am looking at our Shoreland Zone Ordinance (§44-32(c)(1)(a)) – expansion of any portion of the structure within 25 feet of the normal highwater line – and asked if we have determined where that is on this property.

Mr. Galbraith said that, on Sheet S1, there is a site plan and it shows the existing porch is 15 feet to the shore. We should get a specification of whether that is the normal highwater mark.

Ms. Bennett suggested a marine surveyor or someone who could weigh in as to where the distance from the normal highwater line is. I think we need to know this piece regarding where you can do what, especially because of this portion of the code, which she read: “Expansion of any portion of a structure within 25 feet of the normal high-water line of a water

1009 body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not
1010 increase nonconformity with the water body...". We need to know where that is on this plot
1011 plan.

1012
1013 Ms. Horner said that I would argue that an expansion is out, not up.

1014
1015 Mr. Lentz said that I would, also.

1016
1017 Ms. Bennett was not sure.

1018
1019 Ms. Horner said that this was for all new principal and accessory structures.

1020
1021 The applicant said that we went further down to §44-32(c)(1)(c)(1) when we talked with
1022 the CEO, which talks to structures not less than 75 feet not the one before that that
1023 specifically mentions structures entirely less than 25 feet. In that case, it was a different
1024 restriction.

1025
1026 Mr. Cielezsko asked if there was a cellar underneath any of this.

1027
1028 Ms. Shields said that it is crawlspace.

1029
1030 There was discussion regarding the application of this section to the current project the
1031 PB was discussing.

1032
1033 Mr. Cielezsko said that there used to be a diagram in the code that showed the different
1034 variations and, if he could see that, he would be more comfortable.

1035
1036 Some PB members were comfortable moving forward with this, as is.

1037
1038 Mr. Cielezsko asked the Planner if he and the CEO fleshed this out.

1039
1040 Mr. Galbraith said yes; that the old codes changed within the last year or two and that's
1041 why we didn't have a report because we were trying to make sure the numbers were
1042 right. Before we come back for final review we will go through the numbers, and piece
1043 by piece, on this. I do know that the CEO met with the applicant's representative before. I
1044 think you could consider this application complete, with the additional information. We
1045 need to make sure the numbers are right and I can certainly contact the DEP.

1046
1047 **Mr. Cielezsko moved, second by Ms. Horner, that the Planning Board consider this**
1048 **application complete as long as the additional conditions are met.**

1049
1050 DISCUSSION

1051
1052 Conditions to be met: show septic/well plan; know normal high-water mark on plan; DEP
1053 determination on §44-32, if needed (requires DEP notification); photos front and back.

1054

1055 Ms. Shields said that we would confer with the DEP to clarify §44-32.

1056

1057 Mr. Cielezsko said, as a side note, DEP gets notified of all these things. Their non-
1058 response, half the time, is...I would recommend we don't hold the applicants up if they
1059 don't respond, if they're moot.

1060

1061 DISCUSSION ENDED

1062

VOTE

1063

5-0

1064

Motion approved

1065 A public hearing was scheduled for February 18th.

1066

1067

1068 **ITEM 8 – CORRESPONDENCE**

1069

1070 A letter from Joe Pepin was received regarding the Adult Use Marijuana Ordinance
1071 Sensitive Uses. It will be placed on the agenda for discussion. (Attached)

1072

1073 Mr. Lentz said that, in his view, there are three different processes that are
1074 interconnected. One is the State process, permitting, application, etc. and that is not going
1075 to be finished until sometime in March. The second part is the stuff that goes on in the
1076 office, upfront, here – more screening, permitting, fees. It's not until that's done that, we
1077 get an application for land use that says a particular person wants to put a retail store in at
1078 'this' location. Right now, they are all looking at the PB and asking what we're doing.
1079 It's really not in our ball game. What we need is to tighten up on that ordinance and make
1080 sure we're all in agreement on that thing. If you read that correspondence, he's saying
1081 that the way we measure it isn't right.

1082

1083 Mr. Cielezsko said that, regarding the correspondence, if you want to discuss it at all,
1084 he's talking about complete change. So, that's a subject to be taken up. I'm not
1085 comfortable changing the Sensitive Uses definition to what he's asking for.

1086

1087 Mr. Lentz said that if we will work on this at the next meeting (2/4), we can ask him to
1088 attend.

1089

1090 Ms. Bennett said if we need to. On the 4th, we are having a public hearing about a slew of
1091 ordinance changes; one of which is a change to the 'roads' portion of 'Public Facility'. I
1092 appreciate his position but the fact is that the window has closed for any ordinance
1093 changes; that we are talking about something that may be proposed for November. She
1094 asked if we needed to fast-track this, at this point.

1095

1096 There was discussion regarding preparing for November and hearing from Mr. Pepin
1097 regarding his reasoning for his proposal. The PB was focused on the good of the Town
1098 and he is one person.

1099

1100 The PB agreed that Ms. Goodwin would reach out to Mr. Pepin to let him know we
1101 would be discussing his letter for the November ballot at some future date.

1102
1103 Ms. Horner commented that I think it would behoove us to let this happen. Nothing has
1104 even happened, yet, and we're already talking about changing it. I am happy to hear from
1105 whomever wants to come in and talk to us about this stuff but we haven't even done
1106 anything, yet, and the ordinances, as Mr. Cielezsko had said, are crafted to protect the
1107 Town. It wasn't lost on this Board, because we talked about it, that our restrictions were
1108 to protect our Town and limit growth by design.

1109
1110 **ITEM 9 – SET AGENDA AND DATE FOR NEXT MEETING**

1111
1112 The next regular Planning Board Meeting is scheduled for February 4, 2020 at 7PM.

1113
1114 **ITEM 10 – ADJOURN**

1115
1116 There was a motion and a second to adjourn the meeting at 9:22 PM.

1117
1118
1119
1120
1121 **Dennis Lentz, Chair**
1122 **Date approved:** _____

1123
1124
1125 **Respectfully submitted,**
1126
1127 **Ellen Lemire, Recording Secretary**

1128

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

Table 1. Land Uses in the Shoreland Zone

		Districts				
Land Uses		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
(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
			Districts				
Land Uses			SP	RP	LR	LC	GD
(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.	<u>Multifamily Dwelling</u>	<u>no</u>	<u>no</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>
-	b.	Multiunit residential	no	no	SPR	SPR	SPR

	c.	Commercial (not listed elsewhere)	no ¹³	no ¹³	no ¹³	SPR	SPR ⁵
	d.	Industrial	no	no	no	no	SPR
	e.	Governmental and institutional	no	no	no	SPR	SPR
			Districts				
Land Uses			SP	RP	LR	LC	GD
	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)	Bed and breakfast		no	no	SPR ¹⁰	SPR ¹⁰	SPR
(16)	Boardinghouse		no	no	SPR ¹⁰	SPR	SPR
(17)	Campgrounds		no	no ⁷	no	no	SPR
(18)	Conversions of seasonal residences to year-round residences		LPI	LPI	LPI	LPI	LPI

(19)	Fireworks sales		no ¹⁷				
(20)	Gambling Casino		no	no	no	no	no
(21)	Marinas						
	a.	Full service	no	no	no	no	SPR
			Districts				
Land Uses			SP	RP	LR	LC	GD
	b.	Limited	no	no	no	SPR	SPR
(22)	Nonprofit medical marijuana dispensary		no	no	no	no	no
(23)	Off-site parking		no	no ⁷	no	no	no
(24)	Public and private recreational areas involving minimal structural development		SPR	SPR	SPR	SPR	CEO
Accessory Structures or Uses							
(25)	Structures accessory to allowed uses, not otherwise listed		SPR ⁴	SPR	CEO	CEO	CEO

(26)	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
			Districts				
Land Uses			SP	RP	LR	LC	GD
	c.	Non-roadside or cross-country distribution lines involving 11 or more poles in the shoreland zone	SPR ⁶	SPR ⁶	SPR	SPR	SPR
	d.	Other essential services	SPR ⁶	SPR ⁶	SPR	SPR	SPR
(27)	Fences		yes ^{11A}				
(28)	Filling and earthmoving of ;lt; 10 cubic yards		CEO	CEO	yes	yes	yes

(29)	Filling and earthmoving of > 10 cubic yards	SPR	SPR	CEO	CEO	CEO
(30)	Home business	no ^{12A}	no ^{12A}	SPR ^{10A}	SPR ^{10A}	no
(31)	Home occupations; regular and water-dependent	no	no	no	no	no
(32)	Home Office	CEO	no	CEO	CEO	CEO
(33)	Individual, private campsites	CEO	CEO	CEO	CEO	CEO
(34)	Land management roads	yes	SPR	yes	yes	yes
		Districts				
Land Uses		SP	RP	LR	LC	GD
(35)	Piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water line or within a wetland:					
	a. Temporary	CEO ¹¹	CEO ₁₁	CEO ¹¹	CEO ¹¹	CEO ¹¹
	b. Permanent residential	SPR	SPR	SPR	SPR	SPR

	C.	Permanent commercial	SPR ¹⁴	SPR ₁₄	SPR ¹⁴	SPR	SPR
	d.	Limited commercial	SPR ⁵	SPR ⁵	SPR ⁵	SPR	no
(36)		Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI
(37)		Road and driveway construction	SPR	no ⁸	SPR	SPR	SPR
(38)		Service drops, as defined, to allowed uses	yes	yes	yes	yes	yes
(39)		Signs.	yes ^{9A}				
(40)		Solar energy system	CEO ¹⁵	CEO ₁₅	CEO ¹⁵	CEO ¹⁵	CEO ¹⁵
			Districts				
Land Uses			SP	RP	LR	LC	GD
{41}		Small wind energy system	SPR ¹⁶	SPR ₁₆	SPR ¹⁶	SPR ¹⁶	SPR ¹⁶
{42}		Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO
{43}		Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO
{44}		Uses similar to uses requiring a SPR permit	SPR	SPR	SPR	SPR	SPR

(45)	Waste containers	CEO ^{5A}	CEO _{5A}	CEO ^{5A}	CEO ^{5A}	CEO ^{5A}
------	------------------	-------------------	----------------------	-------------------	-------------------	-------------------



TOWN OF ELIOT MAINE

PLANNING OFFICE
1333 State Road
Eliot ME, 03903

PUBLIC HEARING NOTICE

AUTHORITY: Eliot, Maine Planning Board
PLACE: Eliot Town Hall, 1333 State Road, Eliot, ME 03903
DATE OF HEARING: Tuesday, February 4, 2020
TIME: 7:00 PM

Notice is hereby given that the Planning Board of the Town of Eliot, Maine will hold a public hearing on Tuesday, February 4, 2020 at 7:00 PM for the purposes of receiving public comment and input on the following proposed ordinances:

- Amendment to existing Ordinance: Chapter 1- *General Provisions*, Section 1-2: Definitions and rules of construction
- Amendment to existing Ordinance: Chapter 33 – *Planning and Development*, Section 33-189: Nonprofit medical marijuana dispensaries and registered primary caregivers.
- Amendment to existing Ordinance: Section 45-290: Table of permitted and prohibited uses
- Amendment to existing Animal Control Ordinance: Chapter 61 - Section 61- 2: Definitions.

These proposed ordinance revisions are on file and available for review in draft format in the Land Use Department (during normal business hours).

POSTED
1/17/2020

OBITUARIES & NEWS

John Mead Howells

KITTERY POINT, Maine — John Mead Howells died at home in Kittery Point, Maine on the morning of Thursday, January 16, 2020. The cause was a stroke. He was born on May 7, 1964, in Washington, DC, son of William Dean and Benitha Christina (Lindeman) Howells.



Center for the handicapped, being active especially in the art and photographic programs, where he produced many sketches, photographs and drawings. He continued his work at Kremple until the day he died.

John graduated from Pine Ridge School in 1982, attended Bradford College, and then received an Associate's Degree from Montgomery Community College. He was increasingly crippled by multiple sclerosis which slowly paralyzed him from the waist down. Yet for over a decade he boated, skied, cycled and exercised in water sports at Maine Adaptive Sports until his scope of motion could no longer accommodate these activities. He then continued his physical exercises at a gym.

He attended the Kremple graphs and drawings. He continued his work at Kremple until the day he died.

Johnny was outgoing and chatty. He was known for his determination, and perhaps his tenacity allowed him to maintain his positive spirit and cheery demeanor. He loved being with his friends and family.

He leaves his mother and father; his Aunt, Gurdon Howells Metz; two brothers and two sisters in-law Edward and Patricia and Horace and Ivy Howells; a sister Rose-Marie Howells; and five nieces and nephews.

SERVICES: A Memorial service with a time and place will be announced at a later date. Visit www.lucaseatonfuneralhome.com.

John graduated from Pine Ridge School in 1982, attended Bradford College, and then received an Associate's Degree from Montgomery Community College. He was increasingly crippled by multiple sclerosis which slowly paralyzed him from the waist down. Yet for over a decade he boated, skied, cycled and exercised in water sports at Maine Adaptive Sports until his scope of motion could no longer accommodate these activities. He then continued his physical exercises at a gym.

He leaves his mother and father; his Aunt, Gurdon Howells Metz; two brothers and two sisters in-law Edward and Patricia and Horace and Ivy Howells; a sister Rose-Marie Howells; and five nieces and nephews.

SERVICES: A Memorial service with a time and place will be announced at a later date. Visit www.lucaseatonfuneralhome.com.

COYOTE

From Page A1

Cain said he was advised by Fish and Game that coyotes typically travel in packs. He said Fish and Game would have the results of the rabies test Wednesday. He said before Monday's attacks, coyote sightings had been uncommon in town.

"Fish and Game isn't sure if the animal was sick or it's a temperament issue," Cain said. "We haven't received any reports of coyotes recently."

According to the Humane Society of the United States, coyote encounters in urban or suburban settings are fairly rare events. They are nocturnal animals but sometimes during daylight hours they can be seen moving from one part of their territory to another in search of prey, according to the Humane Society.

Coyotes seen during the day time are not always sick or aggressive, the Humane Society says, but if they do not run away from people when encountered, it could be a sign the animal has likely become accustomed to being around people by being fed.

TRIAL

From Page A1

taking place in an election year, with some of the very senators running to replace Trump as president sitting as jurors.

The White House filing shifted the tone toward a more legal response but still echoed with campaign-style slogans. It hinged on Trump's assertion he did nothing wrong and did not commit a crime — even though impeachment does not depend on a material violation of law but rather on the more vague definition of "other high crimes and misdemeanors" as established in the Constitution.

With security tightening at the Capitol, the House prosecutors made their way through crowds of tourists

in the Rotunda to tour the Senate chamber. The White House legal team led by Pat Cipollone and Jay Sekulow soon followed, both sides under instructions to keep the chamber doors closed to onlookers and the media. Four TV monitors were set up inside to show testimony, exhibits and potentially tweets or other social media, according to a person familiar with the matter but unauthorized to discuss it who spoke on condition of anonymity.

Senators are poised for only the third trial of its kind in U.S. history, but first they must contend with a rules fight and whether to allow new witnesses. On the eve of the trial, the Senate Majority Leader Mitch McConnell had yet to reveal the proposal.

The GOP leader is expected to propose a condensed

Lawmakers look to cut down food waste in American schools

PORTLAND, Maine (AP) — Three members of Congress have introduced a proposal to try to cut down on food waste in U.S. schools.

Democratic Reps. Chellie Pingree of Maine and Suzanne Bonamici of Oregon and Republican Rep. Dan Newhouse of

Washington are calling the proposal the "School Food Recovery Act." It aims to create a new program within the U.S. Department of Agriculture that supports schools that work to cut down on food waste.

Schools represent "a tremendous opportunity for students to think outside

the box, reduce hunger and cut greenhouse gas emissions," Pingree said.

The bill, if approved, would provide grants for schools to help with efforts such as food waste measurement and reporting, prevention, education and reduction projects, the lawmakers said. The money

could be used for necessities such as purchasing equipment and providing training.

Academy of Nutrition and Dietetics President Terri Raymond said food waste is "one of the most pressing challenges of our time and one that is solvable."

Pro-gun rally by thousands in Virginia ends peacefully

By Alan Suderman and Sarah Rankin

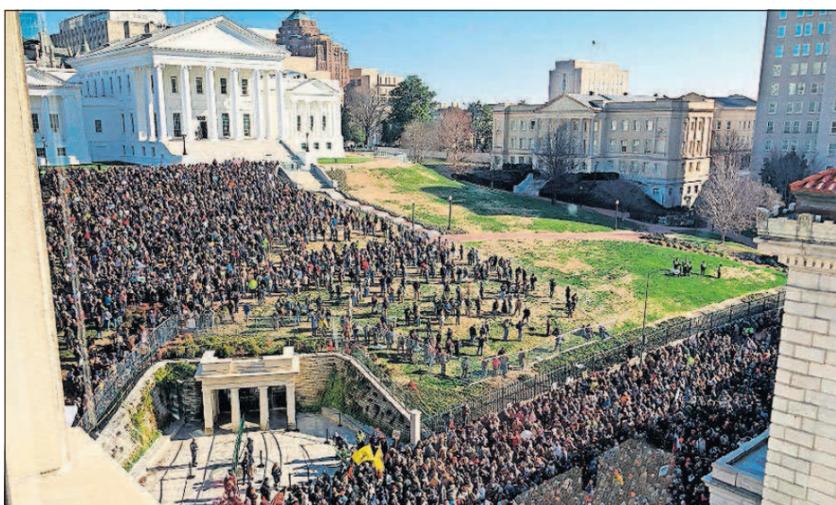
The Associated Press

RICHMOND, Va. — Tens of thousands of gun-rights activists from around the country rallied peacefully at the Virginia Capitol on Monday to protest plans by the state's Democratic leadership to pass gun-control legislation — a move that has become a key flash point in the national debate over gun violence.

The size of the crowd and the expected participation of white supremacists and fringe militia groups raised fears that the state could see a repeat of the violence that exploded in 2017 in Charlottesville. But the rally concluded uneventfully around noon, and the mood was largely festive, with rally-goers chanting "USA!" and waving signs denouncing Democratic Gov. Ralph Northam.

Many protesters chose not to enter the designated rally zone, where Northam had imposed a temporary weapons ban, and instead packed surrounding streets, many dressed in tactical gear and camouflage and carrying military-style rifles as they cheered on the speakers.

"I love this. This is like the Super Bowl for the Second Amendment right here," said



Demonstrators are seen during a pro-gun rally, Monday, in Richmond, Va. [SARAH RANKIN/THE ASSOCIATED PRESS]

P.J. Hudson, a truck driver from Richmond who carried an AR-15 rifle just outside Capitol Square. He was one of the few African American rally-goers in a crowd that was overwhelmingly white and male, and was frequently stopped and asked to pose for pictures wearing his "Black Guns Matter" sweatshirt.

An estimated 22,000 people attended, according to authorities, who said one woman was arrested on felony charge of wearing a mask in public.

The protesters came out despite the frigid temperature to send a message to

legislators, they said.

"The government doesn't run us, we run the government," said Kem Regik, a 20-year-old private security officer from northern Virginia who brought a white flag with a picture of a rifle captioned, "Come and take it."

Northam was a particular focus of the protesters' wrath. One poster showed his face superimposed on Adolf Hitler's body.

The governor said in a statement he was "thankful" the day passed peacefully and that "he will continue to listen to the voices" of Virginians while doing everything in his

power "to keep our commonwealth safe."

"The issues before us evoke strong emotions, and progress is often difficult," Northam said.

Democratic lawmakers said the rally wouldn't impact their plans to pass gun-control measures, including universal background checks and a one-handgun-purchase-a-month limit. Democrats say tightening Virginia's gun laws will make communities safer and help prevent mass shootings like the one last year in Virginia Beach, where a dozen people were killed in a municipal building.

Fielding's Oil & Propane Co.

Serving Portsmouth, Dover, Rochester & Surrounding Towns

FUEL OIL

2.57⁹ Per Gal.

Easy Pay Budget Plans Available

Now Delivering Propane

Portsmouth (603) 436-2005
Exeter (603) 778-3700

1-800-491-3194

Order online at www.fieldingsoil.com

Orders of 200 gallons or more receive an additional 2¢ off. Price subject to change.

Legal Notice
TOWN OF ELIOT MAINE
PUBLIC HEARING NOTICE

AUTHORITY: Eliot, Maine Planning Board
PLACE: Eliot Town Hall, 1333 State Road, Eliot, ME 03903
DATE OF HEARING: Tuesday, February 4, 2020
TIME: 7:00 PM

Notice is hereby given that the Planning Board of the Town of Eliot, Maine will hold a public hearing on Tuesday, February 4, 2020 at 7:00 PM for the purposes of receiving public comment and input on the following proposed ordinances:

- Amendment to existing Ordinance: Chapter 1 - General Provisions, Section 1-2: Definitions and rules of construction
- Amendment to existing Ordinance: Chapter 33 - Planning and Development, Section 33-189: Nonprofit medical marijuana dispensaries and registered primary caregivers.
- Amendment to existing Ordinance: Section 45-290: Table of permitted and prohibited uses
- Amendment to existing Animal Control Ordinance: Chapter 61 - Section 61- 2: Definitions.

These proposed ordinance revisions are on file and available for review in draft format in the Land Use Department (during normal business hours).

PA-00473171

LEGAL NOTICE
TOWN OF HAMPTON, NEW HAMPSHIRE

The Planning Board will hold a Public Hearing on Wednesday, February 5, 2020 at 7:00 p.m., in the Selectmen's Meeting Room, 100 Winnacunnet Road to consider the proposals listed below:

58 Briar Road, Map: 116 Lot: 25. Applicant: Susan Foster. Owner of Record: Susan Foster Revocable Trust. Wetlands Permit: Existing new house and garage constructed under prior Town permit. This application is for steps and HVAC pad (recently built) & proposed generator pad (proposed) not permitted under original application.

THE HAMPTON PLANNING BOARD
Tracy Emerick
Chairman

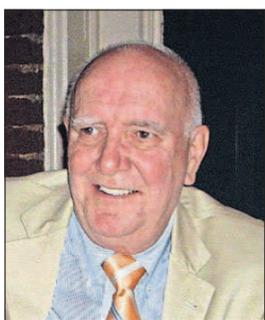
Publish: January 21, 2020

PA-00473178

OBITUARIES & NEWS

Roger Lawrence Gauthier

PORTSMOUTH – The Honorable Roger Lawrence Gauthier, 76, of Portsmouth, formerly of Nashua, New Hampshire passed away peacefully on Saturday, January 25, 2020. Roger was born in Concord, New Hampshire on October 27, 1943, the beloved son of Lawrence F. Gauthier and Dorothy (Clemons) Gauthier.



large or small. Most important, Roger loved his wife and was extremely proud of all his children, grandchildren and nephews. Roger was predeceased by his parents, Lawrence and Dorothy (Clemons) Gauthier

and is survived by his wife of over 50 years, Mary Anne (Mullins) Gauthier, and his four children, Laura Frances Ward and her husband, David, of Arlington, Massachusetts, Julie Derby Marino and her husband, Brian, of Rye, New York, Joseph Roger Gauthier and his wife, Eve, of South St. Paul, Minnesota, and James Lawrence Gauthier and his wife, Elizabeth, of San Mateo, California. He is also survived by ten grandchildren, Jacquelyn Ward, Sabrina Ward, Madeline Marino, Fiona Marino, Rory Marino, Cian Marino, Lucas Gauthier, Emma Gauthier, Jude Gauthier and Maeve Gauthier and by his best friend and brother-in-law James B. Mullins, his wife Mary and their three sons.

SERVICES: A time of visitation will be held from 8:30-9:30 a.m., on Wednesday, January 29, 2020 at the J. Verne Wood Funeral Home – Buckminster Chapel, 84 Broad St., Portsmouth, with a Mass of Christian Burial to immediately follow at 10 a.m., at the Immaculate Conception Church of Corpus Christi Parish, 98 Summer St., Portsmouth. Interment with military honors will follow at Calvary Cemetery, Portsmouth.

In lieu of flowers, donations may be made to Laura's World Fund, P.O. Box 42, Merrimack, NH 03054 or Cystic Fibrosis Foundation [cff.org] or Massachusetts General Hospital Kidney research [giving.massgeneral.org]. For online condolences, visit: www.jvwoodfuneralhome.com. Arrangements are under the direction and care of the J. Verne Wood Funeral Home – Buckminster Chapel.

Roger grew up in Nashua where he graduated from Nashua High School in 1961. Roger graduated from Saint Anselm's college in 1965 with a Bachelor of Arts degree and in 1968, received his Juris Doctorate from the Catholic University of America School of Law in Washington D.C. While attending CUA law school, he was an Editor of the Law Review. Following law school, he received a direct commission into the Navy Judge Advocate General Corp. and rose to the rank of Lieutenant Commander. He served as a Navy Judge Advocate General in Charleston, South Carolina and Portsmouth, New Hampshire and was one of the last legal officers at the now closed Portsmouth Naval Prison.

In 1972, Roger was appointed Assistant United State's Attorney for New Hampshire and later served as the Assistant Hillsboro County Attorney. In 1976, he joined the law firm of Valeshka and Kozlowski and then Kozlowski, Gauthier and Parodi. In 1985 he was appointed and sworn in as Associate Justice of the Nashua District Court by then Governor John Sununu.

Roger was an active member of the Nashua community and had many long term Nashua friends. A champion golfer, boater, and sometime RV driver, Roger knew probably every word to any Barbara Streisand and Frank Sinatra song. Roger was a proficient legal expert and even in his retirement loved to litigate any issue

Saddleback buyer gets final piece of financing package

By David Sharp
The Associated Press

PORTLAND, Maine – The Finance Authority of Maine's board on Monday approved loan guarantees and a loan necessary for a Boston investment group to proceed with purchasing Saddleback Mountain and reopening the area to skiers next winter.

The board unanimously approved \$2.5 million in loan insurance on a \$12.5 million loan, which was smaller than the original request, along with a \$1 million direct loan. Arctaris Impact Fund also raised private funds and received

a separate \$1 million loan through the Maine Rural Development Authority.

"That was the final hurdle that we had to be able to move forward with this," Andy Shepard, who will serve as general manager of the ski mountain and CEO of Saddleback Arctaris Corp., told The Associated Press.

The deal for the ski mountain is due to close by week's end, and the mountain will reopen to skiers in December, Shepard said.

The finance authority and rural development funds will be part of a \$23.5 million funding package that includes private equity, new market tax credits,

community loans and community grants for the purchase of Saddleback, officials said.

Bruce Wagner, CEO of FAME, said after the vote in Augusta that the agency is pleased to "help re-start this historic and beloved Maine ski mountain" and to stimulate economic development in western Maine, where the ski mountain is located.

"We know how important this mountain's success is to the local population and economy, as well as to many others who love to recreate in all seasons in the Rangeley area," he said in a statement.

Before closing in 2015,

Saddleback was Maine's third-largest ski mountain in terms of skier visits, with five lifts and 66 trails.

The financial package will help Arctaris purchase the resort, as well as new equipment, including chairlifts. The company has said it plans to invest \$38 million to upgrade lifts, build a new base lodge, expand snow making, and develop more housing.

The resort will provide 200 full-time and seasonal jobs and will help to stimulate the economy of both the Rangeley Lake region and the entire state, said Jonathan Tower, managing partner of Arctaris Impact Fund.

TRIAL

From Page A1

in his impeachment – Clinton was acquitted by the Senate – bemoaned what he said was an "age of impeachment." Impeachment, he said, requires both an actual crime and a "genuine national consensus" that the president must go. Neither exists here, Starr said.

Impeachment "is filled with acrimony and it divides the country like nothing else," Starr said. "Those of us who lived through the Clinton impeachment understand that in a deep and personal way."

The lawyers also defended the actions of Rudy Giuliani, the president's personal lawyer whose efforts pressing for the Biden investigation helped lead to the firing of the American ambassador to Ukraine.

Even as defense lawyers laid out their case as planned, it was clear that Bolton's book had scrambled the debate over whether to seek witnesses. Bolton writes that Trump told him he wanted to withhold security aid from Ukraine until it helped him with investigations into Biden. Trump's legal team has repeatedly insisted otherwise, and Trump tweeted on Monday that he never told Bolton such a thing.

Republican senators face a pivotal moment, and pressure is mounting for at least four to buck GOP leaders and form a bipartisan majority to force the issue.

Republicans hold a 53-47 majority.

"John Bolton's relevance to our decision has become increasingly clear," GOP Sen. Mitt Romney of Utah told reporters. Sen. Susan Collins of Maine said she has always wanted "the opportunity for witnesses" and the report about Bolton's book "strengthens the case."

Senator Majority Leader McConnell appeared unmoved, telling Republicans at a closed lunch Monday they would take stock after the defense team concludes arguments.

"His message is what has been all along: Let's get through the next step," said Indiana GOP Sen. Mike Braun exiting the lunch. "That was it. Take a deep breath, and let's take one step at a time."

Once the president's team wraps its arguments no later than Tuesday, senators have 16 hours for questions to both sides.

By late in the week, they are expected to hold a vote on whether or not to hear from any other witnesses. Republicans said if Bolton is called they will demand reciprocity, which could mean trying to call Biden and his son, who was on the board of a Ukrainian gas company.

Trump's team laid out the broad outlines of its defense in a rare Saturday session, at which they accused House Democrats of using the impeachment case to try to undo the results of the last presidential election and drive Trump from office.

Besides Starr, Monday's

presentation was expected to include appearances by Alan Dershowitz, who will argue that impeachable offenses require criminal-like conduct.

Democrats, meanwhile, say Trump's refusal to allow administration officials to testify in the impeachment proceeding only reinforces that the White House is hiding evidence. The White House has had Bolton's manuscript for about a month, according to a letter from Bolton's attorney.

Senate Democratic leader Chuck Schumer said: "We're all staring a White House cover-up in the face."

Rep. Adam Schiff, who leads the House prosecution team, called Bolton's account a test for the senators sitting as jurors.

"I don't know how you can explain that you wanted a search for the truth in this trial and say you don't want to hear from a witness who had a direct conversation about the central allegation in the articles of impeachment," Schiff said on CNN.

Bolton's account was first reported by The New York Times and was confirmed to The Associated Press by a person familiar with the manuscript on the condition of anonymity. "The Room Where It Happened; A White House Memoir" is to be released March 17.

Trump denied Bolton's claims in tweets early Monday.

"I NEVER told John Bolton that the aid to Ukraine was tied to investigations into Democrats, including the Bidens," Trump said. "If

John Bolton said this, it was only to sell a book."

Trump said people could look at transcripts of his call with Ukrainian President Volodymyr Zelinskiy to see there was no pressure for such investigations to get the aid. In that call, Trump asked Zelinskiy to "do us a favor" with the investigations as he was withholding nearly \$400 million in military aid to the U.S. ally at war with Russia.

Trump falsely claimed Monday that the Democrat-controlled House "never even asked John Bolton to testify." Democrats did ask Bolton to testify, but he didn't show up for his deposition. They later declined to subpoena Bolton, as they had others, because he threatened to sue, which could lead to a prolonged court battle.

Schiff said Bolton – known to be a copious notetaker – should also provide documents.

Eventual acquittal is likely in a Senate where a two-thirds majority vote would be needed for conviction. Still, the White House sees its Senate presentation this week as an opportunity to counter the allegations, defend the powers of the presidency and prevent Trump from being weakened politically ahead of November's election.

Democrats argued their side of the impeachment case for three days last week, warning that Trump will persist in abusing his power and endangering American democracy unless Congress intervenes to remove him before the 2020 election.

IN BRIEF

LJUBLJANA, SLOVENIA
Slovenia's PM steps down, urges nation to hold vote

Slovenia's prime minister announced his resignation

on Monday and urged the country to hold an early general election.

Prime Minister Marjan Sarec said he's resigning because of the crumbling

support for his minority government in the small European Union nation of 2 million.

Sarec said he will submit his resignation to the

country's parliament. Lawmakers then can try to form a new government, but Sarec said he believed an early election was a better option.

LEGAL NOTICE

GREENLAND SCHOOL DISTRICT
GREENLAND, NEW HAMPSHIRE
FIRST SESSION (DELIBERATIVE) MEETING
ON 2020-2021 PROPOSED
GREENLAND SCHOOL DISTRICT BUDGET

In compliance with RSA 40:13, the Greenland School District will hold the First Session (Deliberative) Meeting on the 2020-2021 proposed Greenland School District Budget on Monday, February 3, 2020 at 6:30 p.m. at the Greenland Central School. (snow date: Wednesday, February 5, 2020 at 6:30 p.m. at the Greenland Central School.)

PM00474194

LEGAL NOTICE

RYE SCHOOL DISTRICT
RYE, NEW HAMPSHIRE
FIRST SESSION (DELIBERATIVE) MEETING
ON 2020-2021 PROPOSED
RYE SCHOOL DISTRICT BUDGET

In compliance with RSA 40:13, the Rye School District will hold the First Session (Deliberative) Meeting on the 2020-2021 proposed Rye School District Budget on Tuesday, February 4, 2020 at 6:30 p.m. at the Rye Junior High School. (snow date: Thursday, February 6, 2020 at 6:30 p.m. at the Rye Junior High School.)

PM00474191

Legal Notice

RYE PLANNING BOARD
PUBLIC HEARING NOTICE
PROPOSED NEW LAND DEVELOPMENT REGULATIONS

The Rye Planning Board will hold a second public hearing on its proposed new Land Development Regulations (LDR's) on February 11, 2020 at 6:00 p.m. at the Rye Public Library. The proposed new LDR's comprehensively revise and replace the LDR's adopted on September 20, 1988 and amended several times since. The proposed LDR's to be heard on February 11 have several changes from the LDR's presented at the January 14, 2020 hearing, including revision of the waiver provision; addition of a provision allowing the planning board to require lot development plans for major subdivisions; removal of HISS soils mapping requirements; addition of a provision requiring the stormwater management designs to meet the DES/AoT requirement for increasing runoff by 15%; updating of the civil penalties provision for violations; and several editing changes identified by the town's codification consultant and town counsel. Copies of the proposed new LDR's are available at the Planning Department office and on the town website.

Patricia Losik, Chair

PM00474137

Legal Notice NEW CASTLE HISTORIC DISTRICT COMMISSION PUBLIC HEARING

Notice is hereby given that there will be one public hearing with the New Castle Historic District Commission on Thursday, Feb. 6, 2020, at the Town Hall, 7pm.

Public Hearing:
Applicants Stephanie and Stephen Johnson of 23 Oliver Street who purpose to place a 6' X 8' garden shed at rear of property. Plans may be reviewed at the Town Hall during office hours. Person(s) interested or affected by the plans may attend in person or by counsel or by writing to the Historic Commission and if affected by the plans may state their views. Per New Castle Zoning Ordinance Section 9.3.5 (a,b,c) - Activities requiring review.
Rodney Rowland, Chairman
New Castle Historic Commission

PM00474122

Legal Notice TOWN OF ELIOT MAINE PUBLIC HEARING NOTICE

AUTHORITY: Eliot, Maine Planning Board
PLACE: Eliot Town Hall, 1333 State Road, Eliot, ME 03903
DATE OF HEARING: Tuesday, February 4, 2020
TIME: 7:00 PM

Notice is hereby given that the Planning Board of the Town of Eliot, Maine will hold a public hearing on Tuesday, February 4, 2020 at 7:00 PM for the purposes of receiving public comment and input on the following proposed ordinances:

- Amendment to existing Ordinance: Chapter 1 - General Provisions, Section 1-2: Definitions and rules of construction
- Amendment to existing Ordinance: Chapter 33 - Planning and Development, Section 33-189: Nonprofit medical marijuana dispensaries and registered primary caregivers.
- Amendment to existing Ordinance: Section 45-290: Table of permitted and prohibited uses
- Amendment to existing Animal Control Ordinance: Chapter 61 - Section 61- 2: Definitions.

These proposed ordinance revisions are on file and available for review in draft format in the Land Use Department (during normal business hours).

PM00473171

Fielding's
Oil & Propane Co.
Serving Portsmouth, Dover, Rochester & Surrounding Towns

FUEL OIL

2.54⁹ Per Gal.

Easy Pay Budget Plans Available

Now Delivering Propane

Portsmouth (603) 436-2005
Exeter (603) 778-3700

1-800-491-3194
Order online at www.fieldingsoil.com

Orders of 200 gallons or more receive an additional 2¢ off. Price subject to change.

ARTICLE _____ Shall an ordinance entitled “Amendments to Chapter 1 – General Provisions, Section 1-2” of the Municipal Code of Ordinances of the Town of Eliot, Maine to define land uses and rules of construction dated _____ be enacted?

THE AMENDMENT WILL:

- Define land uses and rules of construction which are not currently defined in Chapter 1.

BACKGROUND AND RATIONALE:

- This amendment is proposed by the Planning Board to provide definitions for land uses and rules of construction which are not currently defined in Chapter 1.

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

ADD THE FOLLOWING DEFINITIONS:

New Text in Bold and Underlined

1. **Accessory building means an outdoor structure such as attached or detached garages, sheds, playhouses, storage buildings, pergolas, garden structures, greenhouses, private studios, boathouses, pool houses, cabanas, and other similar residential buildings.**
2. **Animal Breeding for the purpose of land use this shall means a location where 5 or more adult female dogs or cats capable of breeding are kept and some or all of the offspring are offered for sale, sold or exchanged for value or a location where more than 16 dogs or cats raised on the premises are sold to the public in a 12-month period.**
3. **Animal Husbandry means a branch of agriculture concerned with animals that are raised for meat, fiber, milk, eggs, or other products. It includes day-to-day care, selective breeding and the raising of livestock.**
4. **Bank means a universal bank, limited purpose bank, trust company, savings bank, industrial bank, savings and loans association or credit union organized under the laws of this State, also known as a financial institution. Excluded from the definition of "financial institution" is any limited purpose bank that is predominantly engaged in the business of a nondepository trust company and is subject to Bureau of Financial Institutions Regulation.**
5. **Bathhouse means a dressing, shower, or toilet facility.**
6. **Bathing Beach means a natural or artificial flowing or impounded pond, lake, stream, river or other body of fresh or salt water at the location where it is used for bathing and swimming purposes.**
7. **Bed and Breakfast means a home occupation in a single-family dwelling in which lodging or lodgings with meals served before noon are offered to the general public for compensation, offering no more than six bedrooms for lodging purposes.**
8. **Bulk oil fuel tank means single or multiple compartment tanks with or without supports. The intended use of tanks is to receive and store oil products for the purpose of redistribution.**
9. **Business Office means a place of business where professional or clerical duties are performed.**
10. **Cemetery means a burial ground; a graveyard.**

Amendments to Chapter 1 – General Provisions, Section 1-2 of the Municipal Code of Ordinances of the Town of Eliot, Maine.

11. Earth material removal, less than 100 cubic yards and 100 cubic yards or greater means road construction, railway beds, causeways, dams, levees, canals, and berms. Other common earth removal are land grading to reconfigure the topography of a site, or to stabilize slopes.
12. Equipment storage, trucks, 3 or more means semi-permanent or long-term containment, holding, leaving, or placement of goods, materials, or three or more trucks; usually with the intention of retrieving them at a later time. It does not include the interim accumulation of a limited material amount during processing, maintenance, or repair.
13. Farm equipment store means a store where any kind of machinery used on a farm to help with farming. The best-known example is a tractor.
14. Fence means a barrier, railing, or other upright structure, typically of wood or wire, enclosing an area of ground to mark a boundary, control access, or prevent escape.
15. Firewood sales means any location where wood burned as fuel is sold.
16. Fireworks sales means any location where a device containing gunpowder and other combustible chemicals that causes a spectacular explosion when ignited, used typically for display or in celebrations is sold.
17. Funeral Establishment means every place or premises devoted to or used in the care and preparation for the funeral and burial of human remains or maintained for the convenience of the bereaved for viewing or other services in connection with the human remains or as the office or place for carrying on the profession of funeral service.
18. Gardening means the activity of tending and cultivating a garden, especially as a pastime.
19. Gasoline station means a retail station for servicing motor vehicles especially with gasoline and oil.
20. Government buildings or uses means an administrative building, such as but not limited to: town hall, library, courthouse, public safety or law enforcement buildings, other municipal buildings, fire stations, jails and detention facilities.
21. Grain or feed store means a store selling livestock feeds.
22. Harvesting wild crops means the collection of any plant or portion of a plant that is collected or harvested from a site that is not maintained under cultivation or other agricultural management.
23. Hospital means a facility offering emergency services and inpatient care and services for observation, diagnosis and active treatment of an individual with a medical, surgical, obstetrical, rehabilitation or psychiatric condition requiring direction or supervision of a physician and which may or may not offer similar services to outpatients.

Amendments to Chapter 1 – General Provisions, Section 1-2 of the Municipal Code of Ordinances of the Town of Eliot, Maine.

24. *Indoor commercial recreation & amusement facility* means an indoor facility, with or without seating for spectators, and providing accommodations for a variety of individual, organized, or franchised sports. Such facility may also provide other regular organized or franchised events. Including but not limited to arcade, assembly hall, athletic and health clubs, bowling alley, community center, conference center, exhibit hall, gymnasium, or movie theater.
25. *Library* means a building or room containing collections of books, periodicals, and sometimes films and recorded music for people to read, borrow, or refer to.
26. *Livestock* means animals raised in an agricultural setting, including the Rural District, to produce labor and commodities such as meat, eggs, milk, wood, etc.
27. *Manufacturing* means the making of articles on a large-scale using machinery; industrial production.
28. *Museum* means a building in which objects of historical, scientific, artistic, or cultural interest are stored and exhibited
29. *New construction of telecommunication structure 70 feet and higher, New construction of telecommunication structure less than 70 feet high* means the construction of a structure, typically steel, that are designed in order to support antennas for telecommunications and broadcasting. Wireless communication for the most part, such as mobile networking, television antennas as well as radio broadcasting
30. *Nurseries, plants* mean any business or individual offering nursery stock for sale: woody plants (trees, shrubs, vines etc.) and herbaceous plants (bulbs, annuals, perennials, vegetable seedlings, houseplants, etc.), but does not include cut flowers or cut Christmas trees.
31. *Park* means a public green area in a town, used for recreation.
32. *Places of worship* means a specially designed structure or consecrated space where individuals or a group of people such as a congregation come to perform acts of devotion, veneration, or religious study. A building constructed or used for this purpose is sometimes called a house of worship. Temples, churches, synagogues and mosques are examples of structures created for worship.
33. *Playground* means an outdoor area provided for children to play in, especially at a school or public park
34. *Printing plant* means the activity or business of producing writing and images on paper or other material with a machine.
35. *Produce and plants raised locally, seasonal sales* mean agricultural products (for example, wool or flowers that have been produced or grown, especially by farming, processed and then sold, served and consumed within a 100 to 150-mile radius of where they're grown.

Amendments to Chapter 1 – General Provisions, Section 1-2 of the Municipal Code of Ordinances of the Town of Eliot, Maine.

36. Professional offices mean an office used as a place of business by licensed professionals, or persons in other generally recognized professions, which primarily use training or knowledge of.
37. Recreational facilities, non-intensive means public or private facilities for use by the general public such as boat or yacht clubs, docks, swimming pools, golf and country clubs.
38. Retail stores, local, other means a store that specializes in the sale of a limited quantity and variety of items.
39. Road construction means the act of constructing a road.
40. School means any institution at which instruction is given in a particular discipline.
41. Survey & resource analysis means the process of analyzing results from surveys.
42. Warehouse means a building where raw materials or manufactured goods may be stored.
43. Wholesale business facility means a building where the sale of goods or merchandise to retailers; to industrial, commercial, institutional, or other professional business users; or to other wholesalers (wholesale businesses) and related subordinated services. In general, it is the sale of goods to anyone other than a standard consumer.

Amendments to Chapter 1 – General Provisions, Section 1-2 of the Municipal Code of Ordinances of the Town of Eliot, Maine.

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

To the Town Clerk of the Town of Eliot, Maine:

We hereby certify to you that the document to which we have affixed this certificate is a true copy of the official text of an ordinance entitled **“Amendments to Chapter 1 – General Provisions, Section 1-2” of the Municipal Code of Ordinances of the Town of Eliot, Maine to define land uses and rules of construction.** which is to be presented to the voters for their consideration on _____.

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

Dated: _____

Town of Eliot Board of Selectmen

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

In the construction of this Code, and of all ordinances, the following rules shall be observed:

100-year flood. See "base flood."

Abutters means owners of adjacent property, including property separated by a street, road, or stream, from the property under review.

Acceptable waste means waste materials that will be accepted at the ERDF. Includes: domestic trash, special handling items and recyclable and compostable materials.

Access way means an easement or a strip of land giving access to one or more back lots.

Accessory building means an outdoor structure such as attached or detached garages, sheds, playhouses, storage buildings, pergolas, garden structures, greenhouses, private studios, bathhouses, pool houses, cabanas, and other similar residential buildings.

Accessory dwelling unit means a separated living area which is part of an existing or new single family owner occupied residence, and which is clearly secondary to the existing single family use of the home and that meets the requirements of section 45-459. Accessory structure or use means a use or detached structure that is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Note— Definition of "accessory use" and "accessory structure" have been added through a previous ordinance revision, pending codification.

Adjacent grade means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Affordable housing means decent, safe and sanitary dwelling units that can be afforded by households with annual incomes no greater than 80 percent of the median household income in non-metropolitan York County, as established by the U.S. Department of Housing and Urban Development (median household income shall be published in the Annual Report of the Municipal Officers of the Town of Eliot, Maine). A renter-occupied unit is affordable to such households if the unit's monthly housing costs, including rent and basic utility costs (the costs of heating and of supplying electricity to the unit plus the cost, if any, of supplying public water and public wastewater disposal service to the unit), do not exceed 30 percent of gross monthly income. An owner-occupied unit is affordable to such households if its price results in monthly housing costs that do not exceed 28 percent of gross monthly income for principal, interest, insurance and real estate taxes. Estimates of mortgage payments are to be based on down payments and rates of interest generally available in the area to low and moderate income households.

Aggrieved party means an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this chapter; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agriculture means the production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green house products. Agriculture does not include forest management and timber harvesting activities.

Allocation (or sewer capacity allocation) means the commitment of a specified amount of wastewater treatment capacity (measured in gallons per day or GPD) as approved by the Eliot Sewer Committee and/or Board of Selectmen for a specified development or land use.

Alteration means any change, addition, or modification in construction, or any change in the structural members of a building such as bearing walls, columns, beams, or girders.

Alternate tower structure means manmade or natural objects, clock towers, bell steeples, light poles, water towers, and similar alternative-design antenna mounting structures.

Animal Breeding for the purpose of land use this shall means a location where 5 or more adult female dogs or cats capable of breeding are kept and some or all of the offspring are offered for sale, sold or exchanged for value or a location where more than 16 dogs or cats raised on the premises are sold to the public in a 12-month period.

Animal Husbandry means a branch of agriculture concerned with animals that are raised for meat, fiber, milk, eggs, or other products. It includes day-to-day care, selective breeding and the raising of livestock.

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

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

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

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

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

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

ASCE means the American Society of Civil Engineers.

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

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

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

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

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

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

- (1) Meets all state requirements for an auto recycling operation.

- (2) Conducted incidental to an approved (state and/or local) auto repair garage or auto service station.
- (3) No more than ten unregistered, unserviceable, discarded or worn-out automobiles (or parts which take up the same area as ten assembled automobiles) per acre allowed on lot.
- (4) All recycling operations must take place within the boundaries of the recycling enclosure or inside buildings on the lot.
- (5) Recycling enclosure must be a solid visual screen (fence, wall, etc.) at least six feet high which completely surrounds all outside recycling operations.
- (6) No vehicles or parts of vehicles are to be stored outside the recycling enclosure except those within buildings on the lot.
- (7) Size of the recycling enclosure is to be no larger than 25 percent of the lot size or 10,000 square feet, whichever is less.
- (8) The perimeter of the recycling enclosure should be located as far from the lot lines as practical and shall comply with setback requirements specified for front yard, side yard and rear yard dimensions from principle structures in section 45-405, dimensional standards (see information below for setbacks).
- (9) The recycling enclosure must be fitted with a visual screen gate, which is kept closed at all times except when entering or exiting with vehicles.
- (10) No portable or fixed crushing machinery is allowed on lot.
- (11) Application must identify how all fluids, batteries, tires and lubricants are going to be removed and/or stored in compliance with DEP requirements where applicable.
- (12) Hours of operation shall be limited to 8:00 a.m. through 5:00 p.m., five days a week, Monday through Friday.
- (13) Noise shall not exceed 50 dbA during hours of operation. Noise shall be measured at the property line, four feet above ground. Exemptions of section 45-407 of the Eliot Zoning Ordinance shall apply.
- (14) Minimum lot size shall be two acres in those districts where allowed.

Auto repair garage means a place where, with or without the attendant sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service, such as body, frame, or fender straightening and repair, and overall painting and undercoating of automobiles.

Auto service station means a place where gasoline, or any other automobile engine fuel (stored only in underground tanks), kerosene, or motor oil and lubricants or grease (for operation of motor vehicles) are retailed directly to the public on the premises, including the sale of minor accessories and the servicing and minor repair of automobiles, not including storage of unlicensed vehicles and not including body, frame, or fender straightening and repair.

Average daily flow (ADF) means the total annual flow divided by the number of days in the calendar year, expressed as gallons per day (GPD).

Back lot means a lot which does not have the minimum street frontage required in the zoning district but which is accessed by an access way which either passes over or has been divided out of one or more other lots separating all or part of the back lot from the nearest qualifying street.

Back lot, first generation means a back lot separated from the nearest qualifying street by only one lot.

Back lot, later generation means a back lot separated from the nearest qualifying street by three or more lots.

Back lot, new means a back lot created after June 14, 2005.

Back lot, second generation means a back lot separated from the nearest qualifying street by two lots.

Bank means a universal bank, limited purpose bank, trust company, savings bank, industrial bank, savings and loans association or credit union organized under the laws of this State, also known as a financial institution. Excluded from the definition of "financial institution" is any limited purpose bank that is predominantly engaged in the business of a nondepository trust company and is subject to Bureau of Financial Institutions Regulation.

Basal area means the area of cross-section of a tree stem at four and one-half feet above ground level and inclusive of bark.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year, called the 100-year flood.

Basement (cellar) means any portion of a structure with a floor-to-ceiling height of six feet or more and having more than 50 percent of its volume below the existing ground level.

Bathroom means a dressing, shower, or toilet facility.

Bathing Beach means a natural or artificial flowing or impounded pond, lake, stream, river or other body of fresh or salt water at the location where it is used for bathing and swimming purposes.

Bed and Breakfast means a home occupation in a single-family dwelling in which lodging or lodgings with meals served before noon are offered to the general public for compensation, offering no more than six bedrooms for lodging purposes.

Best management practices or "BMPs" (chapter 35) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

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

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

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

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

Boarding house. See "boarding home or boardinghouse."

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

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

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

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

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

Building. See "structure."

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

Building inspector. See "code enforcement officer."

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

Bulk oil fuel tank means single or multiple compartment tanks with or without supports. The intended use of tanks is to receive and store oil products for the purpose of redistribution.

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

Business Office means a place of business where professional or clerical duties are performed.

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

Campground. See "campground or camper park."

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

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

Canopy means the more or less continuous cover formed by tree crowns in a wooded area.

Cemetery means a burial ground; a graveyard.

Cementitious means having the property of or acting like cement.

Certificate of compliance means a document signed by the code enforcement officer stating that a structure is in compliance with all of the provisions of this chapter.

Certified perimeter survey means the process of determining boundaries and areas of tracts of land. The perimeter survey shall be certified by a person licensed in the State of Maine as a professional land surveyor.

Clean Water Act (chapters 31 and 35) means the federal Water Pollution Control Act (33 U.S.C. § 1251 et seq., also known as the "Clean Water Act"), and any subsequent amendments thereto.

Coastal wetland means all tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal action during the highest annual tide in which an

activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes. Note: All areas below the highest annual tide are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows. Coastal wetlands, by definition, include all areas affected by tidal action, not just those areas where salt marshes and salt meadows exist. Cobble and sand beaches, mudflats, and rocky ledges, below the highest annual tide are all considered to be coastal wetlands.

COD (chemical oxygen demand) means a measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

Code. The word Code shall mean the Municipal Code of Ordinances, Town of Eliot, Maine.

Code enforcement officer means a person certified under 30-A M.R.S.A., Section 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

Collector street means a street providing access to 15 or more units of residential development, or to more than 2,500 square feet of retail commercial or industrial floorspace. It also includes streets which serve as connectors or feeders to arterial or other collector streets, or which collect traffic from a minor street or streets.

Combined sewer means a sewer receiving both surface water runoff and wastewater.

Commercial adult enterprise means any business a substantial or significant portion of which consists of selling, renting, leasing, exhibiting, displaying, or otherwise dealing in materials, of any kind which depict or describe any of the following:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse, or sodomy;
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast;
- (4) Less than completely and opaquely covered:
 - a. Human genitals;
 - b. Pubic region;
 - c. Buttock;
 - d. Female breast below a point immediately above the top of the areola; or
- (5) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Any business which devotes more than 20 percent of its floor space to exhibiting or displaying materials described in subparagraphs (a) through (e) above or derives more than 20 percent of its revenue from dealing in such materials shall be presumed to be a commercial adult enterprise unless the applicant presents clear and convincing evidence that dealing in such materials does not constitute a substantial or significant portion of the overall business enterprise being conducted on the premises.

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

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

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

Commercial pier means a permanent structure extending over the water the principal use of which is the production of income from a water dependent business use such as supporting the buying or selling of goods and/or services to vessels, providing continuous access to commercial vessels used to generate income, the berthing and/or repair of transient vessels, access to rental slips and moorings, fishing, or

harvesting of shellfish, conducting tours or sightseeing trips, or the operation of a limited or full service marina. A pier shall be treated as a commercial pier for all purposes and shall be subject to the requirements and limitations applicable to commercial piers under this section if it is designated as a commercial pier on the application for approval first filed with the town, is more than six feet in width, or has pilings that extend below mean low water. A pier, which meets the criteria of this definition, is a commercial pier even if it is not associated with or does not support a land based commercial use.

Commercial use means the use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

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

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

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

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

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

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

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

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

Contractor means any entity that agrees to furnish goods, materials, equipment, personnel, and/or services that meet or exceed stated requirements or specifications, at a mutually agreed upon price and within a specified timeframe to another independent entity, principal, or project owner. The term shall include the contractor's agents, employees, and/or subcontractors. Contractor may also mean "owner" if the work is to be performed by the owner.

Convey means to sell, lease, rent, give, or allow occupancy of a dwelling unit. Dwelling unit means a room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking and eating. The term shall include mobile homes and apartments, but shall not include trailers or recreational vehicles.

County means the County of York, Maine.

Cross-sectional area means the cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances

from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

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

DBH means the diameter of a standing tree measured 4.5 feet from ground level.

Dead-end street means a street or sections of a street that has only one connection to a nondead-end street and is closed at the other end.

Delegation of authority. Whenever a provision appears requiring the head of a department or some other town officer or employee to do some act or perform some duty, it shall be construed to authorize the head of the department or other officer or employee to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

Development means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation or drilling operations; or of equipment or materials. Within chapter 44, Shoreland Zoning, "development" means a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

Dimensional requirements means numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

Dinghy means a vessel associated with a specific larger vessel and principally used for transportation from the larger vessel to a landing or other vessel. The intent is that unregistered, nonpowered boats such as canoes and kayaks that are not associated with the operation of the marina shall not be counted when determining the allowable number of permitted boats.

Direct discharge or point source (chapter 31) means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.

Disability means any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

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

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

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

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

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

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

Dwelling, multifamily. See "multifamily dwelling."

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

Earth material removal, less than 100 cubic yards and 100 cubic yards or greater means road construction, railway beds, causeways, dams, levees, canals, and berms. Other common earth removal are land grading to reconfigure the topography of a site, or to stabilize slopes.

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

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

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

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

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

Electrical inspector. See "code enforcement officer."

Elevated building means a nonbasement building:

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

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

Elevation certificate means an official form (FEMA Form 81-31, 02/06, as amended) that is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and is required for purchasing flood insurance.

Eliot Recycling and Disposal Facility (ERDF) means the facility maintained by the town for the purpose of recycling, composting and disposing of solid waste.

Emergency operations means work made necessary to restore property to a safe condition or work required to protect persons or property from an imminent exposure to danger or potential danger. Within chapter 44, Shoreland Zoning, "emergency operations" means operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

Enforcement authority (chapter 31) means the person(s) or department authorized under section 31-4 to administer and enforce the chapter.

Engineer (or P.E.) means a registered professional engineer licensed by the State of Maine.

Equipment storage, trucks, 3 or more means semi-permanent or long-term containment, holding, leaving, or placement of goods, materials, or three or more trucks; usually with the intention of retrieving them at a later time. It does not include the interim accumulation of a limited material amount during processing, maintenance, or repair.

Essential services means gas, electrical or communications facilities, steam, fuel, electric power or water transmission or distribution lines, towers and related equipment, telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Excavation means any breaking of the ground except agriculture or common household gardening and ground care.

Excavation contractor means an individual or firm engaged in a business that causes the disturbance of soil, including grading, filling and removal, or in a business in which the disturbance of soil results from an activity that the individual or firm is retained to perform.

Excessive (chapter 18) means amounts or concentrations of any constituent of a wastewater which, in the judgment of the superintendent or Town of Kittery Wastewater Treatment Department, will cause damage to any portion of the wastewater collection system; will be harmful to a wastewater treatment process; cannot be removed in the wastewater treatment process to the degree required to meet the Town of Kittery or Town of Eliot discharge permit; will otherwise endanger life, limb, or public property.

Exempt person or discharge (chapter 31) means any person who is subject to a multi-sector general permit for industrial activities, a general permit for construction activity, a general permit for the discharge of stormwater from the Maine Department of Transportation and the Maine Turnpike Authority Municipal Separate Storm Sewer Systems, or a general permit for the discharge of stormwater from state or federally owned authority municipal separate storm sewer system facilities; and any non-stormwater discharge permitted under a NPDES permit, waiver, or waste discharge license or order issued to the discharger and administered under the authority of the U.S. Environmental Protection Agency ("EPA") or the Maine Department of Environmental Protection ("DEP").

Expansion of a structure means an increase in the footprint or height of a structure, including all extensions such as, but not limited to attached decks, garages, porches and greenhouses.

Expansion of use means the addition of one or more months to a use's operating season; or the use of more footprint devoted to a particular use.

Family means one or more persons occupying premises and living as a single housekeeping unit, as distinguished from a group occupying a boardinghouse or motel.

Farm equipment store means a store where any kind of machinery used on a farm to help with farming. The best-known example is a tractor.

Fence means a barrier, railing, or other upright structure, typically of wood or wire, enclosing an area of ground to mark a boundary, control access, or prevent escape.

Filling means depositing or dumping any matter on or into the ground or water.

Firewood sales means any location where wood burned as fuel is sold.

Fireworks sales means any location where a device containing gunpowder and other combustible chemicals that causes a spectacular explosion when ignited, used typically for display or in celebrations is sold.

Flood or flooding means:

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

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

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

Flood insurance study. See "flood elevation study."

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

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

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

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

Floodway. See "regulatory floodway."

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

Floor area (within chapter 44, Shoreland Zoning) means the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

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

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

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

Forest management activities means timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

Forest stand means a contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

Forested wetland means a freshwater wetland dominated by woody vegetation that is six meters tall (approximately 20 feet) or taller.

Foundation means the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Freshwater wetland means freshwater swamps, bogs and similar areas, other than forested wetlands, which are:

- (1) Of ten or more contiguous acres; or of less than ten contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of ten acres; and
- (2) Inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Front lot means a lot with frontage on a qualifying street.

Frontage, street means the horizontal distance between the intersections of the side lot lines with the front lot line that abuts a town way or a private way meeting the minimum standards of a town street.

Functionally water-dependent uses mean those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities (excluding recreational boat storage buildings), finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

Funeral Establishment means every place or premises devoted to or used in the care and preparation for the funeral and burial of human remains or maintained for the convenience of the bereaved for viewing or other services in connection with the human remains or as the office or place for carrying on the profession of funeral service.

Gambling means that process in which one stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his or her control or influence, upon an agreement or understanding that he, she or someone else will receive something of value in the event of a certain outcome. Gambling does not include bona fide business transactions valid under the law of

contracts, including but not limited to contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including but not limited to contracts of indemnity or guaranty and life, health or accident insurance.

Gambling casino means a building, structure or other facility used to allow, conduct, hold, maintain, or operate a game of chance, game of skill, electronic video machine, roulette, high stakes beano or bingo, slot machines or any other type of gambling activity. A gambling casino shall not be construed to include a building structure or other facility when used incidentally by any bona fide nonprofit charitable, educational, political, civic, recreational, paternal, patriotic or religious organizations, or a volunteer fire department or other public safety nonprofit organization when used for the conduct, of any beano, bingo, raffles, games of chance or other activities specifically permitted by Maine state statute provided that such nonprofit organizations do not exist primarily to operate such activities and that all requirements of state statute including all requirements for licensing by the Chief of the Maine State Police are strictly met.

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

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

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

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

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

Gardening means the activity of tending and cultivating a garden, especially as a pastime.

Gasoline station means a retail station for servicing motor vehicles especially with gasoline and oil.

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

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

Government buildings or uses means an administrative building, such as but not limited to: town hall, library, courthouse, public safety or law enforcement buildings, other municipal buildings, fire stations, jails and detention facilities.

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

Grade plane means a reference plane representing the average of finished ground levels adjoining the building at all exterior walls. When the finished ground level slopes away from exterior walls, the

reference plane shall be established by the lowest points within the area between the building and the lot line or, when the lot line is more than six feet from the building, between the building and a point six feet from the building.

Grain or feed store means a store selling livestock feeds.

Great pond means any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of 30 acres, except for the purposes of this chapter, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

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

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

Growth permit means a permit issued in accordance with the provisions of this chapter, which allows the issuance of a building permit within 90 days of approval for the construction or placement of one new dwelling unit within the Town of Eliot.

Growth permit application means an application designed to collect information about proposed residences, to be used as a basis for rating them for approval.

Harvesting wild crops means the collection of any plant or portion of a plant that is collected or harvested from a site that is not maintained under cultivation or other agricultural management.

Hazard tree means a tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

Hazardous wastes means a waste substance or material, in any physical state, designated as hazardous by the board of environmental protection under 38 M.R.S.A. § 1319-O. It does not include waste resulting from normal household or agricultural activities. Examples are radioactive material, explosives, biomedical wastes, contaminated soils, dredge spoils, and poisons.

Height of a structure means the greatest vertical measurement between two reference points defined as follows:

- (1) The lower reference point shall be the grade plane as defined herein.
- (2) The upper reference point shall be the highest point of the roof surface.
- (3) A parapet wall, fence, railing or similar structure that extends more than two feet above the roof surface shall be included in the determination of building height, but shall not be included if it does not extend more than two feet above the roof surface.
- (4) To determine building height, measurements shall be taken at least every five feet around the entire perimeter of a building. An average is calculated from these figures and that figure shall be the building's height for the purposes of this [Code].
- (5) When referring to a telecommunication structure, the distance is measured from ground level to the highest point on the structure, even if said highest point is an antenna or other appurtenance.

Height of a structure (within chapter 44, Shoreland Zoning) means the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.

High intensity soil survey means a survey that shall contrast soils down to one-tenth acre or less. The mapping units shall be the soil series. Single test pits and their analysis shall not be considered a high intensity soils survey.

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the department of interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary of the interior to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the secretary of the interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the secretary of the interior, or directly by the secretary of the interior in states without approved programs.

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

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

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

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

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

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

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

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

- (1) Except for signs as permitted by this chapter, there shall be no external evidence of the occupation. Outside storage of motor vehicle is limited to one business related van, pickup truck, or passenger car.
- (2) At least one member of a family occupying the premises must be engaged in the occupation.
- (3) There shall be no more than five employees engaged in the occupation, including family members. Within any shoreland zone governed by chapter 44 of this Code, such an occupation shall employ no more than two persons other than family members residing in the home.
- (4) No more than 25 percent of the total area of the principal residential and other structures shall be used for the occupation.
- (5) Retail or other sales of merchandise on the premises shall not be considered a home occupation.
- (6) Except for residential requirements, parking for a home occupation shall not exceed ten spaces.
- (7) Home occupations occupying separate buildings shall meet the minimum yard dimensions for principal buildings.
- (8) Providing for rental of offshore moorings or docking facilities (excluding dinghies) for boats shall be limited to a maximum of two rental spaces above and beyond that needed by landowner for boats registered in landowner's name.

Note: Authorization and location of rental moorings is the responsibility of the harbor master and appropriate state and federal agencies. The intent is to establish the maximum number of offshore rental moorings a waterfront landowner or lot can have to qualify for a water-dependent home occupation use.

- (9) Providing for rental indoor or outdoor winter (September through May) storage of boats shall be limited to a maximum of two rental spaces above and beyond that needed by landowner for boats registered in landowner's name. Rental spaces shall meet setback requirements for principle structure.

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

Home office means a place within a dwelling unit or within a structure accessory to a dwelling unit where office activities take place. A home office may include desks, chairs, tables, telephones, file cabinets, computers, printers, facsimile machines, copy machines, and other equipment customarily found in an office environment.

Hospital means a facility offering emergency services and inpatient care and services for observation, diagnosis and active treatment of an individual with a medical, surgical, obstetrical, rehabilitation or psychiatric condition requiring direction or supervision of a physician and which may or may not offer similar services to outpatients.

Household hazardous waste means leftover or unwanted product used in the household that has the same hazardous properties as the regulated industrial waste. This means that they can ignite or catch fire; react or explode when mixed with other substances; corrode; and/or are toxic. These materials have the potential to pollute the air or water when land filled or flushed down the drain. Examples include oil based paints, pesticides, solvents, caustics, etc.

Increase in nonconformity of a structure means any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

Indirect discharge means the introduction of pollutants into the Town of Kittery or Town of Eliot wastewater collection systems from any non-domestic, non-governmental source regulated under section 307(b), (c) or (d) of the Federal Water Pollution Control Act (also known as the Clean Water Act).

Individual private campsite means an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten individuals and which involves site improvements which may include but not be limited to gravel pads, parking areas, fire places, or tent platforms.

Indoor commercial recreation & amusement facility means an indoor facility, with or without seating for spectators, and providing accommodations for a variety of individual, organized, or franchised sports. Such facility may also provide other regular organized or franchised events. Including but not limited to arcade, assembly hall, athletic and health clubs, bowling alley, community center, conference center, exhibit hall, gymnasium, or movie theater.

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

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

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

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

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

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

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

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

- (1) Inhibits or disrupts the wastewater pollution control facility, its treatment processes or operations, or its sludge processes, use or disposal; and

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

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

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

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

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

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

Kitchen food waste means all residential food scraps/waste including bones, eggshells, seafood residue, coffee grounds and filters, etc. Paper napkins and non-coated paper containing food residue can also be included.

Land clearing debris means solid wastes resulting from the clearing of land and consisting solely of brush, stumps, soil material and rocks.

Land management road means a route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

Landfill/dump means a site for the placement or disposal of refuse and debris identified as prohibited wastes by this chapter either on the ground or below ground, but not to include containerized waste or other which has been generated on site and merely awaits permanent disposal. The municipal disposal facility is the only site in the town at which any person may dispose of prohibited wastes. This facility is limited to the use of town residents and to wastes generated within the boundaries of the town.

Lateral line (chapter 18) means the sewer conduit from a house to a street.

Legislative body means town meeting.

Level of service (LOS) means a description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the Highway Capacity Manual, 2010 Edition or latest available update, published by the National Research Council, Transportation Research Board. There are six levels of service defined in the manual, ranging from Level of Service A, with free traffic flow and no delays, to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

Library means a building or room containing collections of books, periodicals, and sometimes films and recorded music for people to read, borrow, or refer to.

Licensed forester means a forester licensed under 32 M.R.S.A. Chapter 76.

Life care facility means a planned community that meets state and federal licensing and certification requirements and includes more than one of the following uses:

- (1) Elderly housing.
- (2) Nursing facility.
- (3) Assisted living facility.

Limited commercial pier means a permanent structure extending over the water the principal use of which is associated with and in support of a water-dependent home occupation or water-dependent home business.

Livestock means animals raised in an agricultural setting, including the Rural District, to produce labor and commodities such as meat, eggs, milk, wood, etc.

Locally established datum means, for the purposes of this [Code], an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where mean sea level data is too far from a specific site to be practically used.

Lodginghouse. See "boardinghouse." (22 M.R.S.A. § 2491 par. 6) Eating and lodging place or lodging places means every building or structure or any part there is kept, used on, maintained as, advertised as, or held out to the public to be a place where eating and sleeping, or sleeping accommodations are furnished to the public as a business, such as hotels, motels, guest homes, and cottages.

Lot means a parcel of land which is defined by metes and bounds, or by boundary lines in a recorded deed, or which is shown on a recorded plot or plan.

Lot area means the total horizontal area within the lot lines.

Lot area (within chapter 44, Shoreland Zoning) means the area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Lot, corner means a lot with at least two contiguous sides abutting upon a street.

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

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

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

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

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

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

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

Lot, through means any interior lot having frontages on two more or less parallel streets, or between a street and a waterbody, or between two waterbodies, as distinguished from a corner lot. All sides of

through lots adjacent to streets and waterbodies shall be considered frontage, and front yards shall be provided as required.

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

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

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

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

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

- (1) *Mobile home* means a unit constructed after June 15, 1976, commonly called a "newer mobile home," that the manufacturer certifies is constructed in compliance with the United States Department of Housing and Urban Development standards, meaning a structure is transportable in one or more sections, that in the traveling mode is 14 body feet or more in width and is 750 or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit. This term also includes any structure that meets all the requirements of this subparagraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401 et seq.
- (2) *Modular home* means a unit that the manufacturer certifies is constructed in compliance with Title 10, Chapter 951, and rules adopted under that chapter, meaning a structure, transportable in one or more sections, that is not constructed on a permanent chassis and is designed to be used as a dwelling on a foundation when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained in the unit.

Manufactured housing unit. See "manufactured housing."

Manufacturing means the making of articles on a large-scale using machinery; industrial production.

Marina, full service means a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, boat and tackle shops and marine fuel service facilities.

Note: Authorization and location of rental moorings is the responsibility of the harbor master and appropriate state and federal agencies.

Marina, limited means a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for up to eight boats (excluding dinghies) not registered in landowners name, and which may also provide accessory services such as boat and related sales, indoor storage of boats, indoor storage of marine equipment and boat repair. A limited marina does not allow outdoor storage of earth moving equipment, forklifts, dump trucks, backhoes, industrial machinery, boilers, stationary engines, boat cradles, jack stands, derelict boats or engines, hull or structural molds for fiberglass boat repair or construction, jigs and molds or frames for boat repair or construction, cranes or cherry pickers or other lifting equipment, petroleum products (except home heating oil), air compressors or sand blasters, welders, industrial gases, winches, marine railway equipment, pilings, timbers, steel plating or bar or round stock, concrete reinforcement bar, unused major marine hardware and hull items including keel castings, masts and rigging, anchors, structural sections or ladders, deckhouse, pilothouses, cabins, antennas and pulpits.

Note: Authorization and location of rental moorings is the responsibility of the harbormaster and appropriate state and federal agencies. The intent is to establish the maximum number of offshore rental moorings a waterfront landowner or lot can have to qualify for a limited marina.

Market value means the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Mean low water, for the practical purposes of this chapter, shall be the location of the low water line determined by observation of low tide using a 0.00-foot tide.

Mean sea level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

Medical waste means isolation wastes, infectious agents; human blood and blood products, pathological wastes; sharps and lancets, body parts, contaminated bedding, surgical wastes and potentially contaminated laboratory wastes; and dialysis wastes.

Medium intensity soils survey means a general description of soils in areas no greater than two acres in size.

Mineral exploration means hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral extraction means any operation within any 12-month period which removes more than 100 cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

Minimum lot width means the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

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

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

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

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

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

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

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

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

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

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

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

Municipality means the Town of Eliot.

Museum means a building in which objects of historical, scientific, artistic, or cultural interest are stored and exhibited

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

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

Native means indigenous to the local forests.

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

NEIWPC means New England Interstate Wastewater Pollution Control Commission.

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

New construction of telecommunication structure 70 feet and higher, New construction of telecommunication structure less than 70 feet high means the construction of a structure, typically steel, that are designed in order to support antennas for telecommunications and broadcasting. Wireless communication for the most part, such as mobile networking, television antennas as well as radio broadcasting

New development means any construction activity on unimproved premises.

Nonconforming condition means a nonconforming lot, structure or use which is allowed solely because it was in lawful existence at the time this [Code] or subsequent amendment took effect.

Nonconforming lot means a single lot of record which, at the effective date of adoption or amendment of this chapter, does not meet the area, frontage, or width requirements of the district in which it is located.

Nonconforming structure means a structure which does not meet any one or more of the following dimensional requirements; setback, height, footprint or lot coverage, but which is allowed solely because it was in lawful existence at the time this chapter or subsequent amendments took effect.

Nonconforming use means use of buildings, structures, premises, land or parts thereof which is not permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this chapter or subsequent amendments took effect.

Noncontact cooling water means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product.

Nondead-end street means any street that is not a dead-end street.

Non-native invasive species of vegetation means species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

Nonprofit medical marijuana dispensary means a not for profit entity licensed under Section 6 of the Rules Governing the Maine Medical Use of Marijuana Program, that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana, paraphernalia, prepared marijuana any marijuana products or byproducts, or related supplies and educational materials to registered patients who have designated the dispensary to cultivate marijuana for their medical use and the registered primary caregivers of those patients.

Non-stormwater discharge (chapter 31) means any discharge to an MS4 that is not composed entirely of stormwater.

Normal high-water line (nontidal waters) means that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support nonforested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond. NOTE: Adjacent to tidal waters, setbacks are measured from the upland edge of the "coastal wetland."

Number. A word importing the singular may extend and be applied to the plural, and vice versa.

State Law reference— Similar provisions, 1 M.R.S.A. § 71(9).

Nurseries, plants mean any business or individual offering nursery stock for sale: woody plants (trees, shrubs, vines etc.) and herbaceous plants (bulbs, annuals, perennials, vegetable seedlings, houseplants, etc.), but does not include cut flowers or cut Christmas trees.

Nursery schools. See Day nurseries.

Nursing facility means a skilled nursing facility on the Medicare program or a nursing facility in the Medicare program which meets state licensing and federal certification requirements for nursing facilities and has a valid agreement with the department of human services. The primary function of the facility is to provide housing, meals and nursing care for the aged, chronically ill, infirm or incurable persons.

Nursing home means any building in which three or more aged, chronically ill, infirm or incurable persons are housed and furnished meals and nursing care for compensation.

Oath. The word oath shall include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words swear and sworn shall be equivalent to the words affirm and affirmed.

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

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

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

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

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

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

Outlet stream means any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

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

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

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

Park means a public green area in a town, used for recreation

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

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

Permitted use. See "conforming use."

Person means an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Personal property. The term personal property includes every kind, tangible and intangible except real property.

Petitioner means a person, group, firm, organization, corporation, developer or subdivider who petitions the municipal officers to lay out a street as a town way.

pH means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland means:

Temporary: Structures that remain in or over the water for less than seven months in any period of 12 consecutive months.

Permanent: Structures that remain in or over the water for seven months or more in any period of 12 consecutive months.

Places of worship means a specially designed structure or consecrated space where individuals or a group of people such as a congregation come to perform acts of devotion, veneration, or religious study. A building constructed or used for this purpose is sometimes called a house of worship. Temples, churches, synagogues and mosques are examples of structures created for worship.

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

Planning board means the planning board of the town created under 30-A M.R.S.A.

Playground means an outdoor area provided for children to play in, especially at a school or public park

Plumbing inspector. See "code enforcement officer."

Pollutants (chapters 18, 31 and 35) means dredged spoil, solid waste, junk, incinerator residue, wastewater, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

Post-construction stormwater management plan (chapter 35) means BMPs and stormwater management facilities employed by a development to meet the standards of chapter 35 and approved by the planning board.

Premises (chapters 31 and 35) means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips, located within the municipality from which discharges into the storm drainage system are or may be created, initiated, originated or maintained.

Prepared marijuana means the dried leaves and flowers of the marijuana plant, and any mixture or preparation of those dried leaves and flowers, including but not limited to tinctures, ointments, and other preparations. It does not include the seeds, stalks and roots of the marijuana or other ingredients in goods prepared for human consumption and use.

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a public sewer. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by Title 40, Chapter 1, Part 403 of the final rules of the United States Environmental Protection Agency.

Principal structure (building) means the structure in which the primary use of the lot is conducted. In shoreland zoning, chapter 44: Principal structure means a structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same lot.

Principal use means the primary use to which the premises are devoted, and the main purpose for which the premises exist. There may be more than one principal use on a lot. In shoreland zoning, chapter 44: Principal use means a use other than one which is wholly incidental or accessory to another use on the same lot.

Printing plant means the activity or business of producing writing and images on paper or other material with a machine.

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

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

Produce and plants raised locally, seasonal sales mean agricultural products (for example, wool or flowers that have been produced or grown, especially by farming, processed and then sold, served and consumed within a 100 to 150 mile radius of where they're grown.

Professional offices mean an office used as a place of business by licensed professionals, or persons in other generally recognized professions, which primarily use training or knowledge of.

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

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

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

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

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

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

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

PVC means poly vinyl chloride.

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

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

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

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

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

Recreational facilities, non-intensive means public or private facilities for use by the general public such as boat or yacht clubs, docks, swimming pools, golf and country clubs.

Recreational vehicle means a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Residential dwelling unit means a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

Recyclable materials means materials that can be reused or reprocessed in the manufacture of goods. A list of currently recyclable materials will be posted at the ERDF and may include glass containers, aluminum and tin cans, mixed paper, cardboard, plastics (including #1 (PETE) bottles, #2 (HDPE) natural and colored bottles, and miscellaneous (#3 - #7 and #1, #2 non-bottles)), used motor oil, rechargeable batteries, and scrap metal.

Recycling means the process by which used or otherwise discarded materials are diverted from the waste stream and returned to use in the form of remanufactured products or raw materials.

Redevelopment means construction activity on premises already improved with buildings, structures or activities or uses, but does not include such activities as exterior remodeling.

Registered primary caregiver means a person, a hospice provider licensed under Title 22 M.R.S.A. chapter 1681 or a nursing facility licensed under Title 22 M.R.S.A. chapter 405 that provides care for a registered patient and that has been named by the registered patient as a primary caregiver to assist with a registered patient's use of marijuana.

Regulated small MS4 (chapters 31 and 35) means any small MS4 regulated by the State of Maine "General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems" ("General Permit"), including all those located partially or entirely within an urbanized area (UA) and those additional small MS4s located outside an UA that as of the issuance of the general permit have been designated by the DEP as regulated small MS4s.

Regulatory floodway means:

- (1) The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot; and
- (2) When not designated on the community's flood insurance rate map, it is considered to be the channel of a river or other watercourse and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Relative means child, parent, grandparent, brother or sister, and such relationships resulting from adoption or remarriage (step-parent, step-child, step-brother, step-sister, etc.).

Replacement system means a system intended to replace:

- (1) An existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure; or
- (2) Any existing overboard wastewater discharges.

Required improvements, as used in chapter 33, article III (Site Review) and in chapter 41 (Subdivisions), means the infrastructure improvements necessary for the construction of a development, including street grading, street surfacing, storm drainage, utilities (including conduits for cable where electric and telephone utilities are to be located underground), landscaping and any other site improvements required by the planning board in approving a site plan or subdivision plan.

Residential dwelling unit means a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

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

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

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

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

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

Retail stores, local, other means a store that specializes in the sale of a limited quantity and variety of items.

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

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

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

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

Road means a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

Road construction means the act of constructing a road.

Roominghouse. See "boardinghouse."

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

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

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

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

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

Sanitary sewer means a sewer which carries wastewater and to which storm, surface, and groundwater are not intentionally admitted.

Sanitary wastewater means the wastewater which is essentially free of industrial wastes or toxic materials and which discharges from sanitary conveniences such as toilets, urinals, sinks, showers, drinking fountains, home laundries, and from kitchens, school cafeterias, and floor drains, as approved under the Maine State Plumbing Code.

Sapling means a tree species that is less than two inches in diameter at four and one half feet above ground level.

School means any institution at which instruction is given in a particular discipline.

Seasonal means six months out of any one-year period.

Seedling means a young tree species that is less than four and one half feet in height above ground level.

SDR means standard dimension ratio.

Septage means the wastes from holding tanks such as vessels, chemical or portable toilets, campers, recreational vehicles or trailer wastes from septic tanks of private systems and cesspools, including trucked or hauled wastes.

Service drop means any utility line extension which does not cross or run beneath any portion of a water body provided that:

(1) In the case of electric service:

- a The placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
- b. The total length of the extension is less than 1,000 feet.

(2) In the case of telephone service:

- a. The extension, regardless of length, will be made by the installation of telephone wires to existing utility poles; or
- b. The extension requiring the installation of new utility poles or placement underground is less than 1,000 feet in length.

Setback means the minimum horizontal distance from a lot line to the nearest part of a structure.

Setback (within any shoreland zone governed by chapter 44) means the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

Sewage. See "wastewater."

Sewer means a pipe or conduit for carrying wastewater.

Sewer capacity allocation. See "allocation."

Sewer main means the line serving as a conduit for sanitary wastewater from the lateral lines from each individual property.

Sewer superintendent ("superintendent") means the head of the Eliot Sewer Department and shall be appointed by the Eliot Board of Selectmen or his/her authorized deputy, agent, or representative, as appointed by the board of selectmen.

Shall and *will* are mandatory; *may* is permissive.

Sharp curve means any curve with a centerline radius less than the minimum centerline radius allowed by section 37-70.

Shore frontage means the length of a lot bordering on a water body measured in a straight line between the intersections of the lot lines with the shoreline at normal high-water elevation.

Shoreland zone means the land area located within 250 feet, horizontal distance, of the normal high-water line of any great pond or river, within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action, within 250 feet of the upland edge of a freshwater wetland; or within 75 feet, horizontal distance, of the normal high-water line of a stream.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Single-family dwelling. See "dwelling unit and family."

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

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

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

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

Slug means any discharge of water, wastewater, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes, more than five times the average 24-hour concentration or flows during normal operation.

Small municipal separate storm sewer system, or "small MS4" (chapters 31 and 35) means any MS4 that is not already covered by the Phase I MS4 stormwater program including municipally owned or operated storm sewer systems, state- or federally-owned systems, such as colleges, universities, prisons, Maine Department of Transportation and Maine Turnpike Authority road systems and facilities, and military bases and facilities.

Small wind energy system means a system of equipment located on a single lot that has an aggregate rated capacity of not more than 100 kW that converts and then stores or transfers energy from the wind into usable forms of energy for use 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. This equipment includes the base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. Small wind energy systems are allowed only as accessory uses or structures, and only one small wind energy system is allowed per lot.

Small wind energy system height means the height above grade to the tip of the turbine blade when it reaches its highest elevation.

Soil scientist means a soil scientist certified by the state.

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.

Solid waste means useless, unwanted or discarded solid material with insufficient liquid content to be free-flowing, including, but not limited to, rubbish, garbage, refuse-derived fuel, scrap materials, junk, refuse, inert fill material and landscape refuse, but does not include hazardous waste, biomedical waste,

septage or agricultural wastes. The fact that a solid waste or constituent of the waste may have value or other use or may be sold or exchanged does not exclude it from this definition.

Something of value means: (A) any money or property; (B) any token, object or article exchangeable for money, property, amusement or entertainment; or (C) any form of credit or promise directly or indirectly contemplating transfer of money or property, or of any interest therein, or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge.

Special flood hazard area. See "area of special flood hazard."

Special handling items means a group of acceptable wastes that require special handling at the ERDF. These may include but are not limited to furniture, white goods, auto parts, carpet, demolition and construction debris, TVs and monitors, fluorescent tubes, electronic equipment, propane tanks, etc.

Start of construction means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

State. The term state shall mean the State of Maine.

Storm-damaged tree means a tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

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

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

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

Stream means a free-flowing body of water from the outlet of a great pond or the confluence of two perennial streams as depicted on the most recent, highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

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

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

Structure (building, and within any shoreland zone governed by chapter 44) means anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind or anything constructed or erected on or in the ground. The term includes structures temporarily or permanently located, such as decks, patios, and satellite

dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8.

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

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

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

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

Subdivision, mobile home park means any subdivision containing three or more manufactured homes on a parcel of land under unified ownership.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's board of appeals.

Substantial start means completion of 30 percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface sewage disposal system means any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

Survey & resource analysis means the process of analyzing results from surveys.

Sustained slope means a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

TDH means total dynamic head.

Telecommunication structure means a tower of any height and all accessory equipment which supports communication (broadcast or receiving) equipment, either analog or digital. It also includes a tower of any height and all accessory equipment which supports communication (broadcast or receiving) used by television or radio broadcasts.

Tenant, occupant. The words tenant and occupant applied to a building or land shall include any person holding a written or oral lease of, or who occupies the whole or part of such building or land, either alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

Tidal waters means all waters affected by tidal action during the highest annual tide.

Timber harvesting means the cutting and removal of timber for the primary purpose of selling or processing forest products. "Timber harvesting" does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. The cutting or removal of trees in the shoreland zone on a lot that has less than two acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to chapter 44, subsection 44-35(p), clearing or removal of vegetation for activities other than timber harvesting.

Timber harvesting and related activities means timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

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

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

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

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

Town of Kittery (chapter 18) means Town of Kittery Wastewater Pollution Control Facility.

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

Tributary stream means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock, and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity. This definition does not include the term stream as defined elsewhere in this chapter, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland. Note: Water setback requirements apply to tributary streams within the shoreland zone.

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

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

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

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

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

Upland edge of a wetland means the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest annual tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six meters (approximately 20 feet) tall or taller.

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

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

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

Variance (floodplain management ordinance) means a grant of relief by a community from the terms of the floodplain management regulations.

Vegetation means all live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under four inches in diameter, measured at four and one half feet above ground level.

Velocity zone means an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Veterinary hospital means a commercial establishment, operated by a licensed veterinarian, for the medical and surgical care of sick or injured animals.

VFD means variable frequency drive.

Vibration means a temporal and spatial oscillation of a displacement, velocity and acceleration in any material.

Viewing booth means any booth, cubicle, room, or stall within premises of a commercial adult enterprise used to display, by audio or visual reproduction, projection or other means, any materials listed under the definition of commercial adult enterprise.

Violation means the failure of a structure or other development to fully comply with a community's floodplain management regulations or ordinances.

Volume of a structure means the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Warehouse means a building where raw materials or manufactured goods may be stored.

Waste container means any receptacle with a capacity of two or more cubic yards used for the collection, storage and/or transportation of rubbish, garbage, materials to be recycled and other substances and materials.

Wastewater (or sewage) means the spent water of a community, which may be a combination of the liquid and water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with any groundwater, surface water or stormwater that may be present.

Wastewater collection system means the structures, pipes, pumping stations and other facilities and appurtenances owned by the Town of Kittery and/or Town of Eliot required to convey sanitary wastewater and/or industrial wastes to the Kittery wastewater treatment facility.

Wastewater pollution control facility means all facilities owned by the Town of Kittery for the collection, treatment, and disposal of sanitary wastewater, industrial waste, and septage. The wastewater pollution control facility is comprised of the wastewater collection system and the wastewater treatment facility.

Wastewater treatment facility means the central plant facility owned by the Town of Kittery for the treatment and disposal of sanitary wastewater, industrial waste, and septage.

Water body means any great pond, river, stream.

Water crossing means any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

Waters of the state means any and all surface and subsurface waters that are contained within, flow through, or under or border upon this state or any portion of the state, including the marginal and high seas, except such waters as are confined and retained completely upon the property of one person and do not drain into or connect with any other waters of the state, but not excluding waters susceptible to use in interstate or foreign commerce, or whose use, degradation or destruction would affect interstate or foreign commerce.

Wetland means a freshwater or coastal wetland.

Wholesale business facility means a building where the sale of goods or merchandise to retailers; to industrial, commercial, institutional, or other professional business users; or to other wholesalers (wholesale businesses) and related subordinated services. In general, it is the sale of goods to anyone other than a standard consumer.

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

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

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

Woody vegetation means live trees or woody, nonherbaceous shrubs.

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

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

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

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

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

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

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

(T.M. of 6-19-01, (arts. 6—8); T.M. of 11-6-01, (arts. 2, 8); T.M. of 3-16-02, (art. 3, § 1), (art. 4); T.M. of 11-5-02; T.M. of 6-10-03; T.M. of 11-4-03; T.M. of 3-20-04; T.M. of 6-8-04; T.M. of 6-14-05; T.M. of 6-16-07; T.M. of 6-16-07; T.M. of 6-14-08; T.M. of 6-9-09(1); T.M. of 6-9-09(2); T.M. of 6-12-2010(3); T.M. of 6-18-2011(5); T.M. of 6-18-2011(6); T.M. of 6-16-2012(1); T.M. of 6-16-2012(3); T.M. of 6-11-2013(1); T.M. of 11-5-2013; T.M. of 6-9-2015(1); T.M. of 6-9-2015(2); T.M. of 6-14-2016(1); T.M. of 11-6-2018(2); T.M. of 11-6-2018(3))

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

ARTICLE _____ Shall an ordinance entitled “Amendment to Chapter 33 – Planning and Development, Section 33-189” of the Municipal Code of Ordinances of the Town of Eliot, Maine to reference the definition of public facility to Chapter 11 Section 11-3 dated _____ be enacted?

THE AMENDMENT WILL:

- The Public Facility definition within chapter 33 section 33-189 will reference the definition of Public Facility in Chapter 11 Section 11-3 instead of the definition in Chapter 1 Section 1-2.

BACKGROUND AND RATIONALE:

- Currently Public Facility in Chapter 33 Section 33-189 references the definition of Public Facility found in Chapter 1 Section 1-2. This is not consistent with the Public Facility definition used in our Adult Use Ordinance. The Planning Board is suggesting this change to ensure consistency within both Marijuana Ordinances. The change proposed by the Planning Board is for Public Facility in Chapter 33 Section 33-189 to reference the Public Facility definition within Chapter 11 Section 11-3.

SEC. 33-189. – Nonprofit medical marijuana dispensaries and registered primary caregivers.

AMEND THE FOLLOWING ONE (1) DEFINITION:

New Text in Bold and Underlined

1. (c) A dispensary or registered primary caregiver facility may not be located within 500 feet of the property line of an existing public or private school, residential property, childcare facility, place of worship or public facility **as defined in Chapter 11 Section 11-3.**

Amendment to Chapter 33 – Planning and Development, Section 33-189 of the Municipal Code of Ordinances of the Town of Eliot, Maine

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

To the Town Clerk of the Town of Eliot, Maine:

We hereby certify to you that the document to which we have affixed this certificate is a true copy of the official text of an ordinance entitled ***“Amendment to Chapter 33 – Planning and Development, Section 33-189” of the Municipal Code of Ordinances of the Town of Eliot, Maine to reference the definition of public facility to Chapter 11 Section 11-3.*** which is to be presented to the voters for their consideration on _____.

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

Dated: _____

Town of Eliot Board of Selectmen

Sec. 33-189. - Nonprofit medical marijuana dispensaries and registered primary caregivers.

(a) The provisions for nonprofit medical marijuana dispensaries shall apply to both dispensaries and registered primary caregivers.

(b) The applicant must hold a current dispensary certificate or registered primary caregiver license in good standing from the State of Maine Department of Health and Human Services, Division of Licensing and Regulatory Services prior to making an application with the town. If approved, the dispensary or registered primary caregiver facility operator shall annually submit a copy of the current dispensary certificate or registered primary caregiver license to the code enforcement officer.

(c) A dispensary or registered primary caregiver facility may not be located within 500 feet of the property line of an existing public or private school, residential property, childcare facility, place of worship or public facility **as defined in Chapter 11 Section 11-3.**

(d) All cultivation of marijuana must take place in a fully enclosed and locked structure. Outdoor cultivation of marijuana is prohibited.

(e) The property shall be screened in accordance with section 33-175.

(f) The dispensary or registered primary caregiver facility shall comply with the parking requirements of section 45-495(9).

(g) The dispensary or registered primary caregivers shall comply with all applicable town and state regulations.

(h) No materials described in the definition of a nonprofit medical marijuana facility shall be visible from the exterior of the building in which the nonprofit medical marijuana dispensary or registered primary caregiver facility is located.

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 and care	yes ¹	12	SPR ^{1&8}	no
<u>Animal husbandry</u>	<u>yes</u> ¹	<u>yes</u> ¹²	<u>yes</u> ¹	<u>no</u>
Apartment house, see multiple-family dwelling	-	-	-	-
Apartment, see single-family dwellings	-	-	-	-
Aquaculture	13	13	SPR ⁸	no
Assembly places	no	9	no	SPR
Assisted living facility	no	SPR/SD	SPR/SD	SPR/SD
Auto graveyards	SPR	no	no	no
Auto junkyard	no	no	no	no
Auto recycling business	9	9	no	SPR

Auto recycling operation	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
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
Churches	SPR	SPR	SPR	SPR
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 100 cubic yards or greater	yes SPR	yes SPR	yes SPR	yes SPR
Elderly housing	no	SPR/SD	SPR/SD	SPR/SD
Emergency operations	yes	yes	yes	yes
Equipment storage, trucks, 3 or more	no	no	no	yes
Essential services	yes	yes	yes	yes
Expansion of an existing telecommunication structure or collocation of antenna on a existing telecommunication structure or alternate tower structure	CEO	CEO	CEO	CEO
Farm equipment stores	SPR	10	no	SPR

Fences	yes ⁵	yes ⁵	yes ⁵	yes ⁵
Firewood sales	yes	13	SPR ⁸	no
Fireworks sales	NO ²⁰	NO ²⁰	NO ²⁰	NO ²⁰
Forest management, except timber harvesting	yes	yes	yes	yes
Funeral homes	no	no	SPR	SPR
<u>Funeral Establishment</u>	<u>no</u>	<u>no</u>	<u>SPR</u>	<u>SPR</u>
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	PR	SPR ⁸	SPR ⁸	no
Home occupations	10	10	no	no
Home office	CEO	CEO	CEO	CEO
Hospitals	no	no	no	SPR

Indoor commercial, recreational and amusement facilities	no	no	no	SPR
Industrial and business research laboratory	no	no	no	SPR
Industrial establishments and uses	no	no	no	SPR
Institutional buildings and uses, indoor	no	9	no	no
Junkyards	no	no	no	no
Landfill, dump	no	no	no	no
Libraries	SPR	SPR	SPR	SPR
Life care facility	no	SPR/SD	SPR/SD	SPR/SD
Lodging businesses, including bed and breakfasts, boarding homes or houses, hotels, inns, lodginghouses, rooming homes, and the like	14	14	SPR ⁸	SPR
Manufacturing	PR	SPR ⁸	SPR ⁸	SPR
Marijuana establishment*	no	no	no	SPR ²¹

Mobile home parks	SPR/ SD ⁷	SPR/SD	SPR/SD	no
Motel	no	no	no	SPR
Motorized vehicular traffic	yes	yes	yes	yes
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
Nonprofit medical marijuana dispensary	no	no	no	SPR ¹⁹
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
<u>Places of Worship</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>
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
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	CEO	CEO	CEO	CEO
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 is 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 45-42 3.
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.

ANIMAL CONTROL ORDINANCE FOR THE TOWN OF ELIOT

NOW, THEREFORE, the inhabitants of the Town of Eliot hereby ordained by the Town Of Eliot, Maine at Town Meeting that the following be enacted:

Section 1: That the Municipal Code of Ordinances, Town of Eliot, Maine is hereby amended by Adding a Chapter to be numbered 61 which chapter shall be titled Animal Control.

Section 2: That the Municipal Code of Ordinances, Town of Eliot, Maine is hereby amended by adding to Chapter 61 Animal Control an Article to be numbered I and to be titled “Animal Control Ordinance for the Town of Eliot”, which reads as follows:

ANIMAL CONTROL ORDINANCE FOR THE TOWN OF ELIOT

Table of Contents

Chapter and Subsections

Section 61- 1-Purpose.....4

Section 61-2 Definitions..... 4

- Abandoned Animal
- Abuse
- Animal
- Animal Control
- Animal Control Officer
- Animal Shelter
- At-Large
- Beach
- ~~Park~~
- Control
- Dog
- Domestic Animal
- Leash
- Owner
- Park**
- Public Nuisance
- Responsible Party
- Service Animal
- Stray
- Therapy Animal
- Voice Control

Section 61- 3 - Animal Control Officer.....	6
Section 61- 4 - Control of Dogs.....	6
Section 61-5 - Impoundment or Return of At-Large Dogs	7
Section 61-6 – Disposition of Impounded Animal.....	7
Section 61-7 – Impoundment Fee.....	7
Section 61-8 – Animal Noise.....	7
Section 61-9 – Control of Animal Waste	8
Section 61- 10 – Public Parks and Beach – Restrictions.....	8
Section 61- 11 – Dangerous Dogs	8
Section 61-12 – Animal Trespass.....	9
Section 61-13 – License Required.....	9
Section 61-14 – Rabies Tags	9
Section 61-15 – Violations / Penalties.....	10
Section 61-16 - Repeal of Conflicting Ordinances.....	11
Section 61-17 – Severability Clause.....	11

ANIMAL CONTROL ORDINANCE

Section 61- 1 PURPOSE

The purpose of this ordinance is to require all animals in the Town of Eliot be kept under the control of their owner or keeper at all times so that they will not injure persons or other animals, damage property or create a public health threat.

The provisions of this ordinance that apply to the owner of an animal apply equally to any person keeping, or having control, custody, or possession of that animal.

Section 61- 2 DEFINITIONS

1. **ABANDONED ANIMAL:** an animal that has been deserted by its owner or keeper.
2. **ABUSE:** to treat an animal wrongfully or harmfully that results in injurious or improper treatment.
3. **ANIMAL:** any living, sentient creature not a human being.
4. **ANIMAL CONTROL:** control of dogs, cats and domesticated or undomesticated animals.
5. **ANIMAL CONTROL OFFICER (ACO):** any person appointed by the Town of Eliot to enforce animal control laws.
6. **ANIMAL HUSBANDRY: a branch of agriculture concerned with animals that are raised for meat, fiber, milk, eggs, or other products. It includes day-to-day care, selective breeding and the raising of livestock.**
7. **ANIMAL SHELTER:** a facility that includes a physical structure, or part of a physical structure, that provides temporary or permanent shelter to stray, abandoned, abused, or owner surrendered animals.
8. **AT-LARGE:** animal is off the premises of the owner unless it is:
 - a. on a leash, cord, or chain of not more than 15 feet, held by a responsible party who is capable of controlling the animal.
 - b. within a vehicle, or under restraint in an open vehicle being driven or parked on a public way.
 - c. actively engaged in a legal hunting activity
 - d. a law enforcement animal.
 - e. a service animal.
 - f. engaged in a supervised exhibition or competition.
 - i. while within voice control.

9. BEACH: any beach area within the Town of Eliot which is used by the general public.

~~10. PARK: any park or public facility managed by the Eliot Community Service Department Specifically:~~

~~Dixon Road Recreation
Area Dixon Road Ice Rink
& Skate Park Eliot Boat
Basin
Frost Tufts Park
William Murray Rowe Park
Hammond Park~~

10. CONTROL: the power or ability to direct the proper and safe activity of an animal.

11. DOG: any of large or varied groups of domesticated animals of the canine family.

12. DOMESTIC ANIMALS: animals that normally and customarily share human habitat and are normally dependent on humans for shelter, and/or food, such as but not limited to dogs; **and** cats; ~~cattle, horses, swine, fowl, sheep, and goats.~~

13. LEASH: a hand-held device (lead, chain, or cord) which can be used to restrain a dog. In cases where a leash is required by law, by ordinance, or by the order of a law enforcement officer, the owner or responsible party will be required to use a leash of 15 feet or less.

14. **LIVESTOCK: animals raised in an agricultural setting, including the Rural District, to produce labor and commodities such as meat, eggs, milk, wood, etc.**

15. OWNER: any person or persons, firm, association or corporation owning, keeping or harboring an animal or any person having custody, possession, or control of an animal.

16. **PARK: any park or public facility managed by the Eliot Community Service Department Specifically:**

**Dixon Road Recreation
Area Dixon Road Ice
Rink & Skate Park Eliot
Boat Basin
Frost Tufts Park
William Murray-Rowe Park
Hammond Park**

17. PUBLIC NUISANCE: the causing of unreasonable noise, litter, or property damage, the chasing of automobiles, motorcycles, bicycles, or other vehicles.

18. RESPONSIBLE PARTY: as used in this ordinance, the term “responsible party” means any person who has possession or custody of an animal. If an animal is present on a beach or in a park in violation of the restrictions of this ordinance, the owner of the animal and the responsible party are jointly and severally liable for the violation.

19. **SERVICE ANIMAL:** an animal that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.
20. **STRAY:** an animal which is off of the owner's premises and not under the control of a responsible party.
21. **THERAPY ANIMAL:** an animal trained to provide affection and comfort to people in hospitals, retirement homes, nursing homes, schools, people with learning difficulties, and stressful situations, such as disaster areas.
22. **VOICE CONTROL:** as used in this ordinance, the term "voice control" means that the dog returns immediately to and remains by the side of the responsible party in response to the responsible party's verbal command. If a dog approaches or remains within 10 feet of any person other than the responsible party, that dog is not under voice control and a violation of this Ordinance occurs unless such person has communicated to the responsible party by spoken word or gesture that such person consents to the presence of the dog. In the case that such a person approached by the dog is a minor child, an adult must be present with the child to consent to the presence of the dog.

Section 61- 3 ANIMAL CONTROL OFFICER

A qualified person shall be employed by the police department who shall be known as and perform the duties of Animal Control Officer (ACO). The ACO shall be principally responsible for the enforcement of all laws related to dogs, cats, and other domesticated animals. When public safety is threatened the ACO will handle undomesticated (wild) animal complaints or refer to the appropriate outside agency for assistance.

Section 61- 4 CONTROL OF DOGS

When off the premises of the owner, a dog shall be on a leash, held by a responsible party who is capable of controlling the dog except as follows:

1. Dog is engaged in a legal hunting activity.
2. Dog is a law enforcement dog.
3. Dog is a service animal.
 - Service animals are required to be leashed or harnessed except when performing work or tasks where such tethering would interfere with the dog's ability to perform.
4. Dog is on private property with that property owner's permission to be unleashed while within voice control.
5. Dog is part of a supervised exhibition or competition.

Section 61- 5 IMPOUNDMENT OR RETURN OF AT LARGE DOGS

All dogs found at large in violation to Title 7, M.R.S.A., Section 3911 may be impounded at an animal shelter or returned to the owner, at the discretion of the ACO. If the ACO returns the dog to its owner, the owner shall pay a \$25.00 (twenty-five dollars) return fee to the Town of Eliot before the dog is returned. This payment must be made to the ACO, who shall issue a receipt therefore. All fees will be deposited in the Town of Eliot's Municipal Animal Welfare account required by Title 7, M.R.S.A. 3945.

Section 61- 6 DISPOSITION OF IMPOUNDED ANIMAL

An owner is entitled to resume possession of any impounded animal provided that all provisions of this ordinance have been met (specifically sections 13 and 14), and that all impoundment fees due under the provisions of this ordinance have been paid. Any animal not claimed after the owner has been notified may be classified as an abandoned animal, and the animal's owner may be subjected to all civil penalties authorized by this ordinance. If said animal is not claimed by its owner or keeper at the expiration of ten days from the date of impoundment, then the person in charge of said animal shelter may give away, sell, or otherwise humanely dispose of said animal.

Section 61- 7 IMPOUNDMENT FEE

An owner may reclaim an impounded animal by first paying the Town of Eliot a fee of \$50.00 (fifty dollars) for the 1st offense and \$100.00 (one hundred dollars) for each subsequent offense for each animal impounded. This fee shall be paid at the Eliot Police Department or to the ACO. Fees must be paid and a receipt from the Police Department must be presented to the animal shelter before the release of an animal. All fees will be deposited in the Town of Eliot Municipal Animal Welfare Account required by Title 7, M.R.S.A. 3945.

Section 61- 8 ANIMAL NOISE

Owning, possessing or harboring any domestic animal that frequently or for the continued duration makes loud and unreasonable sounds that creates a disturbance on other properties shall be prohibited. For purposes of this ordinance, a dog that barks, bays, howls, cries or makes any other noise continuously and /or incessantly for a period of 10 (ten) minutes or barks intermittently for ½ (one half) hour or more to the disturbance of any person at any time of day or night, regardless of whether the dog is physically situated in or upon private property is considered a public nuisance. However, this shall not include a dog if, at the time the dog is barking or making any other noise, a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated, or for any other legitimate cause which teased or provoked the dog.

Section 61- 9 CONTROL OF ANIMAL WASTE

An owner or responsible party must remove and dispose of any feces left by his/her animal on any sidewalk, street, beach, public property or private property (other than the property of the owner of the animal or of the person who has consented to the presence of the animal on his or her property) and deposit such feces into an appropriate litter receptacle. An owner or responsible party whose animal is present on any property from which the animal's feces must be removed pursuant to this section must have in his or her possession a plastic bag or similar container, for collecting and removing the feces. This regulation shall not apply to any person who, by reason of physical handicap, is unable to comply with the requirement.

Section 61- 10 PUBLIC PARKS AND BEACHES-RESTRICTIONS

No dogs shall be present on a beach or in a park unless on a leash held by an owner or responsible party who is capable of controlling the dog. An owner or responsible party with multiple dogs must have adequate leashes for the number of dogs under his or her control.

Section 61- 11 DANGEROUS DOGS

Any person who is assaulted by a dog, or any person witnessing an assault against a person or domestic animal by a dog, or a person with knowledge of an assault against a minor by a dog may make a written complaint to the ACO that the dog is a dangerous dog within thirty days of the assault. The ACO may issue a civil violation citation for keeping a dangerous dog pursuant to 7 M.R.S.A. subsection 3952. After issuing the citation and before a court hearing, if the dog poses an immediate or continuing threat to the public, the ACO shall order the owner of the dog to muzzle, restrain, or confine the dog to the owner's premises, or to detain the dog at the owner's expense at a place determined by the ACO. If the owner fails to comply with such order, the ACO may apply to the District Court, Superior Court, or a Justice of the Peace pursuant to 7 M.R.S.A. subsection 3952 for an ex parte order for authorization to take possession of the dog that poses an immediate or continuing threat to the public.

Section 61- 12 ANIMAL TRESPASS

An owner of an animal may not allow that animal to enter onto the property of another after the owner has been warned by the ACO or law enforcement officer that the animal was found on the property of another.

The owner of the animal is responsible, at the owner's expense, for removing such animal found trespassing. The ACO, may, at the owner's expense, remove and control the animal if:

- the owner fails to remove the animal after having been notified by the ACO that the animal was trespassing, or the animal is an immediate danger to itself, to persons, or to another's property.

Any animal so removed shall be subject to the provisions of Sections 61-5, 61-6, and 61-7, of this ordinance in the same manner as an at-large dog.

Section 61- 13 LICENSE REQUIRED

The Town Clerk shall provide with each new license issued for a dog, a tag indicating the year the license is issued and such other information as may be required under 7 M.R.S.A. subsection 3922-B. The tag remains with the dog for the remainder of the calendar year as long as the dog is kept in the town of Eliot. At each license renewal, the Town Clerk shall provide a new tag indicating the year the license is issued and such other information as may be required under 7 M.R.S.A. subsection 3922-B. The owner shall make sure that the tag is securely attached to the collar of leather, metal or material of comparable strength, and that the collar is worn at all times by the dog for which the license was issued except when hunting, in training or in an exhibition or on the premises of the owner. When the dog is hunting, in training or in an exhibition, its owner shall produce proof of license within twenty-four hours upon request of the ACO. If a tag is lost, the owner shall obtain a new license tag. The Town Clerk shall issue another license tag upon presentation of the original license and payment of one dollar. The Clerk shall retain the one dollar for a recording fee.

Section 61- 14 RABIES TAGS

Rabies tags obtained from a veterinarian for immunization against rabies must be securely attached to a collar of leather, metal, or material of comparable strength that must be worn by the dog for which the tag was issued except when the dog is hunting, in training or in an exhibition or on the premises of the owner. When the dog is hunting, in training or in an exhibition, its owner shall produce proof of license and proof of rabies immunization within twenty-four hours upon request of the ACO.

Section 61- 15 VIOLATIONS AND PENALTIES

Any person who violates any section of this ordinance shall be subject to a civil penalty of not less than \$100.00 and not more than \$500.00, plus costs for each offense, except that the following specific violations of this Ordinance shall subject the violator to the following penalties for specific violations:

A. Interfering with an Animal Control Officer

1. First offense not more than \$100
2. Second offense or more not to exceed \$500

B. Public Nuisance

1. First offense not more than \$25
2. Second offense within two years not more than \$100
3. Third offense within two years \$250

C. At-Large Animal

1. First offense not more than \$50
2. Second offense within two years not more than \$100
3. Third offense within two years not more than 250

D. Dangerous Dog

1. The owner shall assume all the cost of expenses incurred by Section 8.

B. Animal Waste

1. First offense not more than \$25
2. Second offense not more than \$50
3. Third and subsequent offenses not more than \$100

Such penalties are separate and distinct from license fees, or return and impoundment fees.

All civil penalties collected pursuant to this ordinance shall be recovered and deposited in the Town of Eliot Municipal Animal Welfare Account required by 7 M.R.S.A. 3945.

Section 61- 16 REPEAL OF CONFLICTING ORDINANCES

All existing ordinances of the Town of Eliot are hereby repealed insofar as they may be inconsistent with the provision of this Ordinance.

Section 61- 17 SEVERABILITY CLAUSE

If any part of this ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.

We, the undersigned, being the Municipal Officers of the Town of Eliot, Maine, hereby certify the foregoing Ordinance "Animal Control Ordinance for the Town of Eliot" dated November 8, 2011 as being the Ordinance to be voted on at the November 8, 2011 Town Meeting.

(Signed)

Roland R. Fernald, Chairman

Michael Moynahan

Roberta Place

John J. Murphy

LeRoy Dunkelberger

Eliot Board of Selectmen

SIGNED: 9/15/11

DATED: 11-8-11

The ABCs of ADUs

A guide to
Accessory Dwelling Units
and how they expand housing options
for people of all ages



BASEMENT ADU



DETACHED ADU



ATTACHED ADU



SECOND-STORY ADU



GARAGE-CONVERSION ADU



ABOVE-GARAGE ADU



DETACHED-BEDROOM ADU



DETACHED ADU

- An accessory dwelling unit is a small residence that shares a single-family lot with a larger primary dwelling.
- As an independent living space, an ADU is self-contained, with its own kitchen or kitchenette, bathroom and living/sleeping area. (Garage apartments and backyard cottages are each a type of ADU.)
- ADUs can enable homeowners to provide needed housing for their parents, adult children, grandchildren or other loved ones.
- An ADU can provide older adults a way to downsize on their own property while a tenant or family member resides in the larger house.
- Since homeowners can legally rent out an ADU house or apartment, ADUs are an often-essential income source.
- ADUs help to improve housing affordability and diversify a community's housing stock without changing the physical character of a neighborhood.
- ADUs are a beneficial — and needed — housing option for people of all ages.

Learn more about ADUs and
order or download

The ABCs of ADUs

by visiting
AARP.org/ADU

Sign up for the free, weekly

**AARP Livable
Communities
e-Newsletter**

Be among the first to learn when
AARP releases more livability
guides and resources.

AARP.org/Livable-Subscribe

AARP[®]
Real Possibilities