

TOWN OF ELIOT, MAINE

PLANNING BOARD AGENDA

TYPE OF MEETING: IN PERSON WITH REMOTE OPTION

DATE:

Tuesday, February 1, 2022

PLACE: TOWN HALL/ZOOM

TIME:

7:00 P.M.

All in-person attendees are asked to wear face masks

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

- a) Quorum, Alternate Members, Conflicts of Interest

2) PLEDGE OF ALLEGIANCE

3) MOMENT OF SILENCE

4) 10-MINUTE PUBLIC INPUT SESSION

5) REVIEW AND APPROVE MINUTES

- a) January 4, 2022 – if available
b) January 18, 2022 – if available
c) January 25, 2022 – if available

6) NOTICE OF DECISION

- a) 2135 State Road – if available
b) 0 Odiorne Lane – if available

7) PUBLIC HEARING

8) NEW BUSINESS

- a) Meeting start time
b) Planning Board retreat

9) OLD BUSINESS

1. Ordinance amendments: 1. Solar energy systems; 2. Signage; 3. Update on 5G/Small Cell and Erosion & Sedimentation Control

10) CORRESPONDENCE

11) SET AGENDA AND DATE FOR NEXT MEETING

- a) February 15th, 2022
b) Meeting schedule and submission deadlines

12) ADJOURN

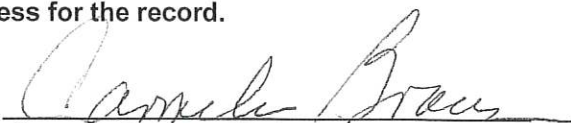
NOTE: Residents/interested parties may join via Zoom or in-person at the Town Hall. 1333 State Road Eliot, ME 03903

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

- a) Go to www.eliotme.org
b) Click on "Meeting Videos" – Located in the second column, on the left-hand side of the screen.
c) Click on the meeting under "Live Events" – The broadcasting of the meeting will start at 7:00 (Please note: streaming a remote meeting can be delayed up to a minute)

Instructions to join remote meeting:

- a) To participate please call into meeting 5 minutes in advance of meeting start time. Please note that Zoom does state that for some carriers this can be a toll call. You can verify by contacting your carrier.
b) Please call **1-646-558-8656**
1. When prompted enter meeting number: **828 6957 6021 #**
2. When prompted to enter Attendee ID **press #**
3. When prompted enter meeting password: **223757 #**
c) Members of the Public calling in, will be first automatically be placed in a virtual waiting room until admitted by one of the members of the Planning Board. Members of the public will be unmuted one at a time to allow for input. Please remember to state your name and address for the record.
d) Press *9 to raise your virtual hand to speak


Carmela Braun – Chair

NOTE: Per Covid-19 policy, all attendees are required to wear facial protective masks. No more than 50 attendees in the meeting room at any one time. The meeting agenda and information on how to join the remote Zoom meeting will be posted on the web page at eliotmaine.org/planning-board. Town Hall is accessible for persons with disabilities.

DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Medium- and Large-Scale Solar Arrays

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December 7, 2021 – Initial Planning Board review

January 4 and February 1, 2022 – Continued PB review

Background and rationale

[To be expanded]

Currently, there are no land use regulations in the Town Code specific to utility-scale solar energy systems. The Town Code definition of “solar energy system” limits the applicability of such a system to “a principal use or structure located on the same lot as the system, or on an abutting lot in the case of a common system serving more than one principal use or structure”. The current definition therefore does not cover larger systems used or subscribed to by a greater number of users that are farther from the system than the same lot or abutting lot. This ordinance amendment establishes specific land use regulations for utility-scale solar energy systems.

(New text underlined in bold)

~~Deleted text in strikethrough~~

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

[abridged to only show changes]

[...]

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

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

[...]

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

[...]

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

[...]

Renewable capacity resource means a source of electrical generation:

(1) Whose total power production capacity does not exceed 100 megawatts and relies on one or more of the following:

(a) Fuel cells;

- (b) **Tidal power;**
 - (c) **Geothermal installations;**
 - (d) **Hydroelectric generators that meet all state and federal fish passage requirements applicable to the generator;**
 - (e) **Biomass generators that are fueled by wood, wood waste or landfill gas; or**
 - (f) **Anaerobic digestion of by-products of waste from animals or agricultural crops, food or vegetative material, algae or organic refuse; or**
- (2) **That relies on wind power installations or solar power installations.**

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

[...]

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

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

- 1. A small-scale solar energy system is one whose area, based on total airspace projected over a roof or the ground, is less than 15,000 square feet (approximately one-third of an acre);**
- 2. A medium-scale solar energy system is one whose area, based on total airspace projected over a roof or the ground, is equal to or greater than 15,000 square feet but less than 87,120 square feet (two acres); and**
- 3. A large-scale solar energy system is one whose area based on total airspace projected over a roof or the ground is equal to or greater than 87,120 square feet (two acres).**

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

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

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

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

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

[...]

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

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

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

Cross reference(s)—Site plan requirements for commercial and industrial establishments, § 33-127; landscaping requirements under the zoning regulations, § 45-413-; **performance standards for solar energy systems, § 45-463.**

Add a new section:

Sec. 33-191. – Medium- and large-scale ground-mounted solar energy systems

In addition to the required elements in Section 33-127, all medium- and large-scale ground-mounted solar energy system site plan review applications must include the following:

(a) A removal and-or decommissioning plan as follows:

- (1) Medium-scale solar energy system applications shall include a removal plan demonstrating compliance with Section 45-462.
- (2) Large-scale solar energy system applications shall include the decommissioning plan required by, or a decommissioning plan otherwise consistent with, 35-A MRSA 3491 through 3496. [check acreage]

(b) Documentation of financial assurance as follows:

- (1) Medium-scale solar array applications shall provide a written statement to the Select Board...
- (2) Large-scale solar energy system applications shall include documentation of the financial guarantee required by 35-A MRSA 3491 through 3496.

[wordsmith the following]

(c) Environmental information [medium vs. large scale?]:

- (1) Maine Department of Inland Fisheries and Wildlife habitat determination letter
- (2) Delineated wetlands. Wetland delineation for wetlands shown on the site plan must have been completed by a qualified wetland scientist within the last five years.
- (3) Vernal pool assessment forms and-or vernal pool determinations from Maine Department of Inland Fisheries and Wildlife.
- (4) Documented state endangered, threatened, or special concern species habitat.
- (5) Deer wintering areas or travel corridors.
- (6) Environmental assessment and alternatives analysis (large-scale systems only). Applicants for large-scale solar energy systems shall submit an environmental assessment and alternatives analysis that documents how the siting decision was made; an assessment of different locations and sizes of solar array on the parcel to be developed; a narrative describing impacts to wildlife, documented significant natural areas, watersheds; and a discussion of how these impacts will be avoided, minimized, or mitigated.

(d) Operations and Maintenance Plan: The applicant shall submit a plan for the operation and maintenance of the large-scale ground-mounted solar energy system, which shall include

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measures for maintaining safe access to the installation as well as other general procedures for operational maintenance of the installation.

- (e) Emergency Services: The large-scale ground-mounted solar energy system owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. The owner or operator shall cooperate with the Fire Department in developing an emergency response plan. All means of shutting down the system shall be clearly marked. The owner or operator shall provide to the Code Enforcement Officer the name and contact information of a responsible person for public inquiries throughout the life of the installation.

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Sec. 44-34. Table of land uses.

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

Key to table 1:

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

Abbreviations:

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

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

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

Table 1. Land Uses in the Shoreland Zone

| Land Uses | | Districts | | | | |
|--|--|-----------|------------------|-----|-----|-----|
| | | SP | RP | LR | LC | GD |
| Uses or Activities Without Structures | | | | | | |
| (1) | Clearing of vegetation for activities other than timber harvesting | CEO | CEO ¹ | CEO | CEO | CEO |
| (2) | >Emergency operations | yes | yes | yes | yes | yes |
| (3) | Fire prevention activities | yes | yes | yes | yes | yes |
| (4) | Forest management activities, except for timber harvesting and land management roads | yes | yes | yes | yes | yes |

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| | | | | | | |
|-------------------------------------|--|-------------------|-------------------|-------------------|-------------------|------------------|
| (5) | Mineral exploration | no | no | no | yes ² | yes ² |
| (6) | Mineral extraction, including sand and gravel extraction | no | no | no | SPR | SPR |
| (7) | Motorized vehicular traffic on existing roads and trails | yes | yes | yes | yes | yes |
| (8) | Nonintensive recreational uses not requiring structures such as hunting, fishing and hiking | yes | yes | yes | yes | yes |
| (9) | Soil and water conservation practices | yes | yes | yes | yes | yes |
| (10) | Surveying and resource analysis | yes | yes | yes | yes | yes |
| (11) | Wildlife management practices | yes | yes | yes | yes | yes |
| Principal Structures or Uses | | | | | | |
| (12) | Principal structures and uses: | | | | | |
| | a. One- and two-family residential | SPR ⁴ | SPR ⁹ | CEO | CEO | CEO |
| | b. Multifamily dwelling | no | no | SPR | SPR | SPR |
| | c. Commercial (not listed elsewhere) | no ¹³ | no ¹³ | no ¹³ | SPR | SPR ⁵ |
| | d. Industrial | no | no | no | no | SPR |
| | e. Governmental and institutional | no | no | no | SPR | SPR |
| | f. Small nonresidential facilities for educational, scientific or nature interpretation purposes | SPR ⁴ | SPR | CEO | CEO | CEO |
| (13) | Agriculture | CEO | SPR | CEO | CEO | CEO |
| (14) | Aquaculture | SPR ¹⁰ | SPR ¹⁰ | SPR ¹⁰ | SPR | Yes |
| (15) | Auto graveyard | no | no | no | no | no |
| (16) | Auto hobbyist storage area | no | no | no | no | no |
| (17) | Auto junkyard | no | no | no | no | no |
| (18) | Auto recycling operation, limited | no | no | no | no | no |
| (19) | Auto recycling operation, principal | no | no | no | no | no |
| (20) | Bed and breakfast | no | no | SPR ¹⁰ | SPR ¹⁰ | SPR |
| (21) | Boardinghouse | no | no | SPR ¹⁰ | SPR | SPR |
| (22) | Campgrounds | no | no ⁷ | no | no | SPR |
| (23) | Conversions of seasonal residences to year-round residences | LPI | LPI | LPI | LPI | LPI |
| (24) | Fireworks sales | no ¹⁷ | no ¹⁷ | no ¹⁷ | no ¹⁷ | no ¹⁷ |

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| | | | | | | |
|-------------------------------------|---|------------------|------------------|-------------------|-------------------|-------------------|
| (25) | Gambling Casino | no | no | no | no | no |
| (26) | Marijuana establishment | | | | | |
| | a. Marijuana store | no | no | no | SPR | SPR |
| | b. Marijuana cultivation facility | no | no | no | SPR | SPR |
| | c. Marijuana products manufacturing facility | no | no | no | no | SPR |
| | d. Marijuana testing facility | no | no | no | SPR | SPR |
| (27) | Marinas | | | | | |
| | a. Full service | no | no | no | no | SPR |
| | b. Limited | no | no | no | SPR | SPR |
| (28) | Medical marijuana establishment | | | | | |
| | a. Medical marijuana dispensary | no | no | no | SPR | SPR |
| | b. Medical marijuana cultivation facility | no | no | no | SPR | SPR |
| | c. Medical marijuana caregiver retail store | no | no | no | SPR | SPR |
| | d. Medical marijuana products manufacturing facility | no | no | no | no | SPR |
| | e. Medical marijuana testing facility | no | no | no | SPR | SPR |
| (29) | Off-site parking | no | no ⁷ | no | no | no |
| (30) | Public and private recreational areas involving minimal structural development | SPR | SPR | SPR | SPR | CEO |
| (31) | <u>Solar energy system, medium-scale</u> | <u>no</u> | <u>no</u> | <u>no</u> | <u>no</u> | <u>no</u> |
| (32) | <u>Solar energy system, large-scale</u> | <u>no</u> | <u>no</u> | <u>no</u> | <u>no</u> | <u>no</u> |
| Accessory Structures or Uses | | | | | | |
| (31) | Structures accessory to allowed uses, not otherwise listed | SPR ⁴ | SPR | CEO | CEO | CEO |
| (32) | Essential services | SPR ⁶ | SPR ⁶ | SPR | SPR | SPR |
| | a. Roadside distribution lines (34.5kV and lower) | CEO ⁶ | CEO ⁶ | yes ¹² | yes ¹² | yes ¹² |
| | b. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone | SPR ⁶ | SPR ⁶ | CEO | CEO | CEO |

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| | | | | | | | |
|------|----|--|--------------------|--------------------|--------------------|--------------------|--------------------|
| | 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 |
| (33) | | Fences | yes ^{11A} | yes ^{11A} | yes ^{11A} | yes ^{11A} | yes ^{11A} |
| (34) | | Filling and earthmoving of < 10 cubic yards | CEO | CEO | yes | yes | yes |
| (35) | | Filling and earthmoving of > 10 cubic yards | SPR | SPR | CEO | CEO | CEO |
| (36) | | Home business | no ^{12A} | no ^{12A} | SPR ^{10A} | SPR ^{10A} | no |
| (37) | | Home occupations; regular and water-dependent | no | no | no | no | no |
| (38) | | Home Office | CEO | no | CEO | CEO | CEO |
| (39) | | Individual, private campsites | CEO | CEO | CEO | CEO | CEO |
| (40) | | Piers, docks, wharves, bridges and other structures and uses and extending over or below the normal high-water line or within a wetland: | | | | | |
| | a. | Temporary | CEO ¹¹ | CEO ¹¹ | CEO ¹¹ | CEO ¹¹ | CEO ¹¹ |
| | b. | Permanent residential | SPR | SPR | SPR | SPR | SPR |
| | c. | Permanent commercial | SPR ¹⁴ | SPR ¹⁴ | SPR ¹⁴ | SPR | SPR |
| | d. | Limited commercial | SPR ⁵ | SPR ⁵ | SPR ⁵ | SPR | no |
| (41) | | Private sewage disposal systems for allowed uses | LPI | LPI | LPI | LPI | LPI |
| (42) | | Road and driveway construction | SPR | no ⁸ | SPR | SPR | SPR |
| (43) | | Service drops, as defined, to allowed uses | yes | yes | yes | yes | yes |
| (44) | | Signs. | yes ^{9A} | yes ^{9A} | yes ^{9A} | yes ^{9A} | yes ^{9A} |
| (45) | | Solar energy system, small-scale | CEO ¹⁵ | CEO ¹⁵ | CEO ¹⁵ | CEO ¹⁵ | CEO ¹⁵ |
| (46) | | Small wind energy system | SPR ¹⁶ | SPR ¹⁶ | SPR ¹⁶ | SPR ¹⁶ | SPR ¹⁶ |
| (47) | | Uses similar to allowed uses | CEO | CEO | CEO | CEO | CEO |
| (48) | | Uses similar to uses requiring a CEO permit | CEO | CEO | CEO | CEO | CEO |
| (49) | | Uses similar to uses requiring a SPR permit | SPR | SPR | SPR | SPR | SPR |
| (50) | | Waste containers | CEO ^{5A} | CEO ^{5A} | CEO ^{5A} | CEO ^{5A} | CEO ^{5A} |

Footnotes:

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- ¹ In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.
- ² Requires permit from the code enforcement officer if more than 100 square feet of surface area, in total, is disturbed.
- ³ In RP not allowed in areas so designated because of wildlife value.
- ⁴ Provided that a variance from the setback requirement is obtained from the board of appeals.
- ⁵ Functionally water-dependent uses and uses accessory to such water dependent uses only (see note on previous page).
- ^{5A} Only as an accessory use to an allowed principal use on the lot. Must conform to the requirements of [section] 45-422, Waste containers.
- ⁶ See further restrictions in subsection 44-35(1)(2), essential services.
- ⁷ Except when area is zoned for resource protection due to floodplain criteria in which case a site plan review is required from the planning board.
- ⁸ Except as provided in subsection 44-35(h).
- ⁹ Single family residential structures may be allowed by special exception only according to the provisions of subsection 44-44(f), Special exceptions. Two-family residential structures are prohibited.
- ^{9A} See sign ordinance section.
- ¹⁰ Except for commercial uses otherwise listed in this table, such as marinas and campgrounds, that are allowed in the respective district.
- ^{10A} Must conform to the requirements of section 45-456.1, Home business.
- ¹¹ Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
- ^{11A} Must conform to the requirements of section 45-423, Fences.
- ¹² Permit not required, but must file a written "notice of intent to construct" with CEO.
- ^{12A} "No" except in conjunction with aquaculture, small nonresidential facilities for educational, scientific or nature interpretation purposes or limited commercial piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water line or within a wetland.
- ¹³ Use is "No" except when permitted under another specific land use entry.
- ¹⁴ Only commercial aquaculture allowed on piers in this zone, with no other commercial pier uses. Pier must meet the requirements of a residential pier in these zones.

Note: A person performing any of the following activities shall require a permit from the department of environmental protection, pursuant to title 38, M.R.S.A. section 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland,

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great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

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

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

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

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

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

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

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

Table of Land Uses

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

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| | | | | |
|---|------------------|------------------|------------------|------------------|
| Bathhouse | 11 | 11 | no | no |
| Bathing beach | yes | yes | yes | no |
| Bed and breakfasts | 14 | 14 | SPR ⁸ | SPR |
| Boarding homes, see lodging businesses | — | — | — | — |
| Boarding kennel | no | no | no | SPR |
| Bulk oil fuel tanks | no | no | no | SPR ² |
| Business office | 14 | 14 | SPR ⁸ | SPR |
| Campgrounds | SPR | no | no | no |
| Cemeteries | SPR | SPR | SPR | no |
| Clearing | yes | yes | yes | yes |
| Clinics | no | no | no | SPR |
| Clustered housing | SPR | no | no | no |
| Commercial adult enterprise | no | no | no | SPR |
| Commercial establishment, 2 or more where allowed | - | 9 | no | SPR |
| Day nurseries | SPR | 16 | SPR ⁸ | SPR |
| Earth material removal, less than 100 cubic yards | yes | yes | yes | yes |
| 100 cubic yards or greater | SPR | SPR | SPR | SPR |
| Elderly housing | no | SPR/SD | SPR/SD | SPR/SD |
| Emergency operations | yes | yes | yes | yes |
| Equipment storage, trucks, 3 or more | no | no | no | yes |
| Essential services | yes | yes | yes | yes |
| Expansion of an existing telecommunication structure or collocation of antenna on a existing telecommunication structure or alternate tower structure | CEO | CEO | CEO | CEO |
| Farm equipment stores | SPR | 10 | no | SPR |
| Fences | yes ⁵ | yes ⁵ | yes ⁵ | yes ⁵ |
| Firewood sales | yes | 13 | SPR ⁸ | no |
| Fireworks sales | no ¹⁹ | no ¹⁹ | no ¹⁹ | no ¹⁹ |
| Forest management, except timber harvesting | yes | yes | yes | yes |
| Funeral establishment | no | no | SPR | SPR |
| Gambling casino | no | no | no | no |
| Gardening | yes | yes | yes | yes |
| Gasoline stations | no | 9 | no | SPR |
| Governmental buildings or uses | SPR | SPR | SPR | SPR |
| Grain or feed stores | SPR | 10 | no | SPR |
| Harvesting wild crops | yes | yes | yes | yes |
| Home business | SPR ⁸ | SPR ⁸ | SPR ⁸ | no |
| Home occupations | 10 | 10 | no | no |
| Home office | CEO | CEO | CEO | CEO |
| Hospitals | no | no | no | SPR |

DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Medium- and Large-Scale Solar Arrays

| | | | | |
|--|-------------------------|---------------------|---------------------|-------------------|
| Indoor commercial, recreational and amusement facilities | no | no | no | SPR |
| Industrial and business research laboratory | no | no | no | SPR |
| Industrial establishments and uses | no | no | no | SPR |
| Institutional buildings and uses, indoor | no | 9 | no | no |
| Junkyards | no | no | no | no |
| Landfill, dump | no | no | no | no |
| Libraries | SPR | SPR | SPR | SPR |
| Life care facility | no | SPR/SD | SPR/SD | SPR/SD |
| Lodging businesses, including bed and breakfasts, boarding homes or houses, hotels, inns, lodginghouses, rooming homes, and the like | 14 | 14 | SPR ⁸ | SPR |
| Manufacturing | SPR ⁸ | SPR ⁸ | SPR ⁸ | SPR |
| Marijuana establishment* | no | no | no | SPR ²⁰ |
| Medical marijuana establishment* | no | no | no | SPR ²⁰ |
| Mobile home parks | SPR/ SD ⁷ | SPR/SD ⁷ | SPR/SD ⁷ | no |
| Motel | no | no | no | SPR |
| Multiple-family dwelling | no | SPR | SPR | no |
| Museums | SPR | SPR | SPR | SPR |
| New construction of telecommunication structure 70 feet and higher | 9 | 9 | no | SPR |
| New construction of telecommunication structure less than 70 feet high | CEO | CEO | CEO | CEO |
| Nurseries, plants | CEO | 17 | SPR ⁸ | no |
| Nursing facility | no | SPR | SPR | SPR |
| Off-site parking | no | no | no | no |
| Parks | SPR | SPR | SPR | no |
| Places of worship | SPR | SPR | SPR | SPR |
| Playgrounds | SPR | SPR | SPR | no |
| Printing plant | 14 | 14 | SPR ⁸ | SPR |
| Produce and plants raised locally, seasonal sales | yes | yes | yes | no |
| Professional offices | 14 | 14 | SPR ⁸ | SPR |
| Public utility facilities | SPR | SPR | SPR | SPR |
| Recreational facilities, nonintensive | SPR | SPR | SPR | no |
| Recreational use not requiring structures | SPR | yes | yes | no |
| Restaurant | 9 | 9 | SPR ⁸ | SPR |
| Restaurant, takeout | no | no | no | SPR |
| Retail stores, local, other | 18 | 18 | SPR ⁸ | SPR |
| Road construction | CEO | CEO | CEO | SPR |
| Schools | SPR | SPR | SPR | SPR |
| Sewage disposal systems, private | CEO | CEO | CEO | CEO |

DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Medium- and Large-Scale Solar Arrays

| | | | | |
|--|-------------------------|-------------------------|-------------------------|-------------------------|
| 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, small-scale | CEO ²¹ | CEO ²¹ | CEO ²¹ | CEO ²¹ |
| Solar energy system, medium-scale | SPR²¹ | SPR²¹ | SPR²¹ | SPR²¹ |
| Solar energy system, large-scale | SPR²¹ | SPR²¹ | No | SPR²¹ |
| Surveying and resource analysis | yes | yes | yes | yes |
| Timber harvesting | yes | yes | yes | yes |
| Truck terminals and storage | no | no | no | SPR |
| Two-family dwellings | CEO | CEO | CEO | no ⁶ |
| Veterinary hospital | 15 | 15 | No | SPR |
| Warehouse | no | no | no | SPR |
| Waste containers | CEO ³ | CEO ³ | CEO ³ | CEO ³ |
| Wholesale | no | no | no | SPR |
| Wholesale business facilities | no | no | no | SPR |
| Uses similar to allowed uses | CEO | CEO | CEO | CEO |
| Uses similar to uses requiring a CEO permit | CEO | CEO | CEO | CEO |
| Uses similar to uses requiring a planning board permit | SPR | SPR | SPR | SPR |

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

Notes:

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

DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Medium- and Large-Scale Solar Arrays

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

21. Must conform to the requirements of Section 45-462.

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

DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Medium- and Large-Scale Solar Arrays

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

DRAFT

[edits existing section]

Sec. 45-462. – Solar energy systems.

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

Add new language:

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

- (1) *Buffering and screening.* Medium and large-scale ground-mounted solar energy systems shall comply with buffering and screening requirements in Section 33-175 and Section 45-417. Without limiting the generality of the foregoing:
 - i. Medium-scale ground-mounted solar energy systems shall be visually screened from abutting properties that have existing residential use or from streets, town ways, or public ways, by a continuous vegetated buffer that is at least 50 feet in depth.
 - ii. Large-scale ground-mounted solar energy systems shall be visually screened from abutting properties that have existing residential use or from streets, town ways, or public ways, by a continuous vegetated buffer that is at least 100 feet in depth.
 - iii. The buffers required by this paragraph shall be achieved by preserving existing vegetation, new plantings, or a combination of the two.
 - iv. An opening in the buffer along a street, public way, or town way is allowed only to the extent needed for driveway or vehicular access.
- (2) *Fencing.* Medium and large-scale ground-mounted solar energy systems shall comply with the fence requirements in Section 33-175 and Section 45-423. Without limiting the generality of the foregoing:
 - i. Fencing for ground-mounted solar energy systems shall be provided if required by the National Electrical Code (NEC), and shall be designed, installed, and maintained in accordance with the NEC.
 - ii. When used, fencing around the perimeter of a ground-mounted solar energy system shall be elevated by a minimum of 5 inches to allow for passage of small terrestrial animals.
 - iii. Where there is a documented potential or need for passage of larger wildlife, the Planning Board may require that a large-scale ground-mounted solar energy system include fence or gate design features at reasonable intervals to allow for such passage while ensuring site security and NEC compliance.
- (3) *Land Clearing.* Clearing of natural vegetation shall be limited to what is necessary for the construction, operation, and maintenance of ground-mounted solar energy systems or as otherwise prescribed by applicable laws, regulations, and bylaws/ordinances. Removal of mature trees shall be avoided to the extent possible. No prime agricultural soil or significant volume of topsoil shall be removed from the site for installation of the system.
- (4) *Wetlands.* Wetland alteration shall be avoided or minimized to the extent practicable. If the project is subject to a Natural Resources Protection Act permit from the Maine Department of Environmental Protection and the applicant has not provided such approved permit as part of application review, the Planning Board may make the provision of such permit prior to, or along with, the building permit application a condition of approval.
- (5) *Habitat.* Sensitive wildlife habitats should be avoided to the extent practicable. Sensitive wildlife may include, but are not necessarily limited to, areas of statewide ecological significance, large unfragmented forest blocks, or other habitat included under the State’s Beginning with Habitat program. Native,

pollinator-friendly seed mixtures shall be planted and maintained to the extent possible. Mowing shall be minimized to the extent practicable. Herbicide and pesticide use shall be prohibited. Only mechanical means of weed and pest control is allowed.

- (6) *Archaeological Resources.* Sign-off by the State Historic Preservation Commission regarding archaeological and historical resources shall be provided with all applications.
- (7) *Utility Connections.* Overhead or pole-mounted electrical wires shall be avoided to the extent possible within the facility.
- (8) *Signage.* A sign identifying the owner of a ground-mounted medium- or large-scale solar energy system and providing a 24-hour emergency contact phone number shall be placed such that it is clearly visible at the entrance of the facility.
- (9) *Fire safety.* Knox Box access and adequate vehicle turnaround areas for emergency vehicles shall be provided.
- (10) *Decommissioning and removal.* Ground-mounted solar energy systems that have reached the end of their useful life or that have been abandoned consistent with this ordinance shall be removed. The owner or operator shall physically remove the installation no more than 365 days after the date of discontinued operations. The owner or operator shall notify the Code Enforcement Officer by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
 - i. For large-scale ground-mounted solar energy systems, decommissioning consistent with the decommissioning plan required by Section 33-191.
 - ii. Physical removal of all solar energy systems, structures, equipment, security barriers, and transmission lines from the site.
 - iii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - iv. Stabilization or re-vegetation of the site as necessary to minimize erosion. Native, pollinator-friendly seed mixtures shall be used to the maximum extent possible.



TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

To: Planning Board
From: Jeff Brubaker, AICP, Town Planner
Date: January 26, 2022 (report date)
February 1, 2022 (meeting date)
Subject: Ordinance amendment updates – Erosion & sedimentation control, telecommunications structures, and signs

Erosion & sedimentation control

At the January 19 meeting of the Southern Maine Stormwater Working Group (SMSWG), an update was provided that the Erosion & Sedimentation Control Model Ordinance is under legal review and is expected to be completed in mid- to late-February. On December 7, you reviewed a rough draft, which hopefully gives a general idea of what the final version will look like. However, depending on timing of the Model Ordinance, the PB may wish to “push ahead” with review for the June ballot or, if you need more time, defer review to align with the November ballot.

Telecommunications structures

The Town Code already has regulations regarding telecommunications structures in Sections 33-185 and -186. For the June 2022 ballot we will be looking at whether the regulations should be updated to account for new technologies, such as 5G/small cell facilities. Federal regulations limit the extent to which municipalities can regulate or restrict the siting of these facilities, but within these parameters some level of regulation will be explored.

LD 383, *An Act Concerning Small Wireless Facilities in Maine*, has been proposed in the State Legislature, and is summarized in the attached excerpt from the Maine Municipal Association’s January 21, 2022, *Legislative Bulletin*. (MMA supported the bill.) But it remains to be seen what will happen with the bill and, if enacted, how the final version will affect municipal regulation. Keep in mind that there is existing, cursory state law on small wireless facilities – 30-A MRSA 4362 – which defines these uses and limits municipal regulation. I recommend continuing to move forward with crafting an ordinance while we monitor legislative/policy changes at the federal and state levels, while stopping short of committing to having a draft ordinance ready to be recommended for the June ballot. It may be that November is a more reasonable timeframe. I received a helpful draft ordinance from the Town of Scarborough, who is working on this, and have used that as a resource to start to craft a rough draft, but need more time to create something ready for PB review.

Signs

The key goal will be to clarify our performance standards in Article XI of Ch. 45 (Sections 45-526 through -534) regarding sign location with regard to lot lines in the Commercial-Industrial District. Currently an 8 ft. setback is suggested by 45-532(h) and also 45-405 – basic performance standards table. This has caused confusion as many signs along Route 236 are demonstrably closer than 8 ft. to the lot line. However, as part of this proposed amendment we may be able to look at other aspects of sign regulation that need updating.



1333 State Road Eliot, ME 03903 - Phone (207) 439-1817 - Fax (207) 439-1415

Planning Board Submission Deadlines

Please find below the submission deadlines for February 2022 through July 2022. Application materials for Planning Board review are due in the Planning Office according to the schedule below. At this time, the Planning Board will be implementing a two-hour optional meeting cutoff time. If the next available meeting looks like it could exceed two hours, some applications may be placed on the agenda in an “as time allows” status or postponed to a future meeting. As there could be a queue of applications waiting to be heard, submitting applications by the deadlines below does not guarantee that they will be agendized for the associated meeting.

The Planning Board’s meeting agendas will be available approximately a week before the meeting. Applications and other public records submitted to the Planning Board may be viewed by any member of the public, by visiting the Planning Office during normal business hours. You may also visit our website at www.eliotmaine.org for meeting information and applicable forms.

Questions about a Planning Board application? We are here to help answer questions about the Planning Board process and ordinance requirements.

Kearsten Metz, Land Use Administrative Assistant: kmetz@eliotme.org

***Mar. 15:** Last meeting for public hearing/recommendations for June ordinance amendments

| Meeting Date | Last Day to Submit Materials | Agenda Packet Date | Type of Meeting |
|----------------------------|------------------------------|--------------------|------------------------------|
| February 1, 2022 | January 4, 2022 | January 25, 2022 | Admin/App Review |
| February 15, 2022 | January 18, 2022 | February 8, 2022 | Application Review |
| March 1, 2022 | February 1, 2022 | February 22, 2022 | Admin/App Review |
| March 15, 2022 | February 15, 2022 | March 8, 2022 | Ordinance PH* |
| <i>First half of April</i> | | | <i>PB Retreat (date TBD)</i> |
| April 19, 2022 | March 22, 2022 | April 12, 2022 | Application Review |
| May 3, 2022 | April 5, 2022 | April 26, 2022 | Administrative |
| May 17, 2022 | April 19, 2022 | May 10, 2022 | Application Review |
| June 7, 2022 | May 10, 2022 | May 31, 2022 | Administrative |
| June 21, 2022 | May 24, 2022 | June 14, 2022 | Application Review |
| June 28, 2022 | May 31, 2022 | June 21, 2022 | Admin/App Review |
| <i>Most of July</i> | | | <i>Break</i> |
| July 26, 2022 | June 28, 2022 | July 19, 2022 | PH if needed |