

## CHAPTER 13C. LAND USE DEFINITIONS ORDINANCE

Except where specifically defined herein, all words used in this Code shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular; the word "lot" includes the word "plot"; the word "building" includes the word "structure"; the word "may" shall be permissive; the word "shall" is always mandatory; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied."

Definitions apply to all Land Use Ordinances unless otherwise specified.

**Abutting Property:** Any lot which is physically contiguous with the subject lot even if only at a point and any lot which is located directly across a street or right-of-way from the subject lot such that the extension of the side lot lines of the subject lot would touch or enclose the abutting property.

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

**Accessory Structure:** A structure that is incidental and subordinate to the principal use or structure. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

**Accessory Use:** A use customarily incidental and subordinate to the principal building or use and located on the same lot with such principal building or use. Such use shall include one accessory apartment that is clearly a subordinate unit related to the main residence. Such unit shall not be counted as a second whole unit for the purposes of zoning, however adequate off street parking shall be required and all requirements of the State of Maine Plumbing Code shall be met.

**Addition:** Any proposed change which increases the size of a building.

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

**Affordable Housing:** Housing units which will meet the sales price and/or rental targets established by the U.S. Department of Housing and Urban Development for housing affordability.

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

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

**Alteration:** A change, addition, or modification, requiring construction, including any change in the location of structural members of buildings such as bearing walls, columns, beams, or girders which would alter or affect any exterior architectural features.

**Antenna:** A system of electrical conductors that emit or receive radio waves, including microwave dishes.

**Applicant:** The person applying for subdivision approval under these regulations.

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

**Area of Special Flood Hazard:** The land in the floodplain having a one percent or greater chance of flooding in any given year as specifically identified in the Flood Insurance Study cited in Article 1 of the Flood Plain Management Ordinance.

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

**Attic:** The unfinished portion or portions of a building which are located immediately below and wholly or partly within the roof framing.

**Automobile Graveyard:** A yard, field, or other area used as a place of storage for three or more unserviceable, discarded, worn-out or junked automobiles.

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

**Backlot:** A lot that has no frontage on a road, street or private way. Backlots shall not be permitted in the Town of Pittsfield.

**Banner:** Any sign of lightweight fabric or similar material that is mounted to a pole or a building by a frame at one or more edges. National, state or municipal flags, or the official flag of any institution or business shall not be considered a banner.

**Basal Area:** The area of cross-section of a tree stem at 4½ feet above ground level and inclusive of bark.

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

**Basement:** Any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

**<sup>1</sup>Bed and Breakfast:** A type of lodging based on a permanent single family dwelling unit where the occupant acts as the proprietor offering for payment sleeping rooms on a transient basis to the general public. A transient basis is a maximum stay of 30 days in any consecutive 45-day period. Bed and Breakfasts shall be classified as follows:

Class 1 Bed and Breakfast-more than five (5) bedrooms for lease,

Class 2 Bed and Breakfast-more than two (2) bedrooms but less than six (6) for lease.

Class 3 Bed and Breakfast-less than three (3) bedrooms for lease.

**Billboard:** A structure, either free standing or attached to a building, the surface of which is available for hire for advertising purposes.

**<sup>2</sup>Biomedical Waste Processing Facility:** Any building, structure, site or equipment used in an activity or process designed to process, treat and sterilize biomedical waste from medical facilities in preparation for disposal at an approved disposal site. A biomedical waste processing facility shall be considered high tech employer for the purposes of use classification under this ordinance. These facilities shall not allow incineration as a means of treating the medical waste.

**Boardinghouse:** A building other than a hotel or restaurant where meals or lodging are regularly furnished by pre-arrangement for compensation.

**Boat Launching Facility:** A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

**Buffer Area:** A part of a property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g., noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

**Building:** Any permanent structure, having one or more floors and a roof, which is used for the housing or enclosure of persons, animals or property. When any portion thereof is separated by a division wall without opening, then each such portion shall be deemed a separate building.

**Building Height:** The vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure to the highest point of flat roofs; to the mean height level between the eaves and the ridges of gable, gambrel, hip, and pitch roofs; or to the deck line of mansard roofs.

**Building Width:** The minimum horizontal dimension of the principal part of the building. The width shall not include outside porches not used as normal living space.

**Business and Professional Offices:** Offices for the conduct of business which involve no sales of products available on the premises, except those pertaining to the profession, or storage of materials or equipment which are used off the premises. The following uses are not considered business and professional offices:

- 1) Distribution facilities
- 2) Sales offices involving on-premises display and sales of materials
- 3) Offices of building contractors involving the storage of materials or equipment.

**Campground:** Any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

**Capital Improvements Program (CIP):** The municipality's proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

**Capital Investment Plan:** The portion of the comprehensive plan that identifies the projects for consideration for inclusion within the capital improvements program, together with an estimate of the order of magnitude for the cost of each project.

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

**Change from One Category of Nonresident Use to Another Category of Nonresidential Use:** A change in the type of occupancy of a nonresidential building or structure, or a portion thereof, such that the basic type of use is changed, such as from retail to office or storage to a restaurant, but not including a change in the occupants.

**Charitable/Benevolent Association:** A non-profit organization that is not organized or operated for the purpose of carrying on a trade or business. No part of its net earnings may benefit any member of the association. The purpose shall be to provide religious, social, physical, recreational and/or benevolent benefits to its members/associates.

**Code Enforcement Officer:** A person appointed by the municipal officers to perform the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

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

**Common Open Space:** Land within or related to a subdivision, not individually owned or within an individual lot, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.

**9Communications Tower:** Any free standing, guyed or building mounted structure containing antennas for cellphone, microwave, relay, TV or radio broadcast and commercial two way radio service. Not including personal TV reception, Citizens Band and Short Band radio antennas.

**Comprehensive Plan:** A document or interrelated documents adopted by the Legislative Body, containing an inventory and analysis of existing conditions, a compilation of goals for the development of the community, an expression of policies for achieving these goals, and a strategy for implementation of the policies.

**Conditional Uses:** Are uses of a special nature as to make impractical their predetermination as a principal use in a district.

**Corner Lot:** A lot abutting two or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side. Such corner lots shall be deemed to have two front yard setbacks.

**Coverage:** That percentage of the plot or lot area covered by the building area.

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

**Day Care Center:** A home or other facility used generally to provide day care services or baby-sitting services for thirteen (13) or more children. This use shall be a principal use and shall require a conditional use approval and site plan approval by the Planning Board.

**Day Care Home:** A single family home used generally to provide day care services or baby-sitting services for six (6) or fewer children. This shall be considered a home occupation.

**3Day Care Home, Class A:** A home used generally to provide day care services or baby-sitting services for more than six (6) but twelve (12) or fewer children. This use shall be an accessory to the residential use but shall require a conditional use approval from the Planning Board.

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

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

**Development:** Means any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

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

**Direct Watershed of a Great Pond:** That portion of the watershed that drains directly to the great pond without first passing through an upstream great pond. For the purposes of these regulations, the watershed boundaries shall be as delineated in the comprehensive plan. Due to the scale of the map in the comprehensive plan there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant can not agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a registered land surveyor showing where the drainage divide lies.

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

**Driveway:** A vehicular access-way less than five hundred (500) feet in length serving two lots or less.

**Drive-through Service:** A retail or service activity in which the customer does not leave his/her motor vehicle to complete the transaction, and which complies with the following requirements:

- 1) A separate, defined stacking lane is provided which will accommodate a minimum of five vehicles.
- 2) The transaction occurs at a defined service window or terminal.
- 3) The service window or terminal is located a minimum of sixty (60) feet, with the maximum to be established at Site Plan Review, from the point of egress onto the nearest street right-of-way.
- 4) The architectural design of the service window or terminal shall be compatible with the principal use.

**Dwelling:** A building designed or used as the living quarters for one or more families. The term shall not be deemed to include a hotel, motel, rooming house, mobile home, or trailer, but shall include a modular housing unit consisting of two or more units of which neither unit is a complete dwelling unit.

**Dwelling: Multi-Family:** A single building designed for or occupied by three (3) or more families with separate housekeeping and cooking facilities for each.

**Dwelling: Single-Family:** A detached residence for, or occupied by, (1) family only.

**Dwelling: Two Family:** A residence designed for or occupied by two (2) families only, with separate housekeeping and cooking facilities for each.

**Dwelling Unit:** A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, and sleeping facilities; includes single family houses, and the units in a duplex, apartment house, multifamily dwellings, and residential condominiums.

**Elevated Building:** A non-basement building

- a. built, in the case of a building in Zones AE or A, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones AE or A, Elevated Building also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters.

**Elevation Certificate:** An official form (FEMA Form 81-31, 03/97, as amended) that:

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- b. is required for purchasing flood insurance.

**Emergency Operations:** Operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

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

**Enlargement or Expansion of a Structure:** An increase of the building footprint and/or increase in the height of the structure beyond its present highest point. Alterations of existing buildings which are required in order to meet the requirements of the Americans with Disabilities Act (ADA) and/or the State Fire Code are not considered to be enlargements or expansions of a structure and are not required to meet otherwise applicable setback requirements, provided the alterations are the minimum necessary to satisfy the ADA and/or the latest NFPA 101 Life Safety Code.

**Enlargement or Expansion of Use:** Any intensification of use in time, volume, or function, whether or not resulting from an increase in the footprint, height, floor area, land area or cubic volume occupied by a particular use. Increases which are required in order to meet the requirements of the Americans with Disabilities Act and/or the State Fire Code are not considered to be enlargements or expansions of use.

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

**Exterior Architectural Features:** Elements of a building's outside appearance including but not limited to, architectural character, general composition and general appearance of exterior siding, exterior trim, change in size of door and window openings, roofs, porches, signs, fire escapes, and accessory buildings and solar facilities.

**Family:** One or more persons occupying a dwelling and living as a single housekeeping unit as distinguished from a group occupying a rooming house or motel.

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

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

**Flag:** Any fabric or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.

**Flood or Flooding:**

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  1. The overflow of inland or tidal waters.
  2. The unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated

cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.,1. of this definition.

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

**Flood Insurance Rate Map:** The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the Town of Pittsfield, Maine.

**Flood Insurance Rate Map (FIRM):** An official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

**Flood Insurance Study:** See Flood Elevation Study.

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

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

**Floodplain or Flood-prone Area:** Any land area susceptible to being inundated by water from any source (see flooding).

**Floodproofing:** Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

**Floodway:** The channel of a river or other watercourse and 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 one foot in height.

**Floodway Encroachment Lines:** The lines marking the limits of floodways on federal, state, and local floodplain maps.

**Floor Area:** The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

**Floor Area Ratio:** A measure of the intensity of the use of a piece of property determined by

**Floor Area Ratio:** A measure of the intensity of the use of a piece of property determined by dividing the sum of the gross floor area of all floors of all principal buildings or structures by the total area of the parcel.

**Footprint:** Area of the ground covered by a structure, including the foundation and all areas enclosed by exterior walls and footings.

**Forest Management Activities:** Timber cruising and other forest resources 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.

**Forested Wetland:** A freshwater wetland dominated by woody vegetation that is six (6) meters tall or taller.

**Foundation:** The supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frostwalls.

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

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

- 1) Often or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of 10 acres; and
- 2) Inundated or saturated by surface or ground water at a frequency and 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 horizontal, straight-line distance between the intersections of the side lot lines with the road right-of-way.

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

**Functionally Water-Dependent Uses:** Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, inland waters and that can not be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, waterfront dock facilities, boat building facilities, marinas, and uses that primarily provide general public access to inland waters.

**Great Pond:** Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

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

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

**Height of a Structure:** The vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.

**High Intensity Soil Survey:** A map prepared by a Certified Soil Scientist, identifying the soil types down to one eighth of an acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

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

**Historic Structure:** Any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  1. By an approved state program as determined by the Secretary of the Interior, or
  2. Directly by the Secretary of the Interior in states without approved programs.

**Home Occupation:** An occupation or profession that is accessory to a residential use and is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit.

**Hotel/Motel:** A building or group of buildings containing six or more guest rooms and offering lodging accommodations (which may include such accessory services as food and beverages, meeting rooms, entertainment and recreation) to transient guests. A hotel/motel may provide kitchens or kitchenettes in guestrooms and will not, as a result, be considered a dwelling unit under this Ordinance, as long as the hotel/motel is occupied exclusively by transient guests. A transient guest is a person who occupies the hotel/motel for no more than 186 days in any 365-day period.

**Household Pets:** Those animals normally considered as household companions, and not including horses, cows, sheep, goats, mink, swine, chickens, turkeys or any animals raised for sale or for the sale of their products.

**Impervious Coverage Ratio:** A measure of the intensity of the use of a piece of property determined by dividing the total area of the site covered by impervious surface including roofs, parking lots, roads, access drives, service areas, paved drainage ways, and similar impervious surfaces by the total area of the parcel.

**Impervious Surface:** The area covered by buildings and associated constructed facilities, areas which have been or will be covered by a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas, which have been or will be compacted through design or use to reduce their permeability.

Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam, or other surfaces which similarly impede the natural infiltration of stormwater.

**Increase in Nonconformity of a Structure:** Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded

laterally provided that the expansion extends no closer to the water body or wetland than the closest portion of the existing structure from that water body or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

**Individual Private Campsite:** An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to gravel pads, parking areas, fire places, or tent platforms.

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

**Infestation:** To be overrun with insects, rats, mice, vermin or other pests contiguous to a structure or premises in numbers or quantities large enough to be harmful, threatening or obnoxious.

**Junk:** For purpose of this Ordinance, “junk” shall include all materials set forth in 30-A M.R.S.A. § 3752(4) and the following: any accumulation of refuse, household trash, used automobile and equipment parts, debris, building materials, inoperable machinery, glass, used furniture, used doors or windows, used household items and unused and inoperable appliances.

**Junkyard:** The definition of “junkyard” shall be the same as set forth in 30-A M.R.S.A. §3752(4).

**Kennel:** An establishment in which more than four (4) dogs or four (4) cats more than one year old are housed, bred, boarded, trained or sold.

**Landscaped Buffer Strip:** A landscaped area adjacent to and parallel with the front property line of a lot or parcel. The border strip may be crossed by drives, access roads or pedestrian ways but otherwise shall be maintained in a landscaped state. The border strip shall not be used for parking, the storage of materials, equipment or wastes or the display of any equipment, materials or products.

**Large Scale Commercial Development:** A commercial use that (1) utilizes more than two (2) acres for building, parking, storage, display or any other related use or operation; (2) has more than five (5) employees on site; and (3) generates more than twenty-five (25) truck or car trips per day. This definition shall not include Timber Harvesting or Agriculture use.

**Level of Service:** A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the Highway Capacity Manual, 1991 edition, published by the National Academy of Sciences, Transportation Research Board as amended from time to time. There are six levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

**Loading Area:** A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.

**Locally-Designated Passive Recreation Area:** Any site or area designated by a municipality for passive recreation that is open and maintained for public use and which: a) has fixed boundaries, b) is owned in fee simple by a municipality or is accessible by virtue of public easement, c) is identified and described in a local comprehensive plan and, d) has been identified and designated at least nine months prior to the submission of the Applicant's Wind Energy Facility permit application.

**Locally Established Datum:** Means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

**Lot:** A parcel of land in single ownership, or one leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Board and recorded in the County Registry of Deeds.

**Lot Area:** A parcel of land in single ownership, or one leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Board and recorded in the County Registry of Deeds.

**Lot Lines:** The lines bounding a lot. Wherever a lot abuts a street, the sideline of the street on the side abutting the lot shall constitute the lot line.

**Lowest Floor:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI of this ordinance.

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

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

**Manufactured Housing:** A structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. For the purposes of this Ordinance the term includes:

## Mobile Homes

1. Units constructed after June 15, 1976 and commonly called “newer mobile homes” which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development Standards, meaning structures transportable in one or more sections, which in the traveling mode are 14 body feet or more in width and are 750 or more square feet in size (not including any tongue) and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including plumbing, heating, air conditioning or electrical systems contained in the unit.

## Modular Homes

1. Units commonly called “modular homes” which the manufacturer certifies are constructed in compliance with Title 10, Chapter 951, and rules adopted under that Ordinance, meaning structures transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to the required utilities including plumbing, heating, air conditioning or electrical systems contained in the unit.

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

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

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

**<sup>8</sup>Medical Marijuana Dispensary:** A “registered dispensary” as that term is defined by 22 M.R.S.A. Section 2422(6), as may be amended from time to time, including any location at which marijuana is cultivated by a registered dispensary pursuant to 22 M.R.S.A. Section 2428, as may be amended.

**<sup>9</sup>Meteorological Tower (MET Tower):** A Tower used for the measurement and collection of weather data that supports various types of equipment, including but not limited to anemometers, data recorders, and solar power panels. MET Towers may also include wildlife related equipment such as ANABAT detectors, bird diverts and wildlife entanglement protectors.

**<sup>8</sup>Methadone Clinic:** A clinic or similar facility that provides for the operation of substance abuse treatment programs to provide treatment for persons with heroin or other opiate addictions where

the treatment provided includes administration or prescription of methadone or other opioid replacements (e.g., methadone, methadone hydrochloride or LAAM (levo-alpha-acetyl-methadol)) for either detoxification or maintenance purposes, which treatment programs are typically licensed by the State of Maine Department of Health and Human Services Division of Licensing and Regulatory Services under 14-118 Code of Maine Regulations (Chapter 5), as may be amended from time to time.

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

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

**Minimum Lot Width:** The closest distance between the side lot lines of a lot.

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

<sup>4</sup>**Mixed Use Complex:** A building designed for the operation of both business and commercial use operations. The building shall be considered a single principal use without regard for the number of business or commercial use entities that it contains.

**Mobile Home Park:** A contiguous parcel of land under unified ownership approved by the municipality for the placement of 3 or more manufactured homes. Individual home sites may be rented or leased.

**Mobile Vending Unit:** A vehicle, trailer, van, pushcart or portable structure which is temporarily located on private property for the purpose of operating a retail business or service business and removed from the site every day or seasonally, but which does not include such structures temporarily located on any particular private property for such purposes for less than one-half hour. It shall not include such uses as construction offices during the duration of a building project or sales as part of an approved farmers market, fair or similar event.

**Multifamily Development:** A subdivision which contains three or more dwelling units on land in common ownership, such as apartment buildings, condominiums or mobile home parks.

**Multi-Unit Residential:** A residential structure containing three (3) or more residential dwelling units.

**Municipal Engineer:** Any registered professional engineer hired or retained by the municipality, either as staff or on a consulting basis.

**Municipality:** The Town of Pittsfield.

**Nacelle:** The frame and housing at the top of the Tower that encloses the gearbox and generator.

**National Geodetic Vertical Datum (NGVD):** The national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called “1929 Mean Sea Level (MSL).”

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

**Net Acreage:** The net area of any parcel or site generally suitable, in its natural state, for development and theoretically related to the natural capacity of the land to support a certain intensity of use. The net acreage shall be determined by subtracting unsuitable areas from the gross acreage of the parcel. The following original land areas shall be considered unsuitable and shall be deducted in the following order:

1. Fifteen percent (15%) of the total acreage of the parcel as an estimated allowance for new access roads and parking areas, whether or not the actual area devoted to these uses is greater or less than 15 percent.
2. Areas that are, because of existing land uses, natural features, or lack of access, isolated and unavailable for building purposes or for use in common with the remainder of the parcel, as determined by the Planning Board.
3. Areas within a floodway or 100-year flood hazard area, as shown on the Federal Flood Boundary and Floodway Map or Federal Flood Insurance Rate Map.
4. Areas characterized predominately by soils classified by the U.S. Soil Conservation Service as either a) “very poorly drained” or b) “poorly drained” and having a slope of less than three percent (3%).
5. Areas of rights-of-way and easements, except for new access roads deducted above and rights-of-way or easements for landscaped buffer strips and walking/bicycle paths not part of a street right-of-way.
6. Stream channels, as measured from the top of banks, and other surface water bodies, as measured from the high water mark.
7. Areas of 33 percent sustained slope or more. Slope areas of 20 to 33 percent shall also be

deducted unless the developer can demonstrate to the Planning Board's satisfaction that these slopes will be used as part of the overall plan for the development, that they are stable for structures, if so utilized, and that any slope development will minimize soil erosion and comply with Maine State Plumbing Code.

8. Areas of un-reclaimed gravel or borrow pits.
9. Land in Resource Protection Districts.
10. Other areas that the Planning Board determines could not, in their natural state, be incorporated into conventional subdivision lots of the minimum required area.

No building or structure shall be sited in areas treated as 100 percent deductions from the parcel's gross area. Siting of structures in areas treated as 50 percent deductions shall be discouraged but permitted where the applicant/developer demonstrates that measures will be taken to minimize erosion, sedimentation, and seasonal wetness, that these areas are stable for the siting of structures and that proposed subsurface waste disposal systems are sited away from marginal soils and otherwise meet the State of Maine Subsurface Waste Disposal Rules.

**Net Residential Acreage:** The total acreage available for the subdivision, as shown on the proposed subdivision plan, minus the area for streets or access and the areas that are unsuitable for development.

**Net Residential Density:** The net residential acreage of a parcel of land divided by the minimum lot area per dwelling unit.

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

**New Structure or Structures:** Includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure.

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

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

**Non-Conforming Use:** Use of buildings, structures, premises, land or parts thereof which is not permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

**Normal High-Water Line:** 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. In the case of wetlands adjacent to rivers and great ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water.

**Nursing Home:** Any dwelling in which three (3) or more aged, chronically ill, or incurable persons are housed and furnished with meals, and nursing care for compensation.

**100-Year Flood:** The highest level of flood that, on the average, has a one percent (1%) chance of occurring in any given year.

**<sup>9</sup>Occupied Building:** A residence, school, hospital, house of worship, public library or other building that is occupied or in use as a primary residence or is customarily frequented by the public at the time when the permit application is submitted.

**Parking Space:** Parking space shall mean an area of not less than 180 square feet, exclusive of drives or aisles giving access thereto, accessible from streets or aisles leading to streets and usable for the storage or parking of passenger vehicles. Parking space or access thereto shall be construed as to be usable year round.

**Pennant:** Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

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

**Piers, Docks, Wharves, Bridges and Other Structures and Uses Beyond the Normal High Water Line or Within A Wetland:**

**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.

**<sup>9</sup>Planned:** A Project, for which all applicable building and land use permits have been approved, provided that the time for beginning construction under such permits has not expired.

**<sup>5</sup>Planned Residential Development:** A development of land that is under unified control and is planned and developed as a whole in a single development operation of programmed series of development stages. It may contain more than one principal structure on a lot and may include a mix of single-family and two-family detached houses with Town houses and apartment buildings with common recreation areas and off-street parking. Lots within a planned development may be sold individually, provided that the owners of all lots are required by deed covenant and plan

approval to be members of a homeowners association that owns and maintains any common facilities within the development, including but not limited to private streets, drainage facilities and private open space that is part of the development. In zoning district C-4 only single-family and two-family detached houses shall be allowed.

**Planning Board:** The Planning Board of the Town of Pittsfield.

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

**Prime Agricultural Soils:** Prime agricultural soils are those soils which have the least limitations for growing food and will produce the best yields with the least environmental damage.

**Prime Farm Land:** Those areas shown on the Town of Pittsfield Zoning Map (Revised February 11, 2011)

**Principal Structure:** A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

**Principal Use:** The primary use and chief purpose of a lot or structure.

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

**Project:** A planned piece of work that has a specific purpose such as but not limited to constructing something new, adding or modifying something existing or excavating into the ground for the constructing of any of the preceding including land filling.

**Protected Location:** Any location that is:

- 1) accessible by foot, on any parcel of land not owned or leased by the applicant containing an occupied building or planned occupied building, or a planned residential subdivision, duly licensed hospital or nursing home near the development site at the time an application is submitted;
- 2) within a State Park, Baxter State Park, a National Park, a nature preserve owned by a land trust, the Maine Audubon Society or the Maine chapter of the Nature Conservancy, the Appalachian Trail, the Moosehorn National Wildlife refuge, a federally designated wilderness area, a state wilderness area designated by statute, a municipal park or a locally-designated passive recreation area, or any location within consolidated public reserve lands designated by rule by the Bureau of Public Lands as a Protected Location, or;
- 3) a hotel, motel, campsite or duly licensed campground that the Planning Board has designated a Protected Location after making a determination that the health and welfare of the guests or the economic viability of the establishment will be unreasonably impacted.

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

**Public Improvement:** Works of governmental units and public utilities, including but not limited to, lighting, sidewalks, street furniture, overhead utilities, buildings, tree planting programs, street signs, and traffic lights.

**Public Sewer System:** A common sewer controlled by a public, governmental authority.

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

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

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

**Recharge Area:** Area composed of permeable, porous material through which precipitation and surface water infiltrate and directly replenish groundwater in aquifers.

**Recording Plan:** An original of the Final Plan, suitable for recording at the Registry of Deeds and which need show only information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

**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.

**Recreational Vehicle:** A vehicle which is:

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

**Regulatory Floodway:**

- a. The channel of a river or other water course and the adjacent land areas that must be

reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and

- b. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

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

1. an existing system which 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.

**Reserved Affordable Housing:** Affordable housing which is restricted by means of deed covenants, financing restrictions, or other binding long term methods to occupancy by households making 80% or less of the area median household income.

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

**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. The term shall include mobile homes, but not recreational vehicles.

**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.

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

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

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

**Road:** A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other material constructed for or created by the repeated passage of motorized vehicles. The term shall also include private, undedicated roads that are described in a recorded document. The term road shall not include those ways that have been discontinued or abandoned. The right-of-way of a road cannot be used to calculate frontage on a lot.

**Roadside Stand:** A building or structure used for the retail sales of fresh fruits, vegetables, flowers, herbs or plants. In addition, it may involve the accessory sales of other unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces or baked goods and home-made handicrafts. The floor area devoted to the sales of these accessory items shall not exceed 50% of the total sales area. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold at a roadside stand.

**<sup>9</sup>Scenic Resource:** Either a Scenic Resource of State or National significance, as defined in 35-A M.R.S § 3451 (9) or a scenic resource of local significance located within the municipality and identified as such in a comprehensive plan, open space plan or scenic inventory adopted by the municipal legislative body.

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

1. in the case of electric service
  - a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
  - b. the total length of the extension is less than one thousand (1,000) feet.
2. in the case of telephone service
  - a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
  - b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

**Setback, Lot Line:** The minimum horizontal distance from a lot line to the nearest part of a building, including porches, steps and railings.

**Setback, Normal High Water Line:** The nearest horizontal distance from the normal high-water line to the nearest part of a structure, road, parking space or other regulated object or area.

**<sup>9</sup>Shadow Flicker:** Alternating changes in light intensity caused by the movement of Wind Turbine blades casting shadows on the ground or a stationary object.

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

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

**Shoreland Zone:** The land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond, river, or saltwater body; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet of the normal high-water line of a stream.

**Short Duration Repetitive Sounds:** A sequence of repetitive sounds which occur more than once within an hour, each clearly discernible as an event and causing an increase in the sound level of at least 6 dBA on the fast meter response above the sound level observed immediately before and after the event, each typically less than ten seconds in duration, and which are inherent to the process or operation of the development and are foreseeable.

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

**Sight Line Representation:** A profile drawing showing prominent features, including but not limited to topography, buildings and trees, along and in relation to a line of sight extending from an observer's eye to the lowest point visible on a proposed Tower.

**Sign:** Any structure or part thereof attached thereto or painted or represented thereon, which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of an announcement, direction or advertisement. The word "sign" does not include the flag, pennant or insignia of any nation, state, city or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement, or event.

**Sign Area:** The surface area on one side of the smallest simple geometric shape exemplified by a square, rectangle, triangle, circle, etc., encompassing all lettering, wording, design, or symbols, together with any background which is distinguishable from the building. For the purposes of calculating the surface area of a sign, an inconspicuous support exemplified by a slim post is not part of the sign.

**Sign, Canopy:** A sign that is part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area.

**Sign, Consolidated:** A single, on premise sign that serves two or more businesses or entities, all of which are located at the same lot of record, which sign is on a single device, fixture, placard, or structure.

**Sign, Freestanding:** A sign supported by one or more upright poles, columns, braces or structure anchored in the ground and not attached to any building or other structure.

**Sign, Externally Illuminated:** A sign that is lit entirely from an external source, such as flood or spot lights, and is so arranged that no direct rays of light are projected from the external source onto adjoining properties or public streets.

**Sign, Illuminated:** A sign lit in any manner by an artificial light.

**Sign, Internally Illuminated:** A sign whose lighting is integral to the sign and/or shines through a plastic or other translucent covering.

**Sign, Ladder:** A sign with two or more signs attached to the same support. The components of a ladder sign must comply, cumulatively, with the dimensional limitations imposed by this section.

**Sign, Off Premise:** A sign that is not located on the same lot of record that the business, facility, or point of interest is located.

**Sign, On Building:** A sign that is attached to the building wall and extends not more than six inches from the face of such wall.

**Sign, On Premise:** A sign that is located on the same lot of record that the business, facility, or point of interest is located.

**Sign, Projecting:** A sign that is attached to a building wall and extends more than six inches from the face of such wall.

**Sign, Portable:** A sign that is not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including but not limited to, signs designed to be transported by means of wheels or trailers, balloons used as signs, and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business. For the purpose of this Ordinance, menu and sandwich board signs are not considered portable signs.

**Sign, Temporary:** A sign of temporary nature, erected for a period of less than 90 days within any 12 month period, exemplified by the following: political signs, charitable signs, fundraising signs, construction signs, carnival signs, garage sales, lawn sales, rummage sales, and all signs advertising the sale of personal property (excluding mobile homes), and for rent signs. Any exterior sign displayed by an ongoing business on the business' premises in which the written or printed message changes while the structure of the sign remains unchanged shall not be considered as a temporary sign. For example, chalkboards and signs with removable lettering shall not be considered temporary signs.

**Significant River Segments:** See Title 38 MRSA §437.

<sup>9</sup>**Significant Wildlife Habitat:** A Significant Wildlife Habitat as defined in 38 M.R.S. § 480-B(10).

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

**Special Flood Hazard Area:** See Area of Special Flood Hazard

**Start of Construction:** Means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**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 of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area. This definition also includes Johnson Brook from the 300 foot contour as depicted on the USGS Map to the Burnham Town Line.

**Street:** A way established or maintained under public authority, or a fifty (50) foot wide recorded private way approved by the Planning Board, or a way shown on a plan of a subdivision duly approved by the Planning Board. The right-of-way of a street cannot be used to calculate the frontage of a lot.

**Street Classification:**

***Arterial Street:*** A major thoroughfare that serves as a major traffic way for travel between and through the municipality. The following roadways shall be considered arterial streets:

Interstate 95	Burnham Road
Canaan Road	Main Street
Park Street	Somerset Avenue

***Collector Street:*** A street with average daily traffic of 200 vehicles per day or greater, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets. The following roadways shall be considered collector streets:

Grove Street	Hartland Avenue
Hunnewell Avenue	North Main Street
Phillips Corner Road	Peltoma Avenue

***Cul-de-sac:*** A street with only one outlet and having the other end for the reversal of traffic movement.

***Industrial or Commercial Street:*** Streets servicing industrial or commercial uses.

**Local Street:** A street servicing only residential properties and which has an average daily traffic of less than 200 vehicles per day.

**Private Right-of-Way:** A minor residential street servicing no more than eight dwelling units, which is not intended to be dedicated as a public way.

**Structure:** Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences. The term includes structures permanently located, such as decks, satellite dishes, and permanently affixed gas or liquid storage tanks that are above ground, but not including tents, vehicles, or freestanding above-ground swimming pools.

**Subdivision:** Shall be defined as provided by State Law, Title 30A, Section 4401.

**Substantial Construction:** The completion of a portion of the improvements that represents no less than thirty percent of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

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

**Substantial Improvement:** Means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

**Substantial Start:** Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

**Substantially Commenced; Substantially Completed:** Construction shall be considered to be substantially commenced when any work beyond the state of excavation, including but not limited to, the pouring of a slab or footings, the installation of piles, the construction of columns, or the placement of a manufactured home on a foundation has begun. Construction shall be considered to be substantially completed when it has been completed to the point where normal functioning, use, or occupancy can occur without concern for the general health, safety, and

welfare of the occupant and the general public. At a minimum it shall include the completion of no less than seventy (70) percent of the costs of the proposed improvements within a development and shall include permanent stabilization and/or re-vegetation of areas of the site that were disturbed during construction.

**Subsurface Sewage Disposal System:** A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA Section 414, any surface wastewater disposal system licensed under 38 MRSA Section 413 Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 MRSA Chapter 13, sub-chapter 1.

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

**Timber Harvesting:** The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the cutting of land for approved construction.

**<sup>9</sup>Tower:** The free-standing or guyed structure on which a signal transmission system, weather measuring, observation platform or energy conversion system is mounted.

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

**<sup>6</sup>Transmission Line:** Electric power transmission line of 115 kV through 345 kV, including the associated transmission poles or towers.

**Tributary Stream:** A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits of exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. 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.

**<sup>9</sup>Turbine Height:** The distance measured from the surface of the Ground or Tower foundation, which ever is lower, to the highest point of any turbine rotor blade measured at the highest arc of the blade.

**Turning Circle:** A street segment forming a circle at the closed end of a cul-de-sac street, with a curve radius of 100 feet as measured to the outside line of the right-of-way.

**Upland Edge:** The boundary between upland and wetland.

**Usable Open Space:** That portion of the common open space that due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must not be poorly drained nor very poorly drained, have ledge outcroppings or areas with slopes exceeding 10%.

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

**Utilities:** Public and private facilities such as water wells, water and sewage pumping stations, water storage tanks, power, cable television and communication transmission lines, electrical power substations, static transformer stations, telegraph exchanges, commercial microwave radio relays, and gas regulation stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops, and storage yards.

**Variance:** A relaxation of the terms of this Ordinance where such variances shall not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary and undue hardship. A variance is authorized only for lot area, lot coverage by structure, frontage, lot width, and setbacks. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or adjoining zoning districts.

**Vegetation:** All live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4½ feet above ground level.

**Violation:** Means the failure of a structure or development to comply with a community's Ordinances.

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

**Water Body:** Any great pond, river, or stream.

**Water Crossing:** Any project extending from one bank to the opposite bank of a river or stream, whether under, through, or over the water course. 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.

**Wetland:** Areas inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. The boundary of a wetland is drawn around those areas that meet all three of the following criteria: a prevalence of wetland plants, hydric soils, and evidence of saturation or flooding.

**Wetlands Associated with Great Ponds and Rivers:** Wetlands contiguous with or adjacent to a great pond or river, and which during normal high water, are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below the normal

high water line of the great pond or river. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river.

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

**<sup>9</sup>Wind Energy Facility:** A public or private facility that uses one or more Wind Turbines to convert wind energy to electrical or mechanical energy. A Wind Energy Facility includes Generating Facilities and Associated Facilities.

**<sup>9</sup>Wind Energy Facility, Type 1A:** A Wind Energy Facility having a maximum generating capacity of less than 100kW, a maximum of one Wind Turbine and a maximum Turbine Height of 80 feet.

**<sup>9</sup>Wind Energy Facility, Type 1B:** A Wind Energy Facility having a maximum generating capacity of less than 100kW and either more than one Wind Turbine, or one or more Wind Turbines with a Turbine Height greater than 80 feet.

**<sup>9</sup>Wind Energy Facility, Type 2:** A Wind Energy Facility having a maximum generating capacity of 100 kW or greater and which does not require a state permit issued by the Department of Environmental Protection under the Site Location of Development Act, 38 M.R.S. §481, *et seq.*

**<sup>9</sup>Wind Energy Facility, Type 3:** A Wind Energy Facility having a generating capacity of 100kW or greater and which requires a state permit issued by the Department of Environmental Protection under the Site Location of Development Act, 38 M.R.S. §481, *et seq.*

**<sup>9</sup>Wind Turbine:** A system for the conversion of wind energy into electrical or mechanical energy which is comprised of a Tower, Generator, Nacelle, Rotor, Gearbox and/or Transformer.

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

**Yard Front:** An open unoccupied space on the same lot with the building or structure between the front line of the building or structure and the front line of the lot and extending the full width of the lot.

**Yard Rear:** An open unoccupied space on the same lot with the building or structure between the rear line of the building or structure and the rear line of the lot and extending the full width of the lot.

**Yard Side:** An open unoccupied space on the same lot with the building or structure situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a sideline.

<sup>1</sup>Ordinance 04-04, 04/02/04

<sup>2</sup>Ordinance 04-08, 05/20/04

<sup>3</sup>Ordinance 02-18, 09/06/02

<sup>4</sup>Ordinance 06-08, 02/21/06

<sup>5</sup>Ordinance 06-34, 06/20/06

<sup>6</sup>Ordinance 09-08, 08/11/09

<sup>7</sup>Ordinance 14-05, 04/01/14

<sup>8</sup>Ordinance 15-03, 03/03/15

<sup>9</sup>Ordinance 16-11, 08/16/16