

Town of Bowdoinham  
Land Use Ordinance

**ARTICLE 2: DEFINITIONS**

~~In the interpretation and enforcement of this Ordinance, all words other than those specifically defined in the Ordinance shall have the meaning implied by their context in the Ordinance or their ordinarily accepted meaning. In the case of any difference of meaning or implication between the text of this Ordinance and any map, illustration or table, the text shall control.~~

~~The word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual or other legal entity.~~

~~The present tense includes the future tense, the singular number includes the plural, and the plural numbers include the singular.~~

~~The word "lot" includes the words "plot" and "parcel."~~

~~The word "structure" includes the word "building."~~

~~The word "used" or "occupied" as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied."~~

~~The words "Town" or "municipality" means the Town of Bowdoinham, Maine.~~

~~The word "may" is permissive; "shall" is mandatory and not discretionary.~~

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- The present tense includes the future tense, the singular number includes the plural, and the plural numbers include the singular.
- The word "lot" includes the words "plot" and "parcel."
- The word "structure" includes the word "building."
- The word "used" or "occupied" as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied."
- The words "Town" or "municipality" means the Town of Bowdoinham, Maine.
- The word "may" is permissive; "shall" is mandatory and not discretionary.

Abutter: The owner of any property with one or more common boundaries, or across the street or stream from the property involved in an application or appeal.

Abutting Property: Any lot which is physically contiguous with the subject lot or is located directly across a public or private way from the subject lot.

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Accessory Building: A detached, subordinate building, the use of which is clearly incidental and related to that of the principal building or use of the land, and which is located on the same lot as that of the principal building or use.

Accessory Use or Structure: A use or structure that is customarily both incidental and subordinate to the principal use or structure on the same lot. The term "incidental" in reference to the principal use or structure shall mean both a) subordinate and minor in significance to the principal use or structure, and b) attendant to the principal use or structure. Such accessory uses, when aggregated, shall not subordinate the principal use of the lot.

Accessory Structure (Floodplain Management): means a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure.

Adjacent Grade: Means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Administrative Appeal: An appeal to the Board of Appeals from a determination made by the Code Enforcement Officer, Road Commissioner, Harbormaster or Planning Board in their administration of this Ordinance or any other ordinance or code over which they have jurisdiction.

Adult Businesses: Any business in any use category, a substantial or significant portion of which consists of selling, renting, leasing, exhibiting, displaying, or otherwise dealing in materials or devices of any kind which appeal to prurient interest and/or which have as their dominant theme or purpose the sexual arousal, sexual gratification and/or sexual stimulation of a customer.

~~Affordable Housing: A decent, safe and sanitary dwelling, apartment or other living accommodation for a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 412, 50 Stat. 888, Section 8, as amended.~~

**Commented [LR1]:** This is an important term, especially given LD 1829. I have suggested a new definition that is included in the proposed changes to address LD 1829.

Aggrieved Party: A person whose land is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance, or a person whose land abuts or is across the road or street or body of water from 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.

~~Agricultural Land Management Practices: Means those devices and procedures utilized in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.~~

**Commented [LR2]:** It appears that all of the definitions that are proposed to be deleted are based on JH's comment that they are not referred to anywhere else in the ordinance. I agree with this approach.

Agriculture Products, Processing: A facility whose primary business is the value-added processing of raw agricultural products. This facility may be part of a farm business or an independent operation.

Agricultural Uses: The production, keeping or maintenance for sale or lease, of plants, and/or animals, including but not limited to forages and sod crops, dairy animals and dairy products, poultry and poultry products, livestock, and livestock products, fruits and vegetables and ornamental and greenhouse products. Agriculture does not include forest management, timber harvesting activities and food processing operations.

Airport: Shall be as defined by the Federal Aviation Administration.

Air Strip: Shall be for the private use of the property owner in flying an aircraft. No money shall be charged or made from the use of the air strip.

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Alteration: Any change or modification in construction or change in the structural members of a building or structure such as bearing walls, columns, beams or girders, or in the use of a building. The term shall also include change, modification, or addition of a deck, dormer, staircase, or roof of a building.

Amusement Facility: Any private, commercial premises which are maintained or operated primarily for the amusement, patronage, or recreation of the public, containing four (4) or more table sports, pinball machines, video games, or similar mechanical or electronic games, whether activated by coins, tokens, or discs, or whether activated through remote control by the management.

~~Animal Breeding or Care: The keeping or raising of animals, including fowl, for any commercial or agricultural use. This definition also includes kennels.~~

Applicant: The person applying for permit approval under this ordinance.

Aquaculture: The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Aquifer: A geologic formation composed of rock or sand and gravel that stores and transmits significant quantities of recoverable water.

Aquifer Recharge Area: A primary or secondary recharge area composed of porous material or rock sufficiently fractured to allow infiltration and percolation of surface water and transmission of it to aquifers.

~~Area of Shallow Flooding: A designated AO or AH zone on a 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: 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 1 of this Ordinance.

Arterial: A controlled access road or a street or road with traffic signals at important intersections and/or stop signs on side streets or which is functionally classified by the Maine Department of Transportation as an arterial.

Authorized Agent: An individual or a firm having written authorization to act on behalf of a property owner. The authorization shall be signed by the property owner(s).

Automobile Graveyard: A yard, field or other outdoor area used to store 3 or more unregistered or uninspected motor vehicles, as defined in 29-A M.R.S.A. § 101(42), or parts of the vehicles. "Automobile graveyard" includes an area used for automobile dismantling, salvage and recycling operations. Automobile graveyard does not include:

- 1) An area used for temporary storage of vehicles or vehicle parts by an establishment or place of business that is primarily engaged in doing vehicle repair work to make repairs to render a motor vehicle serviceable. In order for a vehicle's storage to be considered temporary, it must be removed from the site within 180 calendar days of its receipt;
- 2) An area used by an automobile hobbyist to store, organize, restore or display antique autos, antique motorcycles, classic vehicles, horseless carriages, reconstructed vehicles, street rods or parts of these vehicles as these vehicles are defined in 29-A M.R.S.A. § 101 as long as the hobbyist's activities comply with all applicable federal and state statutes and rules and municipal

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ordinances, other than ordinances that are more restrictive than this subsection regarding the storage of vehicles or vehicle parts that are collected by a hobbyist. For the purposes of this subparagraph, an automobile hobbyist is a person who is not primarily engaged in the business of selling any of those vehicles or parts from those vehicles;

- 3) An area used for the parking or storage of vehicles, vehicle parts or equipment intended for use by a municipality, quasi-municipal entity or state or federal agency;
- 4) An area used for the storage of operational farm tractors and related farm equipment, log skidders, logging tractors or other vehicles exempted from registration under 29-A M.R.S.A. §§ 351-561-A.
- 5) An area used for the parking or storage of vehicles or equipment being offered for sale by a dealer, equipment dealer, trailer dealer or vehicle auction business as defined in 29-A M.R.S.A. § 851;
- 6) An area used for the storage of vehicles by an establishment or place of business that is primarily engaged in business as a new vehicle dealer as defined in 29-A M.R.S.A. § 851;
- 7) An area used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business; or
- 8) An area used for the parking or storage of operational commercial motor vehicles, special equipment or special mobile equipment as defined in 29-A M.R.S.A. § 101 that is temporarily out of service but is expected to be used by the vehicle or equipment owner or by an operator designated by the owner. This subsection does not exempt an area used for the parking or storage of equipment or vehicles that are not operational while stored or parked in the area.

Automobile Recycling Business: means the business premises of a dealer or a recycler licensed under ~~Title 29-A, sections 851 to 1112~~ 29-A M.R.S.A. §§ 851-1112 who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or 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, as long as 80% of the business premises specified in the site plan in ~~section 3755-A, subsection 1, paragraph C~~ 30-A M.R.S.A. § 3755-A(1)-(C) is used for automobile recycling operations. Automobile recycling business does not include:

- 1) Financial institutions as defined in ~~Title 9-B, section 131, subsections 17 and 17-A;~~ 9-B M.R.S.A. §§ 131(17) and (17-A);
- 2) Insurance companies licensed to do business in the State;
- 3) New vehicle dealers, as defined in ~~Title 29-A, section 851,~~ 29-A M.R.S.A. § 851, licensed to do business in the State; or
- 4) That portion of the business premises that is used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business.

Automobile Repair Garage: A business establishment engaged in general repair, engine rebuilding, parts replacement, rebuilding or reconditioning of motor vehicles, body, frame or fender straightening and

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repair, painting and undercoating, but where no engine fuels are sold at retail. An Auto Repair Service Garage shall not be considered a home-based business for the purpose of this ordinance.

Automobile Service Station: A business establishment engaged in the sale of engine fuel, kerosene, motor oil and lubricants directly to the public.

Average Daily Traffic (ADT): The average number of vehicles per day that enter or exit the premises or travel over a specific section of road.

Back lot: A lot that does not have frontage on a private or public road, except to meet the Performance Standard in Article 4.C.

Bar: A retail establishment that serves alcoholic beverages on the premises; not including restaurants.

Basal Area: The area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

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

Basement: Any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level. For the purposes of Floodplain Management, the basement means any area of the building having its floor subgrade (below ground level) on all sides.

Bed and Breakfast Inn: Any residential dwelling in which the resident or residents of the dwelling provide overnight lodging to the public for compensation for less than two weeks. There shall be no provisions for cooking in any individual guest room.

Boarding, Lodging Facility: Any residential dwelling in which the resident or residents of the dwelling provide overnight lodging to the public for compensation for more than two weeks. There shall be no provisions for cooking in any individual guest room.

Boat Building/Repair: An establishment that builds and repairs boats.

Boat Launching Facility: 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.

Buffer: A part of a property or an entire property, which is not built upon and is specifically designed to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources. This area may be occupied by a fence, wall, and/or landscaping for screening purposes.

Building: Any three-dimensional enclosure, which is used for the housing, shelter or enclosure of persons, animals or property.

Bureau of Forestry: State of Maine Department of Conservation's Agriculture, Conservation, and Forestry, Bureau of Forestry.

~~Business and Professional Offices: The place of business of individuals or groups providing professional services, including but not limited to, doctors, lawyers, accountants, financial advisors, architects, surveyors, real estate and insurance businesses, psychologists, counselors, or a place in which a business conducts its administrative, financial or clerical operations or provides services, including banks, credit unions and other financial services excluding free standing automated machines (ATMS).~~

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~~Business Signage: A permanent sign which includes, but is not limited to, the name of a business or institution, a description of a business or institution, and a description of goods sold and/or services offered by a business or institution.~~

**Commented [LR3]:** This definition is already in the ordinance so you don't need to underline the whole thing. I see that you changed the term itself but not the definition so I updated it accordingly.

Business/Institutional Name Sign Signage: A permanent sign which includes, but is not limited to, the name of a business or institution, a description of a business or institution, and a description of goods sold and/or services offered by a business or institution.

**Formatted:** No underline

Campground: Any area of tract of land which is used for temporary overnight accommodation with or without shelter, such as a tent or recreational vehicle, by two or more parties, for which a fee is charged. The word "campground" shall include the words "camping ground" and "tenting grounds."

Cannabis: The leaves, stems, flowers and seed of a cannabis plant, whether growing or not. Cannabis includes cannabis concentrate but does not include cannabis product or hemp as defined in 7 M.R.S.A. § 2231.

Cannabis Cultivation Facility: A facility licensed under 28-B M.R.S.A. of the Maine Revised Statutes to purchase cannabis plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use cannabis; to sell adult use cannabis to products manufacturing facilities, to cannabis stores and to other cultivation facilities; and to sell cannabis plants and seeds to other cultivation facilities and immature cannabis plants and seedlings to cannabis stores or adults. A Cannabis Cultivation Facility shall also include a "Cultivation Area" of a Registered Dispensary and/or Medical Cannabis Registered Caregiver as defined in 22 M.R.S.A. § 2422, but shall not include (1) individuals cultivating and processing cannabis for their personal consumption; or (2) caregivers who are not required to be registered pursuant to 22 M.R.S.A. §§ 2421-2430-N.

Cannabis Establishment: Any individual or entity cultivating, harvesting, manufacturing, processing, testing, selling or transferring, delivering, or otherwise engaging in any activity with respect to cannabis for profit within the municipality. This definition shall include a Cannabis Manufacturing Facility, Cannabis Store, and a Cannabis Testing Facility, as well as a Medical Cannabis Registered Caregiver that is not considered a Cannabis Cultivation Facility under this ordinance.

Cannabis Extraction: The process of extracting cannabis concentrate from cannabis using water, lipids, gases, solvents or other chemicals or chemical processes. Cannabis extraction does not include the process of extracting concentrate from hemp as defined in 7 M.R.S.A. § 2231.

Cannabis Manufacture or Manufacturing: The production, blending, infusing, compounding or other preparation of cannabis concentrate and cannabis products, including, but not limited to, cannabis extraction or preparation by means of chemical synthesis.

Cannabis Manufacturing Facility: An individual or entity required to be licensed or registered by the State under 22 M.R.S.A. or 28-B M.R.S.A., as applicable, to purchase cannabis; manufacture, label and package cannabis and cannabis products; and sell cannabis and cannabis products only to other cannabis manufacturing facilities, and to cannabis stores.

Cannabis Product: A product composed of cannabis or cannabis concentrate and other ingredients that is intended for use or consumption. "Cannabis product" includes, but is not limited to, an edible cannabis product, a cannabis ointment and a cannabis tincture. "Cannabis product" does not include cannabis concentrate or a product containing hemp as defined in 7 M.R.S.A. § 2231.

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Cannabis Store: An individual or entity required to be licensed or registered by the State under 22 M.R.S.A. or 28-B M.R.S.A., as applicable, to purchase cannabis, immature cannabis plants and seedlings from a cultivation facility and to purchase cannabis and cannabis products from a cannabis manufacturing facility and to sell cannabis, cannabis products, immature cannabis plants and seedlings to consumers. A Cannabis Store includes a Caregiver Retail Store and a Registered Dispensary as both of those terms are defined in 22 M.R.S.A.

Cannabis Testing Facility: A facility licensed or authorized by the State under 22 M.R.S.A. to analyze contaminants in and the potency and cannabinoid profiles of samples of cannabis and cannabis products, or, licensed under 28-B M.R.S.A. to develop, research and test cannabis, cannabis products and other substances,

Canopy: The more or less continuous cover formed by tree crowns in a wooded area.

Cemetery: Property used for the interring of the dead.

Certificate of Compliance: A document signed by the Code Enforcement Officer stating that the structure is in compliance with all of the provisions of this Ordinance.

Change of Use: A change in the type of occupancy/use of a building, structure, or a portion thereof, and/or the land, such that the basic type of use is changed, such as from retail to office or storage to a restaurant, but not including a change in the occupants.

Church: A building or structure, or group of buildings or structures, designed, primarily intended and used for the conduct of religious services, excluding school.

Civic, Convention Center: A building or complex of buildings that house municipal offices and services, and which may include cultural, recreational, athletic, convention and entertainment facilities owned and/or operated by a government agency.

Club: Any voluntary association of persons organized for social, religious, benevolent, literary, scientific, or political purposes, whose facilities, especially a clubhouse, are open to members and guests only and not the general public, and not engaged in activities customarily carried on by a business or for pecuniary gain. Such term shall include fraternities, sororities, and social clubs generally.

Cluster Development: A form of development that allows a subdivision design in which individual lot sizes and setbacks are reduced in exchange for the creation of common open space and recreation areas, the preservation of environmentally sensitive areas, agriculture and silviculture and the reduction in the size of road and utility systems.

Coastal Wetland: 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 that is subject to tidal action during the highest tide level for the year 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. The portion of a river that is subject to tidal action is a coastal wetland.

Code Enforcement Officer: A person appointed by the Board of Selectmen to administer and enforce this Ordinance. A person certified under 30-A M.R.S.A. § 4451 (including exceptions in subsection 4451 paragraph) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Health Officer and the like, where applicable.

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Collector Street: A street that collects traffic from local streets and connects with arterials or a street or road functionally classified as a collector by the Maine Department of Transportation.

Commercial Complex: A property or building containing three or more businesses. Properties that meet the definition and performance standards for a Home-Based Business shall be considered a home-based business and not a commercial complex.

Commercial Kitchen: A kitchen facility that exceeds the State of Maine Department of Agriculture, Conservation, and Forestry's definition and licensing requirements for a "home kitchen".

Commercial Recreation: Any commercial enterprise that receives a fee in return for the provision of some recreational activity including but not limited to: campgrounds, racquet and tennis clubs, health facility, amusement parks, golf courses, gymnasiums and swimming pools, etc., but not including amusement facility, as defined herein.

Commercial Use: Of, relating to, concerning or arising from the use of lands, buildings or structures, other than as a home occupation (as defined below), the intent or result of which activity is the production of income from the buying and selling of goods and/or services.

Common Open Space: Land within or related to a subdivision, that is not part of the individual lots, which is designed and intended for:

- 1) formal uses such as walkways, parks and greens;
- 2) recreational uses such as playgrounds, fields and courts for the common use and enjoyment of the residents of the subdivision, or if so, designated by the applicant in the subdivision plan, for use by the general public; and
- 3) natural uses such as wildlife habitat preservation, wood lots, buffer zones, and preservation of scenic features and natural views.

Common open space may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation or agricultural use.

Communication Tower: A structure used for transmitting or receiving radio, microwave, or similar electromagnetic signals, not including antennae and satellite dishes designed for ordinary home or farm use.

Community Center: A building that provides a meeting place for local, non-profit community organizations on a regular basis. The center shall not be engaged in activities customarily carried on by a business.

~~Community Living Arrangement: A housing facility for 8 or fewer persons with disabilities that is approved, authorized, certified or licensed by the State. A community living arrangement may include a group home, foster home or intermediate care facility.~~

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by this ordinance as determined by: the Code Enforcement Officer, a vote of the Planning Board, or by a vote of the Planning Board to waive the submission of required information.

Comprehensive Plan: The Comprehensive Plan for the Town of Bowdoinham.

Conditional Use: Conditional use of land or building is a use that generally would be appropriate in the zoning district for which it is proposed after review and with certain restrictions and controls to meet

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the intentions and purposes of this Ordinance. Conditional uses are permitted only after review and approval by the Planning Board.

Condominium: Real estate, portions of which are designated for separate ownership and the remainder of which are designed for common ownership solely by the owners of those portions under a declaration, or an amendment to a declaration, duly recorded pursuant to Maine law. Real estate is not a condominium unless undivided interests in the common elements are vested in the unit owners. Any real estate development consisting exclusively of clustered, detached, single family residences is not a condominium, unless so designated in the declaration.

Conforming: A building, structure, use of land or portion thereof, that complies with the provisions of this Ordinance.

Conservation Easement: A non-possessory interest in real property imposing limitations or affirmative obligations, the purpose of which includes retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources or maintaining air or water quality.

Construction: Includes building, erecting, altering, reconstructing, moving upon or any physical operations on the premises which are required for construction. Excavation, filling, paving, drainage, and the like, shall be considered as part of construction.

Construction Business: A business that provides construction services off-site.

~~Construction Operations: The use of a tract of land for the storage of construction equipment and materials used in residential, institutional, industrial and commercial construction. This use does not include the manufacturing or processing of concrete and/or asphalt, or the extraction or processing of earth materials, unless previously grandfathered.~~

Convenience Store: A store of less than two thousand (2,000) sq. ft. of floor space intended to serve the convenience of a residential neighborhood with items such as, but not limited to, basic foods, newspapers, emergency home repair articles, and other household items. A convenience store may include the sale of motor fuels.

Corner Lot: A lot located at the intersection of two streets, roads or public rights-of-way.

~~Critical Rural Area: A rural area that is specifically identified and designated by a municipality's or multi-municipal region's comprehensive plan as deserving maximum protection from development to preserve natural resources and related economic activities that may include, but are not limited to, significant farmland, forest land or mineral resources; high value wildlife or fisheries habitat; scenic areas; public water supplies; scarce or especially vulnerable natural resources; and open lands functionally necessary to support a vibrant rural economy.~~

Cross-sectional Area: 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.

~~Curb Cut: The opening along the curb line or street right-of-way line at which point vehicles may enter or leave the street.~~

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Day Care, Home: Anyone who provides, on a regular basis and for consideration, care, and protection which is required to be licensed by the State, for three to twelve unrelated persons for any part of a day, out of their primary residence. Any facility, the chief purpose of which is to provide education, shall not be considered to be a day care home.

Day Care, Center: A house or other place conducted or maintained by anyone who provides, on a regular basis and for consideration, care and protection for 13 or more children under 16 years of age, except children related to the operator by blood, marriage or adoption, who are unattended by parents or guardians, for any part of a day, except that any facility the chief purpose of which is to provide education, shall not be considered to be a day care center.

DBH: The diameter of a standing tree measured 4.5 ft. from ground level.

Deck: A level structure adjacent to a building elevated above the surface of the ground which may have a railing, but no roof.

Density: The number of dwelling units per acre of land.

Developed Area: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.

Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials.

Dimensional Requirements: Numerical standards relating to spatial relationships including but not limited to setbacks, lot area, shore frontage and height.

Disability: 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.

Disruption of Shoreline Integrity: 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.

~~Distribution Center: See Warehouse.~~

District: A specified portion of the municipality, delineated on the land use map, within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

~~Dog Kennel: Any place, building, tract of land or structure where more than three privately owned dogs or other pets, are kept at any one time for their owners in return for a fee.~~

Driveway: A vehicular access way serving not more than two (2) dwelling units.

Dwelling: Any building or structure or portion thereof designed or used for residential purposes.

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- 1) Accessory dwelling – an independent dwelling unit that has been added onto, or created within, a single-family detached dwelling, or is an accessory building to a single-family detached dwelling.
- 2) Dwelling unit – a room or suite of rooms used by a family as a habitation that is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, bathing and sanitary facilities.
- 3) Single-family dwelling – any structure containing only one (1) dwelling unit for occupation by not more than one (1) family.
- 4) Two-family dwelling – A building containing only two (2) dwelling units, for occupation by not more than two (2) families.
- 5) Multi-family dwelling – A building containing three (3) or more dwelling units, such buildings designed exclusively for residential use and occupancy by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units.

Edible Cannabis Product: A cannabis product intended to be consumed orally, including, but not limited to, any type of food, drink or pill containing harvested cannabis.

This term does not include an edible product containing hemp as defined in 7 M.R.S.A. § 2231.

~~Elevated Building: A non-basement building built, in the case of a building in Zones AE, A, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or "stilts," and adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the Base Flood. In the case of Zones AE, 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 flood waters, as required in Article 8.C.11.~~

Elevation Certificate: An official form (FEMA Form 81-31) that is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and is required for purchasing flood insurance.

Emergency Operations: 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.

Engineered Subsurface Wastewater Disposal System: A subsurface wastewater disposal system designed, installed, and operated as a single unit to treat 2,000 gallons per day or more; or any system designed to treat wastewater with characteristics significantly different from domestic wastewater.

Enlargement or Expansion of a Structure: An increase of the building footprint, floor area and/or increase in the height of the structure beyond its present highest point. Alterations of existing buildings which are required in order to meet the requirements of the Americans with Disabilities Act (ADA) and/or the State Fire Code are not considered to be enlargements or expansions of a structure and are not required to meet otherwise applicable setback requirements, provided the alterations are the minimum necessary to satisfy the ADA and/or State Fire Code.

Enlargement or Expansion of Use: Any intensification of use in time, volume, or function, whether or not resulting from an increase in the footprint, height, floor area, land area or cubic volume occupied by a particular use. Increases which are required in order to meet the requirements of the Americans with

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Disabilities Act and/or the State Fire Code are not considered to be enlargements or expansions of use.

Essential Services: Gas, electrical or communication 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 buildings which are necessary for the furnishing of such services.

Expansion of Structure: An increase in the floor area, volume, or footprint of a structure, including all extensions such as, but not limited to attached decks, garages, porches, and greenhouses.

Expansion of Use: The addition of one or more months to the use's operating season; or the use of more floor area or footprint of a structure or ground area devoted to a particular use.

Extractive Industries: The excavation, processing or storage of soil, topsoil, peat, loam, sand, gravel, rock or other mineral deposits, not including:

- 1) The excavation of material incidental to and at the site of approved construction of buildings, driveways or parking areas;
- 2) The excavation of material incidental to and at the site of construction or repair of streets; and
- 3) The excavation, processing or storage of less than ten (10) cubic yards of material on a lot within a one-year period.

Family: One or more persons occupying a dwelling and living as a single housekeeping unit, as distinguished from a group occupying a tourist home, rooming house, hotel, motel, or inn.

Farm Stand: A stand that sells farm produce and/or products.

~~Farming: The cultivation of the soil for food products or other useful or valuable growth of the field or garden, nursery stock, and non-commercial greenhouses.~~

~~Farm Activities: The cultivation of the soil for food products or other useful or valuable growth of the field or garden, nursery stock, and non-commercial greenhouses.~~

Filling: Depositing or dumping any matter on or into the ground or water.

Final Plan: The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, shall be recorded at the Registry of Deeds.

Financial Institution: An institution that provides financial services for its clients or members.

Fisheries, Significant Fisheries: Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife, Atlantic Salmon Authority, or Maine Department of Marine Resources as having significant value as fisheries and any areas so identified in the municipality's comprehensive plan.

Flood or Flooding: 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.~~

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~~e. 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 paragraph a.1. of this definition.~~

- 1) the overflow of inland or tidal waters;
- 2) the unusual and rapid accumulation or runoff of surface waters from any source; or
- 3) 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 paragraph a. of this definition.

Flood Elevation Study: An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM): An official map of a community, on which the Federal Insurance Administrator 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 Flood-prone Area: Any land area susceptible to being inundated by water from any source (see flooding).

Floodplain Management: 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: Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) 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: Any combination of structural and non-structural 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: The lines marking the limits of floodways on federal, state, and local floodplain maps.~~

Floor Area: The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

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Food Processing Facility: An establishment in which food is processed or otherwise prepared and packaged for human consumption.

Footprint: The entire area of ground covered by the structure, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks. All dimensions shall be measured between the exterior faces of the structure.

Forest Management Activities: 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: 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: A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) ft.) or taller.

Forestry: The operation of timber tracks, tree farms, forest nurseries, the gathering of forest products, or the performance of forest services.

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

~~Franchise Restaurant: A restaurant that is required by contractual or other arrangement to offer any of the following: standardized menu, employee uniforms, interior and/or exterior color scheme(s); architectural design, signage or similar standardized features, or which adopts a name identical to another restaurant regardless of ownership or location.~~

~~Freeboard: 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: Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

- 1) of ten or more contiguous acres, or of less than 10 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 10 acres; and
- 2) are inundated or saturated by surface or ground water 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.

Frontage, Road: The linear distance of the front lot line along the street measured between the side lot lines.

Frontage, Shore: The horizontal distance, measured in a straight line, between the intersections of the lot lines with the shoreline.

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**Functionally Dependent Use (Floodplain Management):** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Functionally Water-dependent Uses (Shoreland Zoning):** 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, finfish and shellfish processing, fish-related 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 Home:** A business that provides burial and funeral services for the dead and their families. These services may include a prepared wake and funeral, and the provision of a chapel for the funeral.

**Garage:** An accessory building, or part of a principal building, including a car port, used primarily for the storage of motor vehicles as an accessory use.

**Gravel Pit:** Any commercial operation which removes sand, gravel, clay, rock, or other like material from its natural location and to transport the product removed, away from the extraction site.

**Greenhouse:** A structure that is constructed primarily of a metal or wooden frame covered with a translucent material, which is devoted to the cultivation of plants for commercial use, and which has a permanent foundation or anchoring system. For the purpose of calculating the total square footage of a greenhouse, multiple greenhouses on a property shall count towards the total square footage.

**Grocery Store:** A commercial enterprise engaged in the production, preparation and sale of staple foodstuffs, household supplies and usually meats, produce and dairy products.

**Ground Cover:** Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

**Groundwater:** All of the water found beneath the surface of the ground. For purposes of aquifer protection, this term refers to the subsurface water present in aquifers and recharge areas.

**Growth Area:** An area that is designated in a municipality's or multi-municipal region's comprehensive plan as suitable for orderly residential, commercial or industrial development, or any combination of those types of development, and into which most development projected over 10 years is directed.

**Gym / Fitness Club:** An establishment which houses exercise equipment for the purpose of physical exercise for the public or its members.

**Hardship:** See undue hardship.

**Harvest Area:** The area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

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Hazard Tree: 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 Material, Matter & Waste: Any gaseous, liquid or solid materials, either in pure form or incorporated into other materials, designated as hazardous by the Maine Department of Environmental Protection.

Health Services: Services provided by members of the medical profession and/or alternative health profession for the diagnosis and outpatient treatment of human ailments.

Height of Building: Vertical distance measured from the average elevation of the predevelopment grade to the highest point of the roof.

Height of Structure: 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.

High Intensity Soil Survey: A map prepared by a Certified Soil Scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The map shall show the location of all test pits used to identify the soils and shall be accompanied by a log of each sample point identifying the textural classification and the depth to a limiting factor such as seasonal high-water table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface wastewater disposal systems shall not be considered to constitute high intensity soil surveys.

Historic or Archaeological Resources: Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the municipality's comprehensive plan.

Historic Structure: 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 the Maine Historic Preservation Commission; ~~or~~
- 4) individually identified by the Town's Comprehensive Plan; or
- 5) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a) by an approved state program as determined by the Secretary of the Interior, or

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b) directly by the Secretary of the Interior in states without approved programs.

Home-Based Business: A business performed or conducted within a dwelling or accessory structure by the residents thereof, which:

- 1) is accessory to a residential use;
- 2) is clearly incidental and secondary to the residential use of the dwelling unit; and
- 3) does not change the character of the dwelling.

Home-based business may include, but are not necessarily limited to, arts and crafts work, dressmaking, tutoring, music teaching. Home-based business may include, but are not necessarily limited to, arts and crafts work, dressmaking, the use of a portion of a dwelling as a bed and breakfast inn, a day care home, professional offices such as those of a physician, dentist, lawyer, engineer, architect, hairdresser, barber, real estate broker, insurance agent, or accountant, or similar uses.

Home Occupation: An occupation performed or conducted within one's dwelling or accessory structure at their residence for an employer other than oneself. In areas subject to Shoreland Zoning regulation, home occupation shall be defined as an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

Hoop House: Also, commonly referred to as "high-tunnels," poly-tunnels" and "cold-frames" A structure that is constructed primarily of a metal or wooden frame covered with a translucent material, which is devoted to the cultivation of plants for commercial use, and which does not have a permanent foundation or anchoring system. Hoop houses are passive structures, if the structure has heating, mechanical climate controls, and/or artificial lighting it shall be considered a greenhouse.

Hospital: An institution providing, but not limited to, overnight health services, primarily for in-patients, and medical or surgical care for the sick or injured, including as an integral part of the institution such related facilities as laboratories, out-patient departments, training facilities, central service facilities, and staff offices.

Hotel/Motel: A commercial building or group of buildings built to accommodate for a fee travelers and other transient guests who are staying for a limited duration, with sleeping rooms without cooking facilities, each rental unit having its own private bathroom and its own separate entrance leading either to the outdoors or to a common corridor or hallway. A hotel may include restaurant facilities where food is prepared, and meals served to its guests and other customers.

Hundred-Year Flood: See Base Flood.

Impervious Area: The total area of a parcel that consists of buildings and associated constructed facilities or areas that will be covered with a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce their permeability. Common impervious areas include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and macadam or other surfaces which similarly impede the natural infiltration of stormwater.

Increase in Nonconformity of a Structure: 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, stream or coastal or freshwater wetland setback distance, increase in lot

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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 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.

Individual Private Campsite: 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 (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fireplace, or tent platform.

Indoor Growing Facility: A fully enclosed building, or room within a building, used for the production of plants for commercial use. Facilities located on a residential property may be considered a home-based business, if they meet the standards of a home-based business.

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

Industrial Use: Of, relating to, concerning, or arising from the assembling, fabrication, finishing, manufacturing, packaging or processing of non-agricultural goods, the extraction of minerals.

Industry: ~~An establishment engaged in the mechanical or chemical transformation of materials or substances into new products which may include the assembly of component parts, the manufacture of products, and/or the blending of materials such as lubricating oils, plastics or resins.~~

Institutional Use: Of, relating to, concerning or arising from the use of lands, buildings, or structures for a non-profit, public 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, charitable, educational, religious, governmental, medical or similar purposes.

Junkyard: A yard, field or other outside area used to store, dismantle or otherwise handle:

- 1) discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture;
- 2) discarded, scrap and junked lumber;
- 3) old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or non-ferrous material; and
- 4) garbage dumps, waste dumps, and sanitary fills.

Kennel: An establishment in which more than four (4) dogs or four (4) cats are sold, housed, bred, boarded, or trained for a fee.

Land Management Road: 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.

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Land Use Ordinance: An ordinance or regulation of general application adopted by the municipal legislative body which controls, directs or delineates allowable uses of land and the standards for those uses.

Landscape Buffer: An area within a property or site, generally adjacent to and parallel with a property line, either consisting of natural existing vegetation or created by the use of trees and shrubs, designed to limit continuously the view of and/or sound from the site to adjacent sites or properties.

Laundry, Dry Cleaning Establishment: A business that provides laundry cleaning services or allows use of their laundry equipment for a fee.

Level of Service: 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, 1991 edition or most current edition, published by the National Academy of Sciences, Transportation Research Board. There are six levels of service 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.

Licensed Forester: A forester licensed under 32 M.R.S.A. §§ 5501-5516.

Local Street: A public street or road which is not identified as an arterial or collector. A local street includes a proposed street shown on an approved and recorded subdivision.

Locally Established Datum: For purposes of this Ordinance, 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), North American Vertical Datum (NAVD), 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.

Lot: A tract or parcel of land, in the same ownership, provided that parcels located on opposite sides of a public or private road shall be considered each a separate tract or parcel unless such road was established by the owner of the parcels on both sides thereof.

Lot Area: 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: A lot with at least two contiguous sides abutting upon a street or right-of-way.

Lot Coverage: The percentage of a lot covered by all impervious areas.

Lot Lines: The lines bounding a lot as defined below:

- 1) Front lot line:
  - A) interior lots - the line separating the lot from a street right-of-way;
  - B) corner lots - the line separating the lot from a public right-of-way;
  - C) back lots – the line that is parallel (closest to being parallel) to the street right-of-way.
- 2) Rear lot line: the lot line opposite the front lot line.
  - A) On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to and the front lot line, not less than ten (10) feet long, lying farthest from the front lot line.

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B) On a corner lot, if the lot abuts two public Rights-of-Way, then the rear lot line shall be opposite the front line of least dimension.

3) Side lot line: any lot line other than the front lot line or rear lot line.

Lot of Record: A parcel of land, a legal description of which or the dimensions of which are shown, on a document or map on file with the County Register of Deeds.

Lot Width: The average distance between the side boundaries of the lot.

Lowest Floor: 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 described in Article 8.C.11 of this ordinance.

Manufacturing: An establishment which is engaged in the mechanical transformation of materials into new products, including the assembling of component parts.

Manufactured Housing: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Housing Park: A parcel of land under unified ownership approved by the municipality for the placement of three (3) or more manufactured homes.

Manufactured Home Park or Subdivision (Floodplain Management): A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Marina: 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, bait and tackle shops, and marine fuel service facilities.

Market Value: 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 Sea Level: Means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

~~Medical Cannabis Establishment: Includes: registered caregivers, caregiver retail stores, registered dispensaries, cannabis testing facilities, and manufacturing facilities as those terms are defined by the State of Maine in 22 M.R.S.A. § 2421-A.~~

Medical Cannabis Registered Caregiver: A person who is registered with the State in accordance with Maine Medical Use of Cannabis Act.

Medium Intensity Soil Survey: A map identifying the soil types down to mapping units of three (3) acres at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey.

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Mineral Exploration: 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: Any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, top-soil, 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.

Minor Development: All development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article 8.C.9, 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.

~~Moratorium: A land use ordinance or other regulation approved by a municipal legislative body which temporarily defers development by withholding any authorization or approval necessary for development.~~

Motel: Same as Hotel.

Municipal Use: A governmental use funded whole or in part by the Town of Bowdoinham including, by way of illustration and without limitation, municipal buildings, public schools, public parks, public recreational facilities and fire stations.

Museum / Art Gallery: A building containing objects such as, but not limited to, paintings, prints, sculptures, scientific and historical objects which are either for sale to the general public or are displayed for viewing only.

National Geodetic Vertical Datum (NGVD): 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)".

Native: Indigenous to the local forests.

Natural Areas and Natural Communities, Unique Natural Area and Natural Communities: Areas identified by a governmental agency such as the Maine Department of Conservation Natural Areas Program as having significant value as a natural area and any areas identified in the municipality's comprehensive plan.

~~Neighborhood Convenience Store: A store of less than 1,500 sq. ft. of floor space intended to serve the convenience of a residential neighborhood primarily with the sale of merchandise including such items as, but not limited to, basic foods, newspapers, emergency home repair articles, and other household items, that may include "sit down," dining or "eat in" foods or take out windows.~~

Net Residential Acreage Area: The total acreage of a lot, minus the area for streets or access and unsuitable area for development.

Net Residential Density: The number of dwelling units per net residential acreage.

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

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New Construction: (Floodplain Management) Structures for which the “start of construction” commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

New England Vernacular: Type of buildings that include such features as pitched roofs, vertical rectangle windows, and have historically have been built in town, such as old farm houses.

Non-Conforming: A building, structure, use of land, or portion thereof, legally existing on the effective date of adoption or amendment of this Ordinance which thereafter fails to conform to all applicable provisions of this Ordinance.

Non-Conforming Condition: Non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

Non-Conforming Lot: A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Non-Conforming Structure: A structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-Conforming Use: Use of buildings, structures, premises, land or parts thereof which is not allowed 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 Ordinance or subsequent amendments took effect.

Non-Native Invasive Species of Vegetation: 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.

Normal High-Water Line:

- 1) Non-Tidal Waters – 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 that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river during the period of normal high-water are considered part of the river.
- 2) Tidal Waters – setbacks are measured from the upland edge of the coastal wetland.

North American Vertical Datum (NAVD): The national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth’s crust, glacial rebound, and subsidence and the increasing use of satellite technology.

Nursing Home / Care Facility: A residence for people who need 24-hour skilled nursing care and can no longer live independently.

Outdoor Recreation: A place designed and equipped primarily for the conduct of non-motorized outdoor sports, leisure time activities, and other customary and usual recreational activities.

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~~Outlet Stream: 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.~~

Parking Space: A minimum area of 200 sq. ft., 20 ft. by 10 ft., exclusive of drives, aisles or entrances, fully accessible for the storage or parking of vehicles.

Parks and Recreation: Non-commercially operated recreation facilities open to the general public including, but not limited to playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, and wildlife nature preserves, along with any necessary accessory facilities, rest rooms, bath houses, and the maintenance of such land and facilities. The term shall not include campgrounds, or commercial recreation and amusement centers.

Patio: A level area adjacent to a dwelling unit constructed of stone, cement or other material located at ground level, with no railing or other structure above the level of the ground.

Permitted Use: A use that is listed as a permitted use in one or more of the districts established by this Ordinance. The term shall not include any prohibited uses.

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

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

- 1) Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.
- 2) Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

~~Planned Unit Development: A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development often includes a mixture of uses and may include streets, buildings, open spaces and other site features.~~

Planning Board: The Planning Board of the Town of Bowdoinham.

Preliminary Plan: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

Primary Conservation Area: The portion of a site that is unsuitable for development and/or intensive use including the area of the site that is defined as unsuitable area.

Principal Structure: 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: A use other than one which is wholly incidental or accessory to another use on the same lot.

Professional Engineer: A professional engineer, licensed in the State of Maine.

~~Professional Office: The office of a member of a recognized profession maintained for the conduct of that profession.~~

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Professional Offices: The place of business of individuals or groups providing professional services, including but not limited to, doctors, lawyers, accountants, financial advisors, architects, surveyors, real estate and insurance businesses, psychologists, counselors, or a place in which a business conducts its administrative, financial or clerical operations or provides services, including banks, credit unions and other financial services excluding free standing automated machines (ATMS).

Project Area: All areas that will have a structure, fence, or impervious surface installed on it, or utilities installed over or under it.

Public and Private School: Primary and secondary schools, or parochial schools, which satisfy either of the following requirements: the school is not operated for profit or as a gainful business; or the school teaches courses of study that are sufficient to qualify attendance in compliance with State of Maine compulsory education requirements.

Public Facility: 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 Facility Utility: A facility, whether publicly or privately owned, which provides direct or indirect utility service to the public, such as, but not limited to, sewage and water pumping stations and treatment facilities, telephone electronic equipment structures, electric power sub-stations and transformer stations, and major electrical power lines or pipelines whose major purpose is transport through a municipality. Local utility transmission lines are excluded from this definition. Wireless telecommunications facilities are not considered public utility facilities.

Public Utility: Any person, firm, corporation, municipal department, board or commission authorized to furnish gas, steam, electricity, waste disposal, communication facilities, transportation or water to the public.

Public Water System: A water supply system that provides water to at least 15 service connections or services water to at least 25 individuals daily for at least 30 days a year.

Recent Floodplain Soils: The following soil series as described and identified by the National Cooperative Soil Survey:

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

Recording Plan: An original of the Final Plan, suitable for recording at the Registry of Deeds.

Recreation and Conservation: ~~Non-intensive recreational uses not requiring structures, such as hunting, fishing, hiking, snowmobiling, fire prevention activities, wildlife management practices, soil and water conservation practices, harvesting of wild crops, and public and private parks and recreation areas involving minimal structural development.~~

Recreational Facility: A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launch facilities.

Recreational Vehicle: 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

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the State Division of Motor Vehicles. For purposes of Floodplain Management, recreational vehicle means a vehicle which is:

- 1) built on a single chassis;
- 2) 400 square feet or less when measured at the largest horizontal projection, not including slide outs;
- 3) designed to be self-propelled or permanently towable by a motor vehicle; and
- 4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Redemption Center: A commercial establishment that pays the refund value of an empty beverage container to a redeemer, or any person who contracts with one or more dealers or distributors to collect, sort and obtain the refund value and handling fee of empty beverage containers for, or on behalf of, such dealer or distributor.

Registered Caregiver: Caregiver who is registered by the State of Maine.

Regulatory Floodway: The channel of a river or other water course 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 when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course 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.

Replacement System: ~~A system intended to replace:~~

- ~~1) an existing system which either malfunctioning or being upgraded with no significant change of design flow or use of the structure; or~~
- ~~2) any existing overboard wastewater discharge.~~

Residential Density: The number of dwelling units per acre.

Residual Basal Area: The average of the basal area of trees remaining on a harvested site.

Residual Stand: A stand of trees remaining in the forest following timber harvesting and related activities

Restaurant: An eating place in which food is prepared and sold for immediate consumption by the customer either on or off premises at the customer's choice.

Riding Arena/Boarding Stable (private use): An indoor riding arena and/or horse stable built for the private use of the property owner that is not open to the public and does not board more than three horses for payment.

Riding Arena/Boarding Stable (public use): An indoor riding arena and/or horse stable that is open to the public and/or does board more than three horses for payment.

Right-of-Way: All public or private roads and streets, state and federal highways, private ways (now called public easements), and public land reservations for the purpose of public access, including utility Rights-of-Way.

Riprap: Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

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River: A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth.

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

Road: 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.

Rooming House: Same as Bed and Breakfast.

Rural Area: A geographic area that is identified and designated in a municipality's or multi-municipal region's comprehensive plan as an area that is deserving of some level of regulatory protection from unrestricted development for purposes that may include, but are not limited to, supporting agriculture, forestry, mining, open space, wildlife habitat, fisheries habitat and scenic lands, and away from which most development projected over 10 years is diverted.

Salon / Day Spa: An establishment dealing with cosmetic treatments and services for men and women, including generalized services related to skin health, facial aesthetic, foot care, nail manicures, aromatherapy, oxygen therapy, mud baths, massages, and many other services.

Sapling: A tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

Sawmill: A unit designed to saw logs into lumber, firewood or other processed lumber products.

Seedling: A young tree species that is less than four and one half (4.5) feet in height above ground level.

Self-Storage Facilities: ~~A structure divided into separate rental compartments used for temporary storage needs of small businesses, apartment dwellers, and other residential uses.~~

**Commented [JH4]:** This was the definition I removed in article 10 because it was out of place.

Service Business: Any business or establishment which provides a service of a non-retail nature for hire by others, conducted through the application of some specialized knowledge, training, skill or talent, or through the employment of some special action or work.

A Self Storage Facility is a fully enclosed structure with individual, secured units (accessed with or without supervision) used for the exclusive purpose of storage of non-hazardous business or personal materials.

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

- 1) in the case of electrical 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 one thousand (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 one thousand (1,000) feet in length.

Setback (shoreline): 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.

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Setback (property line): The minimum horizontal distance from a lot line to the nearest part of a building, including porches, steps and decks.

~~Shopping Center: Any concentration of two or more retail stores or service establishments under one ownership or management containing 15,000 sq. ft. or more of gross floor space.~~

Shoreland Zone: The land area located within two hundred and fifty (250) ft., horizontal distance, of the normal high-water line of any river; within 250 ft., horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 ft. of the upland edge of a freshwater wetland; or within seventy-five (75) ft., horizontal distance, of the normal high-water line of a stream of special significance.

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

Sight Distance: The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in this ordinance as a reference for unobstructed road visibility.

Sign: The display of a word or words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, pictures, trade names, trademarks by which anything is made known, and/or combination of these shall be deemed signs.

Significant River Segments: See ~~Appendix B~~ or 38 M.R.S.A. § 437.

Site Plan: A plan, drawn to scale, showing uses and structures proposed for a parcel of land as required by municipal ordinance. It includes lot lines, building sites, reserved open spaces, buildings, and major landscape features, both natural and man-made.

Site Plan Review: A review of a proposed development conducted by the Planning Board or Code Enforcement Officer using the standards contained in this Ordinance.

Sketch Plan: Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval.

Skid Road or Skid Trail: 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: The residue, e.g., treetops and branches, left on the ground after a timber harvest.

Solar Energy System – Large: A structural feature and associated development, occupying more than 3,000 sq. ft. of project area, constructed for the purpose of converting sunlight into electrical energy.

Solar Energy System- Small: A structural feature and associated development where solar collectors are roof mounted or are not occupying more than 3,000 sq. ft. of project area, constructed for the purpose of converting sunlight into electrical energy.

Solid Waste Transfer Station: A facility where solid waste is unloaded from collection vehicles and briefly held while it is reloaded onto larger long-distance transport vehicles for shipment to landfills or other treatment or disposal facilities.

Special Flood Hazard Area: See Area of Special Flood Hazard.

Start of Construction (Floodplain Management): The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, 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

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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.

Storm-Damaged Tree: 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.

Stream: Means a channel between defined banks. A channel is created by the action of surface water and has 2 or more of the following characteristics:

- 1) It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topographic map.
- 2) It contains or is known to contain flowing water continuously for a period of at least 6 months of the year in most years.
- 3) The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.
- 4) The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, within the stream bed.
- 5) The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

Stream does not mean a ditch or other drainage way constructed, or constructed and maintained, solely for the purpose of draining storm water or a grassy swale. A 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.

Street: ~~Any vehicular right-of-way that is (1) an existing Town, state or county road; (2) shown upon a subdivision plat approved by the Planning Board; (3) accepted or laid out and taken through action of the Town; (4) a private right-of-way approved by the Town; (5) a street shown on a subdivision plan in which the Town has reserved rights under the provisions of 23 M.R.S.A. § 3032; or (6) a privately owned road, that is not intended to be dedicated as a public street~~

Any vehicular Right-of-Way that is:

- 1) an existing Town, state or county road;
- 2) shown upon a subdivision plat approved by the Planning Board;
- 3) accepted or laid out and taken through action of the Town;
- 4) a private Right-of-Way approved by the Town;
- 5) a street shown on a subdivision plan in which the Town has reserved rights under the provisions of 23 M.R.S.A. § 3032; or
- 6) a privately owned road, that is not intended to be dedicated as a public street.

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Street Classification:

- 1) **Arterial Street:** A major thoroughfare, which serves as a major traffic way for travel through the municipality and between municipalities.
- 2) **Collector Street:** A street with average daily traffic of 1,500 vehicles per day or greater, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.
- 3) **Cul-de-sac:** A street with only one outlet and having the other end for the reversal of traffic movement.
- 4) **Industrial or Commercial Street:** Streets servicing industrial or commercial uses.
- 5) **Minor Residential Street:** A street servicing only residential properties and which has an average daily traffic of less than 1,500 vehicles per day.
- 6) **Private Right-of-Way:** A privately owned street, that is not intended to be dedicated as a public street.

Structure: 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, solar energy systems, and satellite dishes. For floodplain management purposes, a walled and roofed building, and a gas or liquid storage tank that is principally above ground, are also considered structures. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface wastewater disposal systems as defined in 30-A M.R.S.A. § 4201(5); geothermal heat exchange wells as defined in 32 M.R.S.A. §4700-E(3-C); or wells or water wells as defined in 32 M.R.S.A. §4700-E(8). For floodplain management purposes,

Structure, Non-permanent: A structure that does not have a foundation or footing.

Structural Alteration: Any change to a structure, other than simple replacement of the supporting members, such as posts, columns, plates, joists, or girders.

Subdivision: The division of a tract or parcel of land into 3 or more lots within any 5-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 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling 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 3 or more dwelling units within a 5-year period.

- 1) In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:
  - A) Both divides are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or
  - B) The division of the tract or parcel is otherwise exempt under this Ordinance.
- 2) The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this Ordinance, do not become subject to this Ordinance by the

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subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

- 3) A lot of 40 or more acres shall be counted as a lot, per 30-A M.R.S.A. § 4401(4)(C).
- 4) The following divisions do not result in lots that must be counted:
  - A) A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this Ordinance.
  - B) A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this Ordinance.
  - C) A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this Ordinance.
  - D) A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this Ordinance. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph cannot be given for consideration that is more than 1/2 the assessed value of the real estate.
  - E) A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this Ordinance.
  - F) A division accomplished by the transfer of any interest in land to the owners of land abutting that land, that does not create a separate lot does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this Ordinance. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection.
  - G) If a new lot is created to meet open space requirements and is transferred to a governmental body, or a nonprofit corporation or charitable trust with the purposes enumerated in 33 M.R.S. § 476(2) (such as, but not limited to, protecting property for recreational, agricultural, forest, and open space use) it does not count toward the number of lots in a subdivision unless the intent of the transferor is to avoid the objectives of this Ordinance.
- 5) The division of a tract or parcel of land into 3 or more lots and upon each of which lots, permanent dwelling structures legally existed before September 23, 1971, is not a subdivision.
- 6) In determining the number of dwelling units in a structure, the provisions of this Ordinance regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.
- 7) Notwithstanding the provisions of this Ordinance, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.

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- 8) The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraphs 4A – 4F above, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this Ordinance.

Subdivision, Major: Any subdivision containing six or more lots or dwelling units including an amendment to an approved subdivision that will result in the creation of a total of more than six (6) lots in the entire subdivision.

Subdivision, Minor: Any subdivision containing five or fewer lots or dwelling units.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other 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 the 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:

- Shoreland Zoning – The completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.
- Site Plan Review – The completion of a portion of the development, which represents no less than thirty percent of the costs of the proposed improvements.
- Subdivision – The completion of a portion of the development, which represents no less than thirty percent of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the costs of proposed improvements.
- Land Use – The completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.
- Building -- The completion of thirty (30) percent of a permitted structure measured as a percentage of estimated total cost.

Subsurface Sewage Disposal System: Any system designed to dispose of waste or wastewater on or beneath the surface of the earth. This includes but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; or pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes. It does not include any discharge system licensed

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under 38 M.R.S.A. §414; any surface waste water disposal system; or any municipal or quasi-municipal sewer or waste water treatment system.

Sustained Slope: A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Swimming Pool: An outdoor, man-made receptacle or excavation designed to hold water to a depth of at least twenty-four (24) inches, primarily for swimming or bathing, whether in the ground or above the ground.

Temporary Building: A building that is located in a given location on a property for less than 8 months.

Theater: A building designed and/or used primarily for the commercial exhibition of motion pictures, music or plays to the general public.

Tidal Waters: All waters affected by tidal action during the maximum spring tide.

Timber Harvesting and Related Activities: The cutting and removal of the timber for the primary purpose of selling or processing forest products; the construction and maintenance of roads used primarily for timber harvesting; and other activities conducted to facilitate timber harvesting.

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 (2) acres within the Shoreland Zone shall not be considered timber harvesting; such cutting or removal of trees shall be regulated pursuant to Article 7.D.17.

Town Road: Any vehicular Right-of-Way containing a road that is owned by the Town.

Tract or Parcel of Land: All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

Tree: A woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) ft. above the ground, with a more or less definite crown, and reaching a height of at least ten (10) ft. at maturity.

Tributary Stream: The confluence of two (2) perennial streams as depicted on the most recent, highest resolution version of a 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 tributary stream becomes a river or flows to another water body or wetland within the shoreland zone. When a tributary stream meets the shoreland zone of a water body or wetland and a channel forms downstream of that water body or wetland as an outlet, that channel is also a tributary stream.

Undue Hardship: As used in this Ordinance, the words “undue hardship” shall mean all of the following:

- 1) that the land in question cannot yield a reasonable return; ~~and~~
- 2) that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and
- 3) that the granting of a variance will not alter the essential character of the locality; and
- 4) that the hardship is not the result of action taken by the applicant or a prior owner.

~~A variance is not justified unless all elements are present in the case.~~

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Upland Edge of a Wetland: 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 (6) meters (approximately twenty (20) foot) tall or taller.

Unsuitable Area for Development: The area of the parcel that has limitations or constraints for use as part of a conventional residential subdivision. The following land areas shall be considered unsuitable:

- 1) Areas within a floodway or 100-year flood hazard area, as shown on the Federal Flood Boundary and Floodway Map or Federal Flood Insurance Rate Map.
- 2) Wetlands including land which has been created by filling or draining a wetland.
- 3) Areas of rights-of-way and easements, except for new streets that are part of the subdivision.
- 4) Stream channels, as measured from the top of banks, and other surface water bodies, as measured from the high-water mark.
- 5) Areas with a sustained slope of thirty-three (33) percent or more.

In determining the total unsuitable area of the parcel, no geographic area shall be counted more than once.

Use: The purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied or maintained.

Uses Permitted: Includes only permitted uses and not conditional uses or non-permitted uses.

Variance: A relaxation of the terms of this ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for dimensional requirements such as frontage, lot area, lot width, structure height, percentage of lot coverage, and setback requirements; establishment or expansion of an otherwise prohibited use shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district

Vegetation: All live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 ft. above ground level.

Vernal Pool: Vernal pools are seasonal, semi-permanent, or permanent bodies of water that are essential breeding habitat for certain amphibians and invertebrates, and generally hold water for 2-5 months in spring and early summer.

Veterinary Clinic: A professional office for the practice of veterinary medicine and at which related services such as pet boarding and grooming may be offered.

Violation: The failure of a structure or development to comply with a community's floodplain management regulations.

Volume of a Structure: 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.

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Waiver: Relaxation of the review procedures, the submission requirements, and/or performance standards by the Planning Board.

Warehouse: A structure used primarily for the storage, deposit, stocking and/or distribution of commodities.

Waste and Nuisance Yards: means a yard, field, or other outside area used to store, dismantle or otherwise handle:

- 1) Unused, unmaintained, unregistered, dilapidated power sport recreational vehicles, watercraft, and other machinery operated with fuel or electrical motors, including but not limited to heavy machinery, chainsaws, portable generators, pumps, and other power equipment.

Water Body: Any river, tributary stream or stream.

Water Crossing: 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.

Wetland: Areas identified by a wetlands scientist or soils scientist which are 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, as defined in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands dated 1/10/89 and as amended from time to time. The term "wetland" shall include all coastal and freshwater wetlands.

Wholesale Business: A business that sells chiefly to retailers, other merchants, industrial and/or commercial users mainly for re-sale or business use.

Wildlife Habitat, Significant Wildlife Habitat: Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife as having significant value as habitat for wild animals and any areas identified in the municipality's comprehensive plan.

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

Windmill: A wind energy conversion system consisting of a wind turbine, a tower, footing, electrical infrastructure, fence and any other associated equipment or structures.

Windmill Farm: A group of wind turbines in the same location used to produce energy.

Wood Processing Facility: A facility that processes forest products to create other products such as pulp and paper, construction materials, wood-based panels, wood chips and wood pellets.

Woody Vegetation: Live trees or woody, non-herbaceous shrubs.

Zone A: A Special Flood Hazard Area which has a 1% annual chance of flooding.

Zone AE: The base floodplain where base flood elevations are provided.

**Commented [LR5]**: This term and definition appear in the existing ordinance so this need not be underlined. I would suggest removing underline.

**Commented [LR6]**: Ditto prior comment.