

and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to marijuana stores.

Marijuana Store: A facility licensed by the State of Maine to purchase adult use marijuana, immature marijuana plants and seedlings from a cultivation facility, to purchase adult use marijuana and adult use marijuana products from a products manufacturing facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.

Marijuana Products Manufacturing Facility: A facility licensed by the State of Maine to purchase adult use marijuana from a cultivation facility or another products manufacturing facility; to manufacture, label and package adult use marijuana and adult use marijuana products; and to sell adult use marijuana and adult use marijuana products to marijuana stores and to other products manufacturing facilities.

Marijuana Testing Facility: A facility licensed by the State of Maine to develop, research and test marijuana, marijuana products and other substances.

Aggrieved Party: An owner of land whose property is directly or indirectly affected by the granting or denial of a permit, approval or **variance** under this Ordinance; a **person** whose land abuts land for which a permit, approval or variance has been granted; or any other person or group of people who have suffered particularized injury as a result of the granting or denial of such permit, approval or variance.

Agricultural Packaging and Storage: Any or all steps of preparing **agricultural products** for sale or other distribution. This includes, but is not limited to, wrapping, boxing and storage.

Agricultural Product: Any of the following items:

- A. Fresh fruit, fresh produce or a fresh horticultural or agronomic commodity and products made from that fresh fruit, fresh produce or fresh horticultural or agronomic commodity;
- B. Trees and wreaths used for decorative purposes;
- C. Maple syrup; or
- D. A food product made from an animal raised for the purpose of providing food or from the products of that animal.

Agricultural Product Processing: The preparing for market or other **commercial use** of **agricultural products**.

Agriculture: The cultivation and tillage of the soil as a livelihood including dairying; the raising of livestock, freshwater fish, fur-bearing animals or poultry; producing, cultivating, growing and harvesting fruit, produce or floricultural or horticultural commodities; or any practices on a farm that are incident to or in conjunction with these farming operations. Agriculture does not include **animal breeding or care**, kennels, or **forest management** and **timber harvesting** activities

Alteration: Any change ~~or~~ in the **use** of a **building** or modification in construction or change in the structural members of a **structure**, such as bearing walls, columns, beams or girders.

Amusement Park: A **commercial** facility utilizing powered apparatus, such as Ferris wheels, water slides and similar devices.

Animal Breeding or Care: The keeping or raising of 5 or more animals of the same kind over 6 months old for breeding, hunting, show, training, field trials and exhibition purposes. The standards for this

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use shall also apply to the boarding of horses. Short term boarding of cats and dogs shall be in accordance with standards for **kennels**. The keeping of cows, sheep and other hooved or domesticated animals shall be in accordance with standards for **agriculture**. The raising of one litter of kittens or puppies within a 12-month period alone does not constitute animal breeding or care.

Applicant: An individual, firm, association, organization, partnership, trust, company or corporation that has a vested interest in the property.

Approving Authority: The **Code Enforcement Officer**, Planning Board or Board of Appeals as specified.

Aquaculture: The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species. Only the support facilities on land shall be subject to the requirements of this Ordinance.

Arterial: A road functionally classified by the Maine Department of Transportation as a major or minor arterial.

Assisted Living Facility: A facility that provides housing and care to elderly or infirm people including a supportive services program and nursing oversight. The living units may include private **dwelling units** with an individual bathroom and an individual food preparation area or suites without cooking facilities. The facility shall include central dining facilities and other common or shared spaces.

Automobile and Recreational Vehicle Sales & Service: Any **building** or premises where automobiles or other motor vehicles are sold or offered for sale and where repair and maintenance services are provided.

Automobile Graveyard: A yard, field or other area as defined in Title 30-A M.R.S.A. § 3752 used to store 3 or more unregistered or uninspected motor vehicles, or parts of such vehicles (see **Junkyard**).

- A. Does not include any area used for **temporary** storage by an establishment or place of business that is primarily engaged in doing auto body repair work to make repairs to render a motor vehicle serviceable.
- B. Includes an area used for automobile dismantling, salvage and **recycling operations** (see **Automobile Recycling Business**).

Automobile Recycling Business The business premises of a **person** 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 defined in Title 30-A M.R.S.A. § 3752, (See **junkyard**)

Automobile Repair: A business for the repair of automobiles and other motor vehicles including body shops.

Automobile Service Station: Any business or premises that sells gasoline or other vehicle fuels, oil and related products to the motoring public. This may include repairs, washing and lubrication, but shall not include bodywork, painting or dismantling.

Basal Area: The area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark otherwise referred to as Diameter at Breast Height (DBH).

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.

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Bed and Breakfast: An establishment that provides overnight accommodations to transients in a maximum of eight (8) guest rooms, that has a residential character, and conforms to the performance standards of Section ____.

Billboard: See **Sign, Billboard**.

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**.

Botanical Garden: A facility that is owned by a public or private nonprofit entity that is primarily used for the display and conservation of plants including related botanical education and research activities. A botanical garden may include the following types of facilities provided that such facilities are accessory to the primary function of the botanical garden: gardens, visitor centers, education and research facilities, greenhouses, conservatories, plant maintenance and propagation facilities, trails, docks, concessions including eating facilities and gift shops, meeting rooms, and parking and other transportation facilities.

Buffer for Water Supply Protection: An undeveloped land area with sufficient plant life to control storm water runoff and limit the export of phosphorus.

Buffer, Non-wooded: An area having a dense and complete cover of **vegetation**, including shrubs, trees, grass, and other plants.

Buffer, Visual: A visual screen consisting of conifers, deciduous trees and hedges, natural **vegetation** that is indigenous to the area, fences, walls, berms and mounds.

Buffer, Wooded: A naturally wooded area including an undisturbed organic layer.

Buildable Area: The specified portion of a **lot** where **development** is allowed. In determining such area of a lot, the following shall be excluded:

- A. The area included in the required **setbacks**;
- B. All coastal **wetlands**;
- C. Land that is situated below the **high-water line** of any **great pond, stream, outlet stream or freshwater wetland**;
- D. Areas with a sustained slope of greater than 15% over a contiguous area of more than one thousand (1,000) square feet;
- E. Land that is part of a **right-of-way**, or easement, including utility easements; and
- F. Land that is located within a Special Flood Hazard Area as depicted on the current version of the Flood Insurance Rate Map (FIRM) prepared by the Federal Emergency Management Agency unless the applicant shows proof through the submittal of materials prepared by a Registered Land Surveyor that show that the property in question lies at least two feet above the base flood elevation shown on the FIRM. The elevation of filled or manmade land shall not be considered.

Building: Any **structure** having a roof or partial roof supported by columns or walls used or intended to be used for the shelter or enclosure of people, animals or objects regardless of the materials of which it is constructed.

Building, Accessory: See **Accessory Structure**.

Building Inspector: The Building Inspector of the Town of Boothbay also referred to as the **Code Enforcement Officer**.

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Building, Principal: See **Structure, Principal**.

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

Business Services: A business or organization such as call centers, advertising services, and payroll services that primarily provides services to other businesses or organizations rather than to consumers. A business service may provide incidental service to individual consumers.

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Camp: A facility that provides a combination of programs and facilities primarily for the purpose of providing a supervised outdoor group experience with social, recreational, spiritual, and/or educational objectives for children as well as adults that is used for five (5) or more consecutive days during one or more seasons of the year.

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Campground: Any area or **tract** of land to accommodate two or more parties in **temporary** living quarters, including, but not limited to, tents, **recreational vehicles** or other shelters. May include facilities for the disposal of human wastes from recreational vehicles not occupying a **campsite**.

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Campsite: A designated **parcel** within a **campground** that is designed and posted as a site for occupancy by an individual, **family** unit or group using one **recreational vehicle** or tent.

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

Car Wash: An area of land or a **structure** with machine- or hand-operated facilities used principally for the cleaning, washing, polishing, or waxing of motor vehicles as a business.

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Cemetery A place for the interment of the remains of deceased people. Does not include **family** burial grounds that are allowed by Title 13 M.R.S. § 1142.

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Changeable Display Sign: An on premises sign created, designed, manufactured or modified in such a way that its message may be electronically, digitally or mechanically altered by the complete substitution or replacement of one display by another on each side.

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Chimney: A stand-alone or enclosed flue, pipe or vent incorporated into a **building** to passively facilitate exhaust of gasses. Chimneys incorporating fans, blowers or similar equipment external to the building and chimneys that are not structurally part of the building subject to are not exempt from the **structure height** standards.

Church: A place of worship or religious activity including administrative, educational and social activities that are accessory to the primary assembly use.

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Club: An association of **people** organized for a common purpose but not including any group organized primarily to render a service that is customarily carried on as a business.

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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.

Code Enforcement Officer: A **person** appointed by the Board of Selectmen to administer and enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector and the like, where applicable.

Commercial Fishing Activities: Activities directly related to commercial fishing and those **commercial** activities commonly associated with or supportive of commercial fishing, such as sale of fuel; manufacture or sale of ice, bait and nets; and the sale, installation or repair of boats, engines and other equipment commonly used on boats. Only individuals and businesses providing these services to others for profit shall be subject to the provisions of this Ordinance. The construction of boats as a principal occupation is a **manufacturing use** when determining where the use may be conducted, unless it conforms to the standards of **home occupation**, in which case it shall be treated as a home occupation in determining where the use may be conducted.

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Commercial Use: The **use** of lands or **structures**, other than a **home occupation**, the intent and result of which activity is the production of income from the buying and selling of goods or services, exclusive of rental of residential **buildings** or **dwelling units**.

Communications Tower: Any **structure** used to facilitate broadcasting, receiving or sending and receiving information by electromagnetic waves except when used for private ham radio or satellite dish antenna.

Community Center: A **building** that provides a meeting place for local, non-profit community organizations on a regular basis including accessory facilities for recreational or social activities.

Community Living Arrangement: A housing facility as defined by [Title 30-A M.R.S. § 4357-A](#) for 8 or fewer **people** with disabilities that is approved, authorized, certified or licensed by the State. A community living arrangement is deemed a **one family use** of property.

Conference/Convention Center: A facility with or without overnight accommodations that provides facilities for conventions and meetings and similar activities including facilities for meals.

Conforming: A **parcel, building, structure, use** of land, or portion thereof, which complies with all the applicable provisions of this Ordinance.

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Congregate Housing: Residential housing that consists of private **dwelling units** with an individual bathroom and an individual food preparation area, in addition to central dining facilities, and within which a supportive services program serves occupants.

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Construction and property maintenance services: A business or organization that provides construction and/or property maintenance services including facilities for administrative activities, fabrication of materials related to the service and the inside and outside storage of material, equipment and vehicles related to the service provided. An office of a contractor or tradesman that involves only administrative and marketing activities and does not include the storage of materials, equipment or vehicles is a business and professional office.

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Cross-sectional area of a stream: 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.

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Day: For enforcement purposes, a day is any portion of a 24 hour period commencing at midnight.

Day Care Center: (1) A house or other place in which a **person** maintains or otherwise carries out a regular program, for consideration, for any part of a **day** providing care and protection for **13** or more children under 13 years of age; (2) A facility that is not part of a person's own home where there are between 3 and 12 children being cared for; or (3) Any location or locations that are operated as a single day care program or by a single person or people, when there are more than 12 children being cared for. Day care center may include a facility operated as a nursery school, a facility operated by a home day care provider or a summer camp established solely for recreational and educational purposes or a formal public or private school in the nature of a kindergarten or elementary or secondary school approved by the Commissioner of Education in accordance with 20-A Maine Revised Statutes Annotated.

Commented [M1]: I'm confused! This appears too not include day care homes with less than 13 children.

Commented [M2]: It appears that the state currently licenses day care centers/facilities with 12 or 13 or more children and small day care facilities with 3-12 children. The Land use Table only addresses Day care centers. I think we should simply reference state definitions and see if we want to distinguish between the two categories.

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Commented [ARB3]: A dozen or fewer in one's own home would fly under the radar. We should make our ordinance consistent with state licensing standards and definitions.

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DBH: See basal area.

Deck: A **structure** attached or adjacent to a **building** elevated above the surface of the ground that does not have a permanent roof but may have a railing, awning or other covering.

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De minimis: Trifling; minimal. So insignificant that it may be overlooked in deciding an issue.

De novo Review: A review that looks at the substantive issues afresh, undertakes its own credibility determinations, evaluates the evidence presented, and draws its own conclusions.

Density, Housing: The **number of dwelling units** per unit of land.

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Developable Area: The portion of a **lot** that may be developed expressed as a percentage of **Buildable Area**.

Developed Area: In determining the developed area of a **lot**, the following areas shall be included:

- A. The foot-print of **buildings** on the ground or the first floor square footage, whichever is greater.
- B. Within the **Buildable Area**:
 1. **Driveways and parking areas.**
 2. Impervious and non-vegetated areas, including, but not limited to, walkways and patios. Areas created using waffle pavers and other semi-impervious surfaces shall be considered non-vegetated surfaces, even if the surface is covered by grass or other similar **vegetation**.
 3. Naturally occurring impervious area such as ledge outcrops shall not be included in **developed area**.

Development: The **alteration** of the land, water or **vegetation**, or the addition or alteration of **structures** or other construction not naturally occurring.

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Dimensional Requirements: Numerical standards **including**, but not limited to, **setback, lot area, frontage and height**.

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Disability: Any incapacitation, 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.

Disability Variance: A variance granted by the Board of Appeals in accordance with **[redacted]**

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Discharge: Discharge includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, disposing, emptying or dumping onto the land or into the water or ambient air.

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.

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Distance: The horizontal or vertical separation of two points.

District: Shall mean zoning district when used to indicate one of the areas into which the Town is separated for land use regulation.

Docks, piers, wharves, bridges and other structures and uses extending over or beyond the high-water line or within a wetland – Temporary: Structures that remain in or over the water for less than 7 months in any period of 12 months.

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Docks, piers, wharves, bridges and other structures and uses extending over or beyond the high-water line or within a wetland – Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

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Drainage System: One or more artificial ditches, tile drains, or similar devices that collect surface runoff or ground water and convey it to a point of discharge.

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Driveway: A vehicular access-way serving no more than two lots or two dwelling units.

Duplex: See Dwelling, Two Family.

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Dwelling, Multifamily: A building or portion thereof containing 3 or more dwelling units that are entirely separated except for access to the outside or to a common basement.

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Dwelling, One Family: A detached building or Mobile Home designed or intended to be used exclusively for residential occupancy by one family only and containing only one dwelling unit. A separate room/apartment for members of the immediate family, including, but not limited to, parents, grandparents and children, may be included. This term does not exclude home occupations that conform to the standards set forth in Section _____.

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Dwelling, Townhouse: A multifamily dwelling containing not more than six dwelling units in which the dwelling units are arranged side-by-side so that each dwelling unit has a direct entrance to the outside and no dwelling unit is located so that it is under or over another dwelling unit.

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Dwelling, Two Family: A detached building where not more than two dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or to a common basement.

Dwelling in a Mixed-Use Building: A dwelling unit that is located in a building that contains nonresidential uses (not including home occupations or home businesses).

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Dwelling Unit: One or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for bathing, cooking and sleeping exclusively for the use of the family. The term shall include mobile homes and rental

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units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented.

Educational Facility: Any public, private, or parochial, profit or non-profit school for students of any age.

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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.

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** wastewater lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include **service drops** or **buildings** which are necessary for the furnishing of such services.

Expansion of a Structure: See **Structure Expansion**.

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

Family: One or more individuals living together as a single housekeeping unit and occupying a single dwelling unit. A family is not a group occupying a boarding, lodging or rooming house or a hotel/motel.

Farm Stand: A **structure** used to display and store **agricultural products** or from which they are sold. Does not include mobile vendors.

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Farming: See agriculture.

Farmland Any tract or tracts of land used for **commercial farming**:

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A. That consists of 5 or more contiguous acres;

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B. That has produced a gross income averaging no less than 300 dollars per acre for three 3 or more of the previous 6 calendar years; and

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C. That includes only the land on which the crop is produced.

Farmland does not include land used for woodlots, Christmas tree production, homes, farm **buildings**, **roads**, pastures, lawns or any area covered with noncrop-**vegetation** that borders **abutting land**.

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Fill: Sand, gravel, earth or other natural materials of any composition whatsoever placed or deposited by humans.

Financial Institution: Banks, savings and loan associations, and credit unions.

Firewood Processing: The **commercial** storage, sawing, chipping, splitting, compacting and related activities associated with producing of combustible wood products for sale. Firewood processing for one's personal **use** and associated incidental sale is an accessory use to the principle residential use..

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Fisheries: The process or occupation of taking fish or other sea products.

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Flea Market/Tent Sale: The sale of items normally associated with **yard sales** where the sale occurs more than 7 consecutive **days** or more than 4 times in a calendar year.

Flood Fringe: That portion of the **floodplain** outside the **floodway**.

Floodplain:The land that has been or may be hereafter covered by floodwater during the regional flood. The floodplain includes the **floodway** and **flood fringe**.

Floodway: The channel of a water course and the adjacent land areas that must be reserved in order to **discharge** the 100 year flood without cumulatively increasing the water surface elevation by more than 1 foot in height.

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

Footprint: The entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

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 Management Plan:** A site-specific document signed by a **professional forester** outlining proposed activities to ensure compliance with performance standards and regeneration requirements established pursuant to this subchapter.

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 (about twenty 20 feet) tall or taller.

Forester, Professional: A **person** licensed pursuant to Title 32 **M.R.S.**, Chapter 76.

Forestry: See **Forest Management Activities**.

Foundation: The supporting substructure of a **building** or other **structure**, including, but not limited to, **basements**, slabs, frostwalls, or other base consisting of concrete, block, brick, wood or similar material.

Freshwater Wetland: Freshwater swamps, marshes, bogs and similar areas, other than **forested wetlands**, which are:

1. Of ten (10) or more contiguous acres; or of less than ten (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 ten (10) acres; and
2. 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: The length of a straight line measured between the intersections of the side **lot lines** and a public or **private way**, **right-of-way** or a **shoreline**.

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Functionally Water-Dependent Uses: Those uses that require, for their primary purpose, location on submerged lands or 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 channel, 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. ~~38 § 436 A(6); 38 § 438 A(7) and DEP §§ 15 G & 17 and Chap 1000, 1-1-2015 ver.~~

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Funeral Home: An establishment that provides for the preparation of deceased People for burial and/or cremation and the holding of services related thereto. A **funeral home** does not include a crematory.

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Gambling: Any activity so defined by state or **local regulation** except fund raising activities conducted by **churches, places of worship,** veterans, service and nonprofit organizations and state lotteries.

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Garage Sale: See **Yard Sale**.

Great Pond: Any inland body of water which in a natural state has a surface area in excess of 10 acres and any inland body of water artificially formed or increased which has a surface area in excess of 30 acres. An artificially formed or increased inland body of water completely surrounded by land held by a single owner is not subject to the regulations for great ponds.

Great Pond Classified GPA - any great pond classified GPA, pursuant to ~~Title 38 M.R.S.A.~~ Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

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

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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.

Hazardous Material/Matter: Substances identified under ~~Title 38 M.R.S.~~ § 1319 that present a present or potential danger to the people of the State or to its natural environment when deposited on land or **discharged** on or into waters of the State or ambient air.

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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.

Height of a Structure: See **Structure Height**.

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High-water Line (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 **great ponds** that support **non-forested wetland** vegetation and hydric soils and that are at the same or lower elevation as the water level of the great pond during the period of normal high-water are considered part of the great pond. Same as Normal High-Water Line.

Home Business: Any activity performed for pecuniary gain in a **dwelling unit**, or other **structure** accessory to a dwelling unit, or directed from a dwelling unit by one or more residents of that dwelling unit that conforms to all requirements of this Ordinance.

Home Occupation: Occupations including, but not limited to, computer/fax/typewriter worker, investor advice and service, tele-communicator, and dressmaker, that are conducted solely by occupants of the dwelling, have minimal customer traffic and use no process or equipment that could alter the

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Hospital: A facility that provides in-patient care under the supervision of a medical professional. A hospital may include out-patient medical treatment and accommodations for short-term stays and may include provisions for longer-term rehabilitation of patients but shall not provide **nursing home** or extended care services.

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Hotel/Motel: A facility that provides transient housing that is not a **bed and breakfast** or an **inn**.

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Housing for Seasonal Workers: A residential facility that provides housing for employees of local businesses for not more than six (6) months in any calendar year. The accommodations may be in dwelling units, suites or dormitories.

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Increase in Non-conformity of a Structure: Any change in a **structure** or property which causes further deviation from the dimensional standard(s) creating the non-conformity such as reduction in **lot line** or **shoreline setback distance**, increase in **lot coverage**, or increase in **height of a structure**.

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Property changes or **structure expansions** which either meet the dimensional standard or which cause no further increase in the linear extent of non-conformance of the existing structure shall not be considered to increase non-conformity. For example, there is no increase in non-conformity with the lot line or shoreline setback if the expansion extends no further into the required setback area than does any portion of the existing **non-conforming structure**. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the lot line or shoreline than the closest portion of the existing structure from that lot line or shoreline than the closest portion of the existing structure from that lot line or shoreline. Included in this allowance are expansions which in-fill irregularly shaped structures. *{DEP § 17}*

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Individual Private Campsite: An area of land which is not associated with a **campground**, but which is developed for repeated camping by one group only, not to exceed 10 individuals and which involves site improvements which may include, but not be limited to, a gravel pad, **parking area**, fire place, or tent platform. *{DEP § 17}*

Indoor Theater: A **building** where an audience may view movies or live performances of plays, music, dance and similar presentations.

Industrial: The assembling, fabrication, finishing, **manufacturing**, packaging or processing of goods, or the extraction of minerals. *{DEP § 17 and Chap 1000, 1-1-2015 ver.}*

Commented [AD4]: Need to refer to agricultural processing mentioned and how it relates to this.
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Industrial, Commercial, and Industrial/Commercial Condominiums: ~~Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions under a declaration, duly recorded at the Lincoln County Registry of Deeds. A condominium is a legal form of ownership, not a land development type. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners. Shall not include residential uses, such as, but is not limited to, dwelling units, lodging houses, or retirement facilities. {Maine Condominium Act of 1983}~~

Institutional: A non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes. *{DEP § 17}*

Junkyard: Except as this term may otherwise be defined by State law in Title 30-A M.R.S. § 3752, a junkyard shall mean any activity that meets the definition of Automobile Graveyards or Automobile Recycling Business or any a yard, field or other area used to store:

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- A. Discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture;
- B. Discarded, scrap and junked lumber; and
- C. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material.
- D. ~~Garbage dumps, waste dumps and sanitary fills; and~~

Kennel: A commercial establishment for the boarding of 5 or more cats, 5 or more dogs or a combination of 5 or more cats and dogs for not more than fifteen (15) days, short periods of time.

Kiosk: A small non-residential structure for educational, scientific, or nature interpretation purposes.

Laboratory, Research Facility: A commercial or nonprofit facility that undertakes research in the social, natural or marine sciences or that conducts testing of a professional or technical nature. A facility may include housing for employees or seasonal workers.

Lake: See Pond.

Land Division: See Subdivision.

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. *{DEP Chap 1000, 1-1-2015 ver.}*

Landfill: Disposal of trash and garbage by burying it under layers of earth.

Large Scale Developments: Development regulated by Title 38, Subchapter 1, Article 6, Site Location of Development. *{38 M.R.S.A §§ 481—490}*

Laundromat: A commercial establishment for the washing and drying of personal clothes and household goods in machines located on the premises including related services such as wash/dry/fold, dry cleaning, alterations, and rental of formal wear or similar clothing.

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Library: An establishment that provides for the enlightenment of the community through the provision of

information to the public including activities such as the lending of books, printed materials, and electronic media, educational programs, and electronic access to information.

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Licensed Forester: A person licensed pursuant to Title 32 M.R.S Chapter 76. Same as **Professional Forester**. *{12 § 8868(3) and DEP § 17}*

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Limited Use – Very Small-Scale: A use that occupies a maximum of five hundred (500) square feet of gross floor area in a building and that has a maximum of three (3) off-street parking spaces to serve the use.

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Limited Use – Small-Scale: A use that occupies a maximum of one thousand (1,000) square feet of gross floor area in a building and that has a maximum of five (5) off-street parking spaces to serve the use.

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Limited Use – Medium-Scale: A use that occupies a maximum of two thousand (2,000) square feet of gross floor area in a building and that has a maximum of ten (10) off-street parking spaces to serve the use and that has a maximum of ten thousand (10,000) square feet of impervious surface associated with the use.

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Limited Use – Larger-Scale: A use that occupies a maximum of four thousand (4,000) square feet of gross floor area in a building and that has a maximum of twenty (20) off-street parking spaces to serve the use and that has a maximum of twenty thousand (20,000) square feet of impervious surface associated with the use.

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Limited Use – Very Large-Scale: A use that occupies a maximum of ten thousand (10,000) square feet of gross floor area in a building and that has a maximum of fifty (50) off-street parking spaces to serve the use and that has a maximum of fifty thousand (50,000) square feet of impervious surface associated with the use.

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Line of Navigation: The point where there is 3 feet of water at the lowest tide level of the year as identified in tide tables published by the National Ocean Service.

Local Ordinance or Regulation: Any municipal ordinance or regulation, portion of an ordinance or regulation, or amendments thereto, adopted by the Town of Boothbay.

Lodging House: A house where lodgings are rented, but does not include:

- A. A house where lodgings are rented to fewer than 5 lodgers;
- B. The dormitories of charitable, educational or philanthropic institutions; or
- C. The emergency use of private dwelling houses at the time of conventions or similar public gatherings.

The term lodger does not include people within the second degree of kindred to the person operating the lodging house. *{30-A § 380(A)}*

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Logo: A symbol or design used by a business as a means of identifying its products or services.

Lot: An area of land in single ownership, or single lease-hold, regardless of the dates or sources of acquisition thereof and regardless of the buildings and uses existing thereon, having definite boundaries established by recorded plan or deed.

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 minus areas beneath the roads serving more than two lots. *{DEP § 17 and Chap 1000, 1-1-2015 ver.}*

Lot Coverage: The areas included in the definition of **developed area** within the entire **lot**.

Lot Depth: The average **distance** between the front **Lot Line** and the rear **lot** line of a lot measured within the lot boundaries.

Lot Lines: A property boundary line other than a **shore line** of any **parcel** held in single or separate ownership: Except that where any portion of the property boundary line extends into or beyond a **public way**, the property line shall be deemed to be the public way **right-of-way** line. A high water line where the **lot** does not extend beyond the high water line (the ocean not a **stream** running through a property, for example) shall be considered a lot line for determining **lot area** and **lot coverage**.

Lot of Record: A **lot** that exists as shown on a **subdivision** plan approved by the Planning Board or a deed as shown or described in the records of the Lincoln County Registry of Deeds.

Lot Width: The average **distance** between the side **lot lines** of a **lot** measured within the lot boundaries.

Manufacturing: The making of goods and articles by hand or machinery including assembly, fabrication, finishing, packaging and processing.

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, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

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Maritime Activities: The repair, loading and unloading of boats, chandlery and other activities designed and intended to facilitate maritime trade. Only individuals and businesses providing these services to others for profit shall be subject to the provisions of this Ordinance. The construction of boats as a principal occupation is a **manufacturing** use when determining where the use may be conducted, unless it conforms to the standards of **home occupation**, in which case it shall be treated as a home occupation in determining where the use may be conducted. The storage of boats is a **storage facility** use when determining where the use may be conducted.

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.

Medical Facility: An establishment that provides out-patient medical treatment and care that is not part of a professional office such as an urgent care facility, x-ray or scanning facility, medical laboratory, physical therapy facility, or dispensary. A medical facility does not include facilities involving adult use marijuana as defined by state law.

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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. Excludes test pits for wells and wastewater disposal systems.

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Commented [AD5]: Does this mean that removal is from the parcel of land to another parcel or does it include extracting it on one part of the parcel and moving to another part of the same parcel. What about approved large-scale development where material is moved about the parcel? Exempt?

Mineral Extraction: Any operation within any 12 month period which removes more than 100 cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site. DEP § 17 Includes

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Quarrying,

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Miniature Golf: A novelty golf game usually played with a putter on a course having tunnels, bridges, sharp corners and other obstacles around, over or under which the ball must be guided.

Minimum Lot Width: The closest **distance** between the side **lot lines** of a **lot**. When only two lot lines extend into the **Shoreland Overlay Zone**, both lot lines shall be considered to be side lot lines. ~~DEP § 177~~

Mobile Home: A **residential dwelling unit** as defined in Title 10 M.R.S. § 9081.

Mobile Home Park: A **parcel** of land under unified ownership approved by the Town of Boothbay for the placement of 3 or more manufactured homes. ~~30 A § 4358(1)(B)~~

Mobile Home Park Lot: The area of land on which an individual home is situated within a **mobile home park** and which is reserved for use by the occupants of that home. ~~30 A § 4358(1)(B-1)~~

Multi-unit residential: ~~a~~ residential structure containing three (3) or more residential dwelling units. ~~DEP Chap 1000, 1-1-2015 ver.~~

Multiple Signs: See **Signs, Multiple**.

Municipal Services: Shall include all providers used in connection with the provision of services to the general public. These include, but not limited to, water and sewer.

Museum: An establishment for the display of historical or cultural artifacts or works of fine art including related research but not including uses in which the primary purpose of the establishment is the sale of merchandise or art to the public.

Native: Indigenous to the local forests. ~~DEP § 17 and Chap 1000, 1-1-2015 ver.~~

Neighborhood Store: A retail store of less than 1,600 square feet of selling space serving the residents in the immediate vicinity with items commonly found in a grocery or drug store for use off premise.

Noise: A sound of any kind, especially when loud, confused, indistinct, or disagreeable.

Non-conforming Condition: A **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. ~~DEP § 17 and Chap 1000, 1-1-2015 ver.~~

Non-conforming Lot: A single **lot of record** which does not meet the area, **frontage**, or width requirements of the **District** in which it is located and which was in lawful existence in the **Shoreland Overlay Zone** before a Shoreland Zoning Ordinance was first adopted on March 4, 1974, that existed elsewhere before a Zoning Ordinance for the Town of Boothbay was first adopted on August 20, 1979, or that existed before subsequent amendments of the Zoning Ordinance. ~~DEP § 177~~

Non-conforming Structure: A structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage or footprint, 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. ~~12 § 682(10) and DEP Chap 1000, 1-1-2015 ver.~~

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Commented [AD6]: A building or structure???

Commented [ARB7]: Include natural and scientific artifacts also? Wictionary.com has a good definition.

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Commented [M8]: Does this/should this include sale of gas – see automobile service station

Commented [ARB9]: It should not include fuel sales.

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Commented [AD10]: In what way is a noise confused?

Commented [ARB11]: Who gets to decide? Unconstitutionally vague?

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Commented [ARB12]: Poor definition, even if it is the State's. Shouldn't use part of the term to define the term.

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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 (Non-tidal Waters): See **High-water Line (Non-tidal Waters)**

Nursing Home: A facility which is operated in connection with a hospital, or in which nursing care and medical services are prescribed by or performed under the general direction of **people** licensed to practice medicine or surgery in the State, for the accommodation of convalescent or other ~~persons~~ **people** who are not acutely ill and not in need of hospital care, but who do require skilled nursing care and related medical services. The term "nursing home" shall be restricted to those facilities, the purpose of which is to provide skilled nursing care and related medical services for a period of not less than 24 hours per **day** to individuals admitted because of illness, disease or physical or mental infirmity and which provides a community service. ~~{22 § 1812A}~~

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Office, Business and Professional: The place of business of doctors, lawyers, accountants, financial advisors, architects, surveyors, **real estate** and insurance businesses, psychiatrists, counselors, and the like or in which a business conducts its administrative, financial or clerical operations. This definition includes banks and other financial services, government offices and offices of providers of **municipal services**.

Open Space 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.

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. ~~{DEP Chap 1000, 1-1-2015 ver.}~~

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Parcel: See **Tractor Parcel of Land**.

Commented [ARB13]: I want one o' them "tractor parcels"!

Parish House: A **building** accessory to a place of worship used primarily by the worshipers. Does not include **residential uses**.

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Commented [AD14]: What about a Parsonage?

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Parking Area: An open area, other than a **street** or other **public way**, used for the parking of motor vehicles and available for public or private **use**, whether for a fee or as a service or privilege for clients, customers, suppliers or residents.

Parking Facility: Any land or any interest in land, **structure** or portions of **structures**, and improvements on land or structures intended for the off-**street** parking of motor vehicles by the public **for a fee**. Any such structure may be either single or multi-level and either at, above or below the surface. This term also includes:

Commented [ARB15]: If there is no fee, what is it?

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- A. Facilities incident to the operation of those properties for the parking of motor vehicles, including, without limitation, ancillary waiting rooms, lockers, space for concessions, stores and offices, terminal facilities for trucks and buses, facilities for servicing motor vehicles and for the sale of gasoline, oil and other accessories, and all facilities appurtenant to these incident operations; and
- B. All property, rights, easements and interests relating to the facility that are considered necessary

for the construction or operation of the facility.

Parks and Recreation: Non-commercially operated recreational 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, 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 amusement and recreational facilities.

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. The term shall not include driveways or sidewalks/walkways.

Permitted Use: Any use allowed in a zoning district or a portion thereof and subject to the restrictions applicable to that district.

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. *{DEP § 17}*

Personal Services: A business or organization such as barbers, stylists, manicurists, counselors and therapists that provides services directly to an individual consumer at the place of operation of the business or organization. Personal services can include the incidental retail sale of products and goods that are related to the service provided.

Piers, docks, wharves, bridges and other structures and uses extended over or beyond the normal high-water line or within a wetland. *{DEP Chap 1000, 1-1-2015 ver.}*

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

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

Pond: Any inland body of water that is not a great pond, stream, outlet stream or tributary stream. An artificially formed inland body of water completely surrounded by land held by one owner is not subject to the regulations for ponds.

Shrub/open wetlands next to ponds are part of the pond if, during normal high water, the elevation of the water in the wetland is the same as that of the pond. {DEP clarification Shoreland Zoning News, Volume 18, Issue 2, Fall 2005}

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 which is the main use on the same lot. *{DEP Chap 1000, 1-1-2015 ver.}*

Printing: A retail establishment that provides duplicating services using photocopy, blueprint, or offset printing equipment, including collating of booklets and reports.

Private Way: A way privately owned and maintained over which the owner may restrict use or passage.

Commented [AD16]: Where do you place Paul Coulomb's restrooms that he has decided to maintain instead of the town?

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Commented [AD17]: See above

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Commented [ARB18]: If the exact same activities and structures and hence impacts are involved, why do we care whether it's operated for a profit or not? If it's not for profit, what do we call it?

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Commented [AD19]: What if the owner wants a railing or fencing around the patio to keep small children or animals within its bounds? Is it still a patio?

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Commented [AD20]: What about wholesale? Newspapers? Magazines? Tee-shirts and other clothing?

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Professional Forester: See Forester, Professional.

Prohibited Use: A use that is not allowed in a Zoning District or a portion thereof.

Public Easement: An easement held by a municipality for purposes of public access to land or water not otherwise connected to a public way, and includes all rights enjoyed by the public with respect to private ways created by statute prior to May 4, 1982. Private ways created pursuant to Title 23 M.R.S. §§ 3001 and 3004 prior to May 4, 1982 are public easements.

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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 government body or public entity. ~~(DEP § 17)~~

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 Way: A way owned or maintained by the State, or a municipality, over which the general public has a right to pass.

Quarrying: The removal of rock, slate, gravel, sand, topsoil or other natural material from the earth by excavating, stripping, leveling or other such process.

Commented [M21]: This is covered under mineral extraction and most of these things are not what is typically considered quarrying

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Real Estate: Land and structures attached to it. ~~(12 § 682(12))~~

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

Alluvial	Charles	Cornish	Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa	Podunk	Rumney	Saco
Suncook	Sunday	Winooski	(DEP § 17)		

Commented [M22]: Why do we need this wihin indoor and outdoor

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Recreational Facility: A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat-launching facilities. ~~(DEP § 17)~~

Commented [ARB23]: I know this is the current def, but might want to actually restrict it to things carried out indoors. And how do should we deal with things like the country clup fitness center, which has an indoor health club/gym and locker rooms plus outdoor pool and tennis courts? Treat it as multiple uses?

Recreational Facility - Indoor: Any commercial enterprise which receives a fee in return for the provision of some recreational activity including, but not limited to, video arcades, pool halls, bowling alleys, pinball arcades, gyms, health clubs and swimming pools. Does not include Indoor Theaters.

Commented [AD24]: Would the proposed non-commercial, roof-covered ice rink a group of residents want be indoor facility and would it be a recreational facility if it is non-commercial?

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Recreational Facility - Outdoor: Any commercial outdoor recreational use including, but not limited to, golf courses, tennis courts, riding stables, swimming pools, or ice skating rinks, but not including campgrounds, drive-in theaters, race tracks, water slides or miniature golf.

Commented [AD25]: See above comment.

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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 people, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Commented [ARB26]: Would this cover the tennis courts and ball field operated by the Ocean Point Colony Trust? What would they fall under? Similarly, the Y's Camp Knickerbocker? (or the Y itself for that matter, ignoring the fact it's in the Harbor). Those are noncommercial so what use would they fall under? Why do we care whether it's operated for profit or not?

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Recycling Operation (Recycling Center): A facility in which recoverable resources, such as vegetation, newspapers, glassware, plastics and metal cans, are collected, stored, flattened, crushed, bundled or processed for shipment. Does not include junkyards.

Commented [AD27]: ...or auto graveyards, or auto recycling businesses.

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Replacement System: A subsurface wastewater disposal system intended to replace:

1. An existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure; or
2. Any existing overboard wastewater discharge. *(DEP § 17)*

Residential dwelling unit- a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units. *(DEP Chap 1000, 1-1-2015 ver.)*

Commented [M28]: Dwelling unit is defined

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Residential Use: Accessory apartments; one family, two family and multifamily dwellings; lodging houses; and retirement facilities. This term does not exclude home occupations that conform to the standards set forth in Section 3.10.11.

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Commented [AD30]: Right section number?

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Residual basal area - the average of the basal area of trees remaining on a harvested site. *(DEP Chap 1000, 1-1-2015 ver.)*

Residual Stand - a stand of trees remaining in the forest following timber harvesting and related activities *(DEP Chap 1000, 1-1-2015 ver.)*

Restaurant: An establishment whose principal business is to prepare food to be served to and consumed by the public, and where drinks may be served as accessory to the principal use. Includes tea rooms.

Re-subdivision: The further division or relocation of lot lines of any lot or lots within any subdivision previously made and approved or recorded according to law, or the alteration of any streets or the establishment of any new streets with any subdivision previously made and approved or recorded according to law. Does not include conveyance so as to combine existing lots by deed or other instrument.

Retail Business: A business establishment engaged in the sale, rental, or lease of goods or services to the ultimate consumer for direct use or consumption and not for resale.

Commented [ARB31]: needs work

Commented [M32]: The definitions of retail and services are different from common usage. A service business that has customers is really defined as a retail business.

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Retail Fuel Distributor: A business establishment engaged in the sale of products for the heating of homes or for cooking to the ultimate consumer for direct use or consumption and not for resale.

Retirement Facility: A facility for retirement living which does not qualify as a hospital, congregate housing, or nursing home.

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Right-of-Way: All public or private roads and streets, state and federal highways, private ways, public easements, and public land reservations for the purpose of public access, including utility rights-of-way.

Riprap: Rocks, irregularly shaped, and at least 6 inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes not to exceed 2 units horizontal to 1 unit vertical or less.

River: A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of 25 square miles to its mouth. Standards for coastal wetland apply to land abutting the Cross, Damariscotta and Sheepscot Rivers. *(DEP § 17)*

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. This definition does not include a **driveway** as defined.

Roadside Stand: A **structure** used to display and store products or from which they are sold. Does not include **Farm Stand**.

Roof Sign: See **Sign, Roof**.

Salt Marsh: Areas of **coastal wetland** (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by **tidal waters**. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed. ~~(DEP § 17)~~

Salt Meadow: Areas of a **coastal wetland** that support salt tolerant plant species bordering the landward side of **salt marshes** or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by **tidal water**. Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black rush; common threesquare occurs in fresher areas. ~~(DEP § 17)~~

Sapling: ~~a tree species~~ that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level. ~~(DEP Chap 1000, 1-1-2015 ver.)~~

Sawmill: A site where trees, logs and other wood pieces are processed by cutting or chipping.

Seasonal Dwelling: A dwelling which existed on December 31, 1981, and which was not used as a principal or year-round residence during the period from 1977 to 1981. Evidence of **use** as a principal or year-round residence includes, but is not limited to:

- A. The listing of that dwelling as an occupant's legal residence for the purpose of:
 - 1. Voting.
 - 2. Filing a state tax return.
 - 3. Automobile registration; and
- B. The occupancy of that dwelling for a period exceeding 7 months in any calendar year. ~~(30-A § 4201(4))~~

Seedling: ~~a tree species~~ that is less than four and one half (4.5) feet in height above ground level. ~~(DEP Chap 1000, 1-1-2015 ver.)~~

Septic System: See **Subsurface Wastewater Disposal System**.

~~**Service Business:** A business establishment that provides services to the public and that attracts little or no client traffic, other than employees of the entity operating the principal use. Service businesses do not engage in the on premise sale, rental or lease of goods.~~

- A. In the case of electric service:
 - 1. The placement of wires 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
 - 2. The total length of the extension is less than 1,000 feet.
- B. In the case of cable and telephone service:
 - 1. The extension, regardless of length, will be made by the installation of optical fiber, cable, or wires to existing utility poles, or

Commented [ARB34]: Is the size limit applied to the individual or the species? Screwy wording. Shouldn't it be "an individual of a tree species"

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Commented [ARB35]: So if it crosses a corner of someone else's lot it's not a service drop. What is it? Is the distinction important to us?

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2. The extension requiring the installation of new utility poles or placement underground is less than 1,000 feet in length.

Setback: The required **distance**:

- A. Between any regulated **structure**, object or **use** and any other regulated structure, object or use; and
- B. Between any regulated structure, object or use and any physically or legally occurring entity, including, but not limited to, **lot lines, roads** and the **high-water line** of a **great pond, stream, outlet stream, tributary stream** or **upland edge of a wetland**.

Sex Related Businesses: Any business offering, selling or displaying sex or sexual related objects.

Includes, but not limited to, pornographic shops, adult book, video or movie stores, massage parlors, strip-tease clubs, and top-less bars or **restaurants**.

Shopping Center: Any concentration of two or more retail stores or service establishments under one ownership or management containing 25,000 square feet or more of total gross floor space.

Shore Frontage: The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline. *{DEP Chap 1000, 1-1-2015 ver.}*

~~**Shoreland Overlay Zone:** The land area located within two hundred, fifty (250) feet horizontal distance, of the normal high water line of any great pond or river; within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within two hundred, fifty (250) feet of the upland edge of a freshwater wetland; or within seventy five (75) feet, horizontal distance, of the normal high water line of a stream. *{DEP Chap 1000, 1-1-2015 ver.}*~~

~~**Short-Term Rental:** A dwelling unit or one or more rooms within a dwelling unit that is offered for transient occupancy for a fee in which the minimum period of occupancy of three (3) days or less. So-called "weekly rentals" in which the period of occupancy is five(5) or more days are not **short term rentals**.~~

Sign: Any **structure**, display, **logo**, device or representation which is designed or used to advertise or call attention to any thing, **person**, business, activity or place and is visible from any **public way**. It does not include the flag, pennant or insignia of any nation, state or town. Whenever dimensions of a sign are specified they shall include frames.

Sign, Billboard: A **structure** designed, intended or used for advertising a product, property, business, entertainment, service, amusement or the like, and not located where the matter advertised is available or occurs.

Sign, Roof: A **sign** located upon or over a roof of a **structure**.

Sign, Temporary: A **sign** or advertising display designed, intended to be displayed or displayed for a short period of time.

Sign, Wall: A **sign** that is attached parallel to the exterior surface of a **structure**.

Signs, Multiple: A group of **signs** clustered together in a single **structure** or compositional unit.

Single Family Dwelling: See **Dwelling, One Family**.

Skid Road or Skid Trail - a route repeatedly used by forwarding machinery or animal to haul or drag

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Commented [ARB37]: If I put up a sign that contains among other things an image of the US flag or seal of the town, it's technically not a sign under this definition.

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Commented [AD38]: Are billboards not on the business property allowed in the state?

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Commented [AD39]: How long is a short period? Six weeks as was previously allowed for "political" signs?

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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. ~~(DEP Chap 1000, 1-1-2015 ver.)~~

Sludge: Non-hazardous solid, semisolid or liquid waste generated from a **municipal, commercial** or **industrial** wastewater treatment plant, water supply treatment plant or wet process air pollution control facility or any other waste having similar characteristics and effect. The term does not include industrial **discharges** that are point sources subject to permits under the federal Clean Water Act, 33 United States Code, Section 1342 (1999).

Small Engine Repair & Sales: Any **building** or premises where small engines are sold or offered for sale or where they are repaired or maintained. A small engine is an engine typically **used for personal use**, including, but not limited to, lawn mowers, garden tractors, chain saws, weed trimmers and tillers.

Start of Construction or Operation:

- A. For a permit or approval involving the construction of a **structure** with a **foundation**, start of construction means the completion of the structure's foundation and a cap for water tightness.
- B. For a permit or approval involving a structure without a foundation or a permit or approval not involving a structure, start of construction means the completion of at least 25% of the cost of the work for which the permit or approval has been secured.
- C. In the case of a **subdivision**, start of construction means the completion of at least 25% of the cost of the proposed improvements within the subdivision, including, without limitation, site work, **road** installation, and utility installation; provided that if the subdivision consists of individual **lots** to be sold or leased, the cost to construct **structures** on the lots shall not be included in the cost of the proposed improvements.

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. ~~(DEP Chap 1000, 1-1-2015 ver.)~~

Stream: A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition, highest resolution version of a the national hydrography dataset available from the United States Geological Survey 7.5 minute series topographic on the website of the United States Geological Survey or the national map, or if not available, a 15minute series topographic map, to the point where the body of waterstream becomes a river or flows to where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland within the shoreland area and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

Street: See **Road**.

Storage Facility: A **structure** or area for the storage of items, including, but not limited to, boats and other water craft, as a business.

Storage Structure: A **structure** with areas for rent for the storage of items by the public.

Commented [AD40]: Items listed are quite often used commercially and commercial owners use small engine repair shops.

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Structure: Anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of people, animals, goods or property of any kind, together with or anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors.. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A M.R.S. § 4201, subsection 5; geothermal heat exchange wells as defined in Title 32 M.R.S. § 4700-E, subsection 3-C; or wells or water wells as defined in Title 32 M.R.S. § 4700-E, subsection 8.

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Structure, Accessory: See **Accessory Structure**.

Structure Expansion: An increase in the **floor area** or **volume of astructure**, including all extensions, including, but not limited to, attached **decks**, garages, porches and greenhouses. ~~*{DEP § 17}*~~

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Structure Height: The vertical **distance** between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area. ~~*{DEP Chap 1000, 1-1-2015 ver.}*~~

Structure Volume:The volume of all living areas of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Subdivision: This term shall be the same as defined in Title 30-A M.R.S. §§ 4401(4) & 4402. For the current definition, see the **Code Enforcement Officer**.

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Substantial start - completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost. ~~*{DEP Chap 1000, 1-1-2015 ver.}*~~

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Subsurface Wastewater Disposal System: Any system designed to dispose of waste or wastewater on or beneath the surface of the earth; including, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any **discharge** system licensed under Title 38 M.R.S. § 414, any surface waste water disposal system, or any **municipal** waste water treatment system. ~~*{30-A § 4201(5) and DEP § 17}*~~

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Sustained Slope: A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area. ~~*{DEP § 17}*~~

Tavern: An establishment where the serving of liquor by the drink to the general public is the principal business and where food may be served or sold as accessory to the **principal use**.

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Temporary or Temporary Use: Any period of time or **use** not to exceed 30 consecutive **days**, except as applies to **piers** and other **structures** and uses extending over or beyond the high-water line or within a **wetland**.

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Temporary Business Housing: A **dwelling unit** provided as a convenience for the owners, employees, contractors, and customers of a business.

Temporary Sign: See **Sign, Temporary**.

Terminal for Bulk Oil and Gas: A premises where oil and gas products used for domestic or

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commercial heating, cooking and similar purposes are stored and from which they are distributed to the ultimate consumers or to retail or **wholesale business**. Does not include oil and gas products used for **manufacturing** or **industrial** purposes or for fueling of boats in a **marina**.

Tidal Water: All waters affected by tidal action during the highest annual tide. *{DEP § 17 and DEP Chap 1000, 1-1-2015 ver.}*

Timber Harvesting: The cutting and removal of timber for the primary purpose of selling or processing forest products. "Timber harvesting" does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. The cutting or removal of trees in the shoreland zone on a **lot** that has less than two (2) acres within the **Shoreland Overlay Zone** shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to **Section 3.11.3, Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.** *{12 § 8868(4) and DEP § 17 and DEP Chap 1000, 1-1-2015 ver.}*

Timber Harvesting and Related Activities: **Timber harvesting,** the construction and maintenance of **roads** used primarily for timber harvesting and other activities conducted to facilitate timber harvesting. *{12 § 8868(5) and DEP § 17}*

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** are considered each a separate tract or parcel of land unless the road was established by the owner of the land on both sides of the road. *{30-A § 4401(6)}*

Trailer: Any non-motorized vehicle used or constructed so as to permit its being used as a **temporary** dwelling for travel, recreation and vacation use. This term shall include but not be limited to camper, camper-trailer and all other similar short-term shelter devices.

Transportation Terminal: A place for taking-on or discharging of passengers.

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) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity. *{DEP Chap 1000, 1-1-2015 ver.}*

Tributary Stream: A channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial **vegetation** or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland. **NOTE:** Water setback requirements apply to tributary streams within the shoreland zone. *{DEP §§ 15(B)(1) & 17 and DEP Chap 1000, 1-1-2015 ver.}*

Trucking Distribution Terminal (Truck Terminal): A **building** or area in which items brought in by truck are sorted or stored before reshipment. The terminal facility may include storage areas for trucks, and buildings or areas for the repair of trucks associated with the terminal.

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 spring highest annual tide level, including all areas affected by tidal action. For purposes of a

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Commented [AD45]: This does not follow the requirements in state statutes. There is a date of Sept 23, 1972 that requires lots on separate side of the road to be individual lots. After that date lots divided by a roadway by the owner of the land can have the lots considered as one lot.

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Commented [AD46]: Not all trailers are of the recreational use type. Utility, snowmobile, flatbeds, construction. What about commercial trailers (the one hauled by tractor trucks) that are being used as storage sheds? Need to say something about them and where they can be used in which zoning districts. Set them up as needing an annual license/permit so that they cannot be "grandfathered".

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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) feet) tall or taller.

Use: The purpose for which land or a **structure** is arranged, designed or intended, or for which either land or a structure is maintained or occupied. This includes, but is not limited to, activities on the land such as clearing of **vegetation** and **timber harvesting**.

Use Accessory: See **Accessory Use**.

Use, Expansion: The addition to an existing **use** such as the addition of one or more months to a use's operating season; the use of more **floor area** or ground area devoted to a particular use; or the addition of one or more **permitted uses**. *{DEP § 17}*

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Use, Principal: See **Principal Use**.

Variance: Permission to depart from the literal requirements of a **development** or **use** regulation of this Ordinance upon approval of the Board of Appeals.

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 feet above ground level. *{DEP § 17}*

Velocity Zone: An area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. *{DEP § 17}*

Veterinary Hospital (or Clinic): A **building** used for the diagnosis, care and treatment of ailing or injured animals that may include overnight accommodations. The overnight boarding of healthy animals shall be considered a **kennel**.

Volume of a Structure: See **Structure Volume**.

Waiver: Permission to depart from the literal requirements of a **development** or **use** regulation of this Ordinance upon approval of the Planning Board.

Wall Sign: See **Signs, Wall**.

Warehousing: The storage, deposit, or stocking of merchandise or commodities in a **structure** or room, or on the premise. Includes **temporary** storage of materials normally associated with construction and landscaping. This includes, but is not limited to, sand, gravel, dirt, rocks and mulch.

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Waste Disposal: The removal or destruction of by-products resulting from a process other than the products for which the process is implemented. This includes, but is not limited to, saw dust, welding rods, animal dung, uneaten food and other household waste, grass clippings, tree limbs and other **vegetation**, building and construction debris, and wastewater. The term excludes **sludge**. Facilities for the disposal of human wastes accumulated on boats are services provided by **marinas**. Facilities to for the disposal of human wastes accumulated on **recreational vehicles** are services provided by **campgrounds**.

Commented [AD48]: Campgrounds are not the only place that wastewater can be disposed. There are several places where there are dump stations not part of a campground.

Waste Disposal Landfill: A facility licensed by the State of Maine for the disposal of municipal solid wastes.

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Waste Transfer Facility: A **building** or area in which waste is sorted, processed or stored for reshipment. *See Recycling Operations.*

Water body: Any great pond, river or stream. *{DEP Chap 1000, 1-1-2015 ver.}*

Water Crossing: Any project extending from one bank to the opposite bank of a **stream, outlet 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. *{DEP § 17}*

Wetland: A freshwater or coastal wetland. *{DEP § 17 and DEP Chap 1000, 1-1-2015 ver.}*

Wind Turbine:

Wholesale Business: A business establishment engaged in the bulk sale of goods or materials, not manufactured or processed on the premises.

Windfirm: The ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage. *{DEP § 17}* **[Timber Harvesting]**

Wood Processing: The processing of wood by cutting, planing, compressing, splitting, gluing and veneer production except for **firewood processing**.

Woody Vegetation: Live trees or woody, non-herbaceous shrubs. *{DEP § 17}*

Yard: An unoccupied space, open to the sky, on the same **lot** with a **structure**.

Yard Sale: The sale of personal household items to the public but not by consignment. This term shall include **garage sales** and other such sales from a residential dwelling unit or property. **[Administrative Code]**

Commented [ARB49]: This is a whole area we need to address - as a use, shore support facilities for offshore, etc.

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