

SECTION 17 DEFINITIONS

17.1 Construction of Language

In this Ordinance, certain terms or words shall be interpreted as follows:

17.1.1 The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense; the singular number includes the plural and the plural includes the singular; the word "used" or "occupied" includes the words "intended," "designed," or "arranged to be used or occupied"; the word "building" includes the word "residence"; and the word "lot" includes the words "plot" or "parcel".

17.1.2 In case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control.

17.2 Definitions

17.2.1 In this Ordinance the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed. Words not defined in this Section shall have their customary dictionary meanings.

Abutter: One whose property abuts, is contiguous to, or joins at a border or boundary, including the property across the street, road, public way or private way.

Abutting Property: Property that abuts, is contiguous to, or joins at a border or boundary, including the property across the street, road, public way or private way.

Accessory Beekeeping: The keeping of honey bees on a lot that is accessory to a principal rural, residential, commercial, industrial, or institutional use of the property.

Accessory Business Use: The use of a portion of a residential dwelling for commercial purposes in which the owner of the property either resides in the dwelling unit or is the owner/operator of the nonresidential activity.

Accessory Dwelling Unit: A small dwelling unit that is accessory to an owner-occupied single-family home that meets the performance standards of **10.28**.

Accessory Solar Array: An installation that produces electricity through the use of solar technology that is accessory to the principal use of the property in which the electricity generated by the array is intended to primarily benefit the owner or occupant(s) of the lot on which the array is located.

Accessory Solar Array – Building-Mounted: An Accessory Solar Array that is mounted on the roof or exterior wall surface of a building.

Accessory Solar Array – Ground-Mounted: An Accessory Solar Array that is mounted on the ground or on a supporting structure other than a building.

Accessory Structure: A small detached structure that is incidental and subordinate to the principal structure.

Accessory Use or Building: A use or building of a nature customarily incidental and subordinate to the principal use or structure.

Addition: A structure added to the original structure at some time after the completion of the original.

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

Administrative Appeal: An appeal to the Board of Appeals from a determination made by the Code Enforcement Officer, Planning Board or the Historic Preservation Commission, in enforcing this Ordinance. Such determinations may have involved an interpretation of the provisions of this Ordinance or a finding of fact.

Affordable Housing: Housing units which meet the sales price and/or rental targets established by the Gardiner Comprehensive Plan.

Aggrieved Party: A person whose land is directly or indirectly affected by the approval 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 another 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, dairy animals and dairy products, poultry and poultry products, livestock, fruits and vegetables and ornamental and greenhouse products. Agriculture does not include forest management and timber harvesting activities.

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

Alternate Tower Structure: Clock towers, bell steeples, light poles, water towers, electrical transmission line towers, and similar alternative mounting structures that camouflage or conceal the presence of antennae or towers associated with a wireless communication facility.

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

Animal Husbandry: Boarding, raising, or keeping of animals, fish or fowl for commercial purposes, including, without limitation, swine, poultry, cattle, and horses. See Livestock Keeping.

Antenna: Any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

Antenna Height: The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the facility site. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

Applicant; for the purposes of sludge management: The owner/operator or authorized agent of the wastewater treatment plant or generator of the sludge or residual, or any person who alone or in conjunction with others owns real property upon which is located a land spreading site, compost operation or storage facility.

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

Aquifer: Geologic deposits or structures from which useable quantities of ground water are available for households, municipalities, businesses or industries.

Archeological Resource: An archaeological site or bounded geographic location containing the physical evidence of previous human occupation including but not limited to structures, artifacts, graphics (paintings or drawings) and discarded material including plants or animals.

Archaeological Site: The geographical location of any remains of the prior presence of humans, including (without limitation) structures, artifacts, terrain features, graphics or remains of plants or animals associated with human habitation.

Area of Shallow Flooding: A designated AO and AH zone on Gardiner's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard: The land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in the Floodplain Management section of this Ordinance.

Auction Barn: A building or facility in which periodic or regular public sales of property to the highest bidder are held.

Auditorium: A building used for public gatherings. See Public Assembly, Theater.

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

Automobile Repair Shop: A place where the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body frame or fender straightening and repair; overall painting and undercoating of automobiles.

Automobile Vehicle Sales: See vehicle sales.

Awning: A roof-like cover that is temporary in nature and that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

Back Lot: A lot with no frontage on a public road or street.

Bank: (See Financial Institution)

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; for purposes other than Shoreland zoning or floodplain management: That portion of a building partly or completely below grade.

Basement; for Shoreland zoning purposes: Any portion of a structure with a floor-to-ceiling height of six (6) feet or more and having more than fifty percent (50%) of its volume below the existing ground level.

Basement; for floodplain management purposes: Any area of the building having its floor sub-grade (below ground level) on all sides.

Bed and Breakfast: An existing dwelling with a minimum of two (2) and a maximum of six (6) guest rooms offered for rent and with only a breakfast meal served only to persons renting rooms.

Boarding Home: A building where lodging or lodging and meals are provided for compensation for a period of at least 2 weeks, and where a person or family residing in the building acts as proprietor or owner. There is no provision for cooking in any individual room.

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.

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

Buffer: A part of a property or an entire property which does not contain buildings, structures or vehicles and is specifically designed to separate and thus minimize the effects of a land use

activity (e.g., noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

Building: A structure built for the support, shelter or enclosure of persons, animals, goods or property of any kind.

Building Envelope: The area enclosed by fixed walls of a building.

Building Footprint: The total horizontal surface area of a building.

Building Height: The vertical distance between the highest point of the roof and the average grade of the ground adjoining the building.

Building Supply: A place where lumber and other building construction materials are sold.

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 shelters.

Campsite Individual/Private: (See Individual Private Campsite)

Camper Trailer: (See Recreational Vehicle)

Cannabis Cultivation Facility – Tier 3: An establishment licensed by the State of Maine for the cultivation of medical cannabis in accordance with the rules established under Title 22 M.R.S. Chapter 558-C and/or licensed by the State of Maine for the cultivation of adult use cannabis in accordance with the rules established under Title 28-B M.R.S. Chapter 1 that involves the growing within a fully enclosed facility with walls and a roof of mature cannabis plants with a plant canopy of more than two thousand (2,000) but not more than seven thousand (7,000) square feet.

Cannabis Cultivation Facility – Tier 4: An establishment licensed by the State of Maine for the cultivation of medical cannabis in accordance with the rules established under Title 22 M.R.S. Chapter 558-C and/or licensed by the State of Maine for the cultivation of adult use cannabis in accordance with the rules established under Title 28-B M.R.S. Chapter 1 that involves the growing within a fully enclosed facility with walls and a roof of mature cannabis plants with a plant canopy of more than seven thousand (7,000) square feet.

Cannabis Establishment: Any use or facility that is a Medical Cannabis Cultivation Facility – Tier 1 or Tier 2, a Cannabis Cultivation Facility – Tier 3, a Cannabis Cultivation Facility – Tier 4, a Cannabis Products Manufacturing Facility, a Cannabis Testing Facility, a Cannabis Retail Store, a Medical Cannabis Registered Caregiver Retail Store, a Medical Cannabis Registered Dispensary, or a Cannabis Nursery Cultivation Facility as defined by this ordinance.

Cannabis Nursery Cultivation Facility: An establishment licensed by the State of Maine as an adult use nursery cultivation facility in accordance with the rules established under Title 28-B M.R.S. Chapter 1.

Cannabis Plant – Immature: A cannabis plant that is not a mature cannabis plant or a cannabis seedling as defined in Title 28-B M.R.S. Chapter 1.

Cannabis Plant – Mature: A cannabis plant that is flowering as defined in Title 28-B M.R.S. Chapter 1.

Cannabis Products Manufacturing Facility: An establishment licensed by the State of Maine as a Tier 1 or Tier 2 medical cannabis products manufacturing facility in accordance with the rules established under Title 22 M.R.S. Chapter 558-C and/or licensed by the State of Maine as an adult use cannabis products manufacturing facility in accordance with the rules established under Title 28-B M.R.S. Chapter 1.

Cannabis Retail Sales Establishment: A Cannabis Retail Store, a Medical Cannabis Registered Caregiver Retail Store, or a Medical Cannabis Registered Dispensary with Retail Sales.

Cannabis Seedling: A cannabis plant that is not flowering, is less than six (6) inches high and less than six (6) inches in width as defined in Title 28-B M.R.S. Chapter 1.

Cannabis Testing Facility: An establishment licensed by the State of Maine as a medical cannabis testing facility in accordance with the rules established under Title 22 M.R.S. Chapter 558-C and/or licensed by the State of Maine as an adult use cannabis testing facility in accordance with the rules established under Title 28-B M.R.S. Chapter 1.

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

Catering: A business involving the preparation of food for consumption off the premises.

Cemetery: Land used or intended to be used for the burial of dead human beings or animals and dedicated for such purposes, including mausoleums and mortuaries when operated as part of a cemetery and within its boundaries.

Certificate of Appropriateness: A written certification, issued according to the provisions of the Historic Preservation Section of this Ordinance, that a proposed activity within a district involving a building being built or altered or a place being altered or built upon is in conformance with the standards or evaluation and that may include conditions or qualifications, specified by the Commission, in order for the certificate to be valid.

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

Channel: A natural or artificial watercourse with definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow is water flowing within the limits of the defined channel.

Chicken Keeping Residential: The keeping of a limited number of chickens for personal use only.

Church: A building or structure, or group of buildings and structures, designed and used for the conduct of religious services, excluding schools. See Place of Worship and Other Religious Instruction.

Code Enforcement Officer: Any person or board responsible for performing the inspection, licensing and enforcement duties required by a particular statute or ordinance.

Collector Road: (See Road Classification)

Commercial Agriculture: The growing of plants including but not limited to forages and sod crops, grains and seed crops, fruits and vegetables, ornamental and nursery stock, and flowers primarily for use as animal feed on the premises or for sale to or use by someone other than the owners, lessor, or occupant of the property. Commercial Agriculture does not include Retail Cannabis Establishments including Retail Cannabis Cultivation Facilities as defined by state law. Commercial Agriculture includes leased or rented land used as part of an agricultural activity as well as the related processing and storage of these plants together with buildings and structures used in the agricultural activity such as barns, storage buildings and facilities, greenhouses and temporary shelters, indoor cultivation facilities, and accessory processing facilities. Outdoor recreational and entertainment activities that involve minimal structural development and that are accessory to the agricultural activity (such as hay rides, corn mazes, agritainment, and similar activities) and educational activities are allowed as part of a commercial use. Commercial Agriculture uses are subject to performance standards contained in Section 10.3 of this Ordinance.

Commercial Animal Husbandry: The keeping, breeding, or raising of animals, other than household pets, primarily for sale of the animals or their products such as, but not limited to, milk, eggs, meat, wool, or fur to or for use by someone other than the owner, lessor, or occupant of the property. Commercial Animal Husbandry includes leased or rented land used as part of a commercial animal husbandry activity as well as the processing and storage of these animals and their products together with buildings and structures related to the agricultural activity such as barns, storage buildings and facilities, pens/enclosures, manure pits/storage, and processing facilities. Outdoor recreational and entertainment activities that involve minimal structural development and that are accessory to the agricultural activity (such as hay rides, petting zoos, agritainment, and similar activities) and educational activities are allowed as part of a commercial animal husbandry use. Commercial Animal Husbandry is subject to performance standards contained in Section 10.3 of this Ordinance including the separate standards for beekeeping.

Commercial Farm: An establishment engaged in the fattening, raising or breeding of animals typically for the commercial production of food, where the animals are fed primarily in pens, lots, or buildings (partially or wholly enclosed). Uses include but are not limited to hog farms, poultry /egg farms and cattle feed lots.

Commercial Firewood Processing: A place where firewood is delivered, cut or split, and from which it is sold for commercial purposes.

Commercial Use: The use of land, buildings, 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 and/or services, exclusive of rental of residential buildings and/or dwelling units.

Common Open Space: Land within or related to a development, not individually owned, 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.

Communications Facilities: The offices, stations, substations and other structures used to transmit messages, as by radio, telephone and television.

Communication Tower: (See Wireless Telecommunications Facility)

Community Non-profit Facility: A building or complex of buildings that houses public or private non-profit facilities to provide educational, recreational or informational services to the general public. Medical treatment offices and centers, hospitals, and similar activities are not included in this definition.

Community Living Facility: A housing facility for eight (8) or fewer persons with disabilities that is approved, authorized, certified or licensed by the state. A community living facility may include a group home, foster home or intermediate-care facility.

Community Service Organization: A non-profit charitable institution, not to include private clubs, the primary function of which is serving the public health or social welfare of the community.

Complete Application: An application form, including the required fee, and all information required by this Ordinance, determined to be complete by the Code Enforcement Officer.

Composting Facility: A place for the processing and storage of organic wastes through the microbial degradation of organic matter into a useful product as well as locations for the depositing and spreading of organic wastes such as sludge and septage.

Composting Operation: The depositing, spreading and storage of organic materials such as sludge, septage or other solid waste which is designed for the microbial degradation of organic matter into a useful product.

Comprehensive Plan: A document or interrelated documents adopted by City of Gardiner 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 strategies for implementation of the policies.

Conforming Structure: A building or structure which complies with all applicable provisions of this Ordinance.

Conforming Use: A use of buildings, structures or land which complies with all applicable provisions of this Ordinance.

Congregate Care Facility: Residential housing consisting of private apartments and central dining facilities and within which a congregate housing supportive services program serves functionally impaired elderly occupants.

Constructed: Built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction.

Construction Services: Commercial activities involved in the building or construction trades, including but not limited to earth moving, road construction and building construction.

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

Corner Clearance: The minimum distance, measured parallel to a road, between the nearest curb, pavement or shoulder line of an intersecting public way and the nearest edge of a driveway excluding its radii.

Crematory: A building or portion thereof designed for the cremation of a corpse and located in a cemetery having a minimum land area of twenty (20) acres.

Day Care Center/Nursery School: Facilities offering daytime care for preschool or school-age children. Such facilities, for the purposes of this Ordinance, are classified as daycare center or nursery school when the number of children exceeds the definition of home child care. Day care facilities, with or without consideration for the services rendered, may be operated as a service business or within a church or community building.

Deed: A legal document conveying ownership of real property.

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

Detached Canopy: A rigid multi-sided freestanding structure covered with fabric, metal, or other material, supported by columns or posts embedded into the ground, and which shelters a vehicle service use (such as gas pump islands or car wash).

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

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

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

Downtown Area: Encompasses lands and buildings abutting both sides of Water Street from Winter Street to Vine Street, both sides of Brunswick Avenue from Filmore Place to Water Street, both sides of Bridge Street from Water Street to Cobbossee Stream, both sides of Church Street from Brunswick Avenue to Water Street, and both sides of Main Avenue from Water Street to Cobbossee Stream, both sides of Depot Street, both sides of Mechanic Street, and both sides of the city passageways leading from the Maine Central Railroad tracks and easterly to and along the Cobbossee Stream parking lot.

Drainage/Surface Water Runoff: The removal of surface water or ground water from land by rains, grading or other means which include runoff controls to minimize erosion and sedimentation during and after construction or development, the means for preserving the water supply and the prevention or alleviation of flooding.

Driveway: A vehicular access-way serving one of the following uses: residential uses up to five dwelling units, home occupations, forest management activities, farming, low-impact industrial uses such as utility substations, or other similar uses, unless the use generates 50 or more vehicle trips per day. Also see Entrance.

Dwelling: A fixed structure, containing one or more dwelling units.

Dwelling, Attached: A one-family dwelling attached to any other dwelling by any means.

Dwelling, Attached Single-Family (Townhouse): A type of multifamily housing with attached single-family dwellings in a row of at least three such units separated by party walls, with no unit located over another unit and each unit having its own front and rear access to the outside.

Dwelling, Detached: A dwelling which is not attached to any other dwelling by any means. The detached dwelling does not have any roof, wall or floor in common with any other dwelling unit.

Dwelling, Seasonal: A building not used as principal or year-round residence and occupied for less than 6 months per year.

Dwelling Unit: A room or group of rooms designed and equipped for use as living quarters for only one family, including provisions for living, sleeping, cooking and eating. The term shall include mobile homes but shall not include trailers or recreational vehicles. In determining whether a room or group of rooms in an existing structure constitutes a separate dwelling unit under this Ordinance, the following factors shall be considered:

- (a) historic occupancy and use of the property concerned;

(b) design and layout of the room or rooms concerned in relation to other rooms in the same structure; and

(c) compliance of the property with applicable building and life safety code requirements for two-family or multi-family use.

Earth: Topsoil, sand, gravel, clay, peat, rock or other minerals.

Earth-Moving Activity: Any activity involving the excavating, dredging, filling, grading, or lagooning of earth which is not connected with another approved construction or land use activity.

Educational Building: (See School)

Electric Fence: Any above ground wire or wire enclosure energized by an electrical current.

Elevated Building; for floodplain management purposes: A non-basement building 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, posts, piers, or “stilts;” and adequately anchored so as not to impair the structural integrity of the building during a flood of up to two feet above the magnitude of the base flood.

In the case of Zone 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 waters, as required in this Ordinance.

Elevation Certificate: An official form (FEMA Form 81-31, 03/09, as amended) that is used to verify compliance with the Flood Plain Management Regulations of the National Flood Insurance Program and is required for purchasing flood insurance.

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

Entrance: An access serving one of the following land uses: residential uses or developments serving six or more dwelling units, retail, office, or service business uses including department stores, strip malls, convenience stores, gas stations, auto repair shops, restaurants, or similar uses, unless the applicant demonstrates, in accordance with the Trip Generation, 8th edition, published by the Institute of Transportation Engineers (2008), that the use generates fewer than fifty (50) vehicle trips per day.

Erosion: The detachment and movement of soil or rock fragments, or the wearing away of the land surface, by water, wind, ice and gravity.

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.

Excavation: Any removal of earth or earth material from its original position.

Expansion and/or Enlargement; for sludge management purposes: The increase in the size or capacity of an operation regulated under this Ordinance and including new spreading sites and any increase in the size of the operation.

Expansion of a Structure; for Shoreland zoning purposes: An increase in the footprint or height of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

Expansion of Use; for Shoreland zoning purposes: The addition of one (1) or more months to a use's operating season; or the use of more floor area or ground area devoted to a particular use.

Façade: The exterior wall of a building exposed to public view.

Facility for the processing, distribution, and/or sale of agricultural products: Buildings, structures, and equipment used for the commercial processing, storage, distribution, and/or sale of plant or animal products. *(Adopted 06/04/2014, Effective 07/04/2014)*

Family: One or more persons occupying a premise and living as a single housekeeping unit, as distinguished from a group occupying a boarding home, lodging house or hotel. Such unit shall not exceed five persons not related by blood or marriage.

Farm, Farming: (See Agriculture)

Farm Stand: (See Roadside Stand)

Fence: An enclosed barrier consisting of wood, vinyl, recycled/composite materials, stone, metal, or similar materials intended to prevent ingress and egress.

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

Financial Services: A bank, savings and loan institution, or credit union.

Flag Lot: A lot or parcel of land that is located to the rear of another lot or lots which front on an improved public road and that is not able to be developed solely because it lacks the necessary minimum frontage on said improved public road. A flag lot shall consist of an access strip providing access to the improved public road and a rear lot.

Flea Market: A shop or open market selling antiques, used household goods, curios and the like at a frequency of more than eight days in any six-month period. "Flea markets," as distinguished from yard or garage sales, shall be considered to be retail businesses.

Flood or Flooding: 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 of runoff of surface waters from any source.

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 above.

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

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

Flood Insurance Study: See Flood Elevation Study.

Floodplain or Flood-Prone Area: Any land area susceptible to being inundated by water from any source.

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

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

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

Floodway: (See Regulatory Floodway)

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

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

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.

Foundation: The supporting substructure of a building or other structure, including but not limited to basements, slabs, sills, posts, frost walls or other base consisting of concrete, block, brick or similar material.

Fraternal Organization: (See Social, Fraternal Organization)

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

Frontage, Road: The horizontal distance between the intersections of the side lot lines with the front line. On corner lots, the frontage shall be one of the road lines.

Frontage, Shore: The horizontal distance, measured in a straight line, between the intersections of the side lot lines with the shoreline at normal high-water elevation.

Fuel Storage Facility: A facility for the bulk storage and distribution of petroleum products or other liquid fuels.

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 shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Functionally Water-Dependent Uses; for Shoreland zoning purposes: Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include but are not limited to commercial and recreational fishing and boating facilities, fin fish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and

uses which primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

Government Office: Any building or land held, used or controlled exclusively for public purposes by any department or branch of government, federal, state, county or municipal, without reference to ownership of building or the real estate upon which it is situated. See Public Buildings.

Grade: The average of the finished ground level at the center of all walls of a building.

Grading: Any stripping, cutting, filling, or stockpiling of earth or land, including the land in its cut or filled condition.

Great Pond: Any inland body of water which in a natural state has a surface area in excess of ten (10) 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 Shoreland zoning, 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 38 M.R.S.A. Section 465-A. This classification includes some, but not all, impoundments of rivers that are defined as great ponds.

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

Ground Water: The water present in the saturated zone of the ground.

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.

Heavy Manufacturing: Industrial activity which involves the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or manufacturing processes using flammable or explosive processes that potentially involve hazardous materials.

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

Historic District: A delineated geographical area which includes one or more buildings and/or places of historical value and may include other buildings, structures and/or places which though not of historical value themselves, may be or become the site of anything being built which may be deemed not to be appropriate with regard to any of the rest of the district.

Historic Landmark: Any building of historic value.

Historic Site: Any parcel of land which is of historic value or upon which is positioned any historic landmark.

Historic Structure; for floodplain management purposes: Any structure that is:

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

Home Child Care: A home or establishment providing day care for up to twelve (12) children under the age of sixteen (16) years.

Home Occupation: An occupation or profession which is carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; carried on by a member of the family permanently residing in the dwelling unit; clearly incidental and secondary to the use of the dwelling unit for residential purposes; and which does not change the essential residential character of the dwelling unit or neighborhood. *(See Section 10.2.1)*

Home Occupation, Minor: *(See Section 10.2.4)*

Hospital: A building or structure which is used for the housing and care of sick, hurt or incapacitated human beings. It may also include accessory uses which are directly associated

with the housing and care of sick, hurt or incapacitated human beings such as kitchen facilities, solariums, dormitories, and physicians' offices.

Hotel: A building in which lodging or meals and lodging are offered to the general public for compensation and in which ingress and egress to and from the rooms are made primarily through an inside lobby or office. The hotel may contain such accessory services and facilities as newsstands, personal grooming facilities and restaurants.

Identified Historic or Archeological Resource: A building, structure, site, or district that is listed in one of more of the following: 1) the National Register of Historic Places; 2) a listing of the Maine Historic Preservation Commission of significant historic or archeological resources; 3) the City's adopted Comprehensive Plan; or 4) a list of locally significant historic or archeological buildings, structures, sites, and districts adopted by the City Council.

Impervious Surface: Any material which reduces or prevents absorption of storm water into previously undeveloped land.

Increase in Nonconformity of a Structure; for Shoreland zoning purposes: 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/pits, or tent platforms.

Indoor Recreation Facility: A recreation facility designed and equipped for the conduct of sports, leisure time activities, performances and other customary recreation activities which take place indoors. Activities include but are not limited to amusement center, arcades, gyms, health clubs and bowling alleys. Restaurants which are incidental to the primary recreational use of the structure are allowed.

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

Infirmary: (See Hospital)

Inherently Hazardous Substance: As the term relates to the regulation of cannabis establishments, a liquid chemical; a compressed gas; carbon dioxide; or a commercial product that has a flash point at or lower than 100 degrees Fahrenheit, including but limited to, butane, propane and diethyl ether. Inherently hazardous substance does not include any form of alcohol or ethanol.

Inn: A building, which contains a dwelling unit occupied by an owner or resident manager, in which up to ten (10) lodging rooms or lodging rooms and meals are offered to the general public for compensation, and in which entrance to bedrooms is made through a lobby or other common room. Inn includes such terms as guest house, lodging house and tourist house, but not bed and breakfast, hotel or motel.

Institution: A building devoted to some public, governmental, educational, charitable, religious, medical or similar purpose.

Junkyard: A yard, field, or other area used as a place of storage for discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture; discarded, scrap and junked lumber; and old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or non-ferrous material.

Kennel: Any use or activity that is defined as a kennel, boarding kennel, breeding kennel or animal shelter by Section 3907 of Title 7 M.R.S.A. Part 9 Animal Welfare.

Kiosk: A small detached building not more than one hundred forty-four (144) square feet in area used to sell goods or services including food.

Lagoon: An artificial enlargement of a water body, primarily by means of dredging and excavation.

Larger Vehicle: A vehicle that has a larger length, width or turning radius and/or lesser acceleration capability than standard passenger vehicles or pickup trucks, including buses, commercial trucks and recreational vehicles.

Laundromat: An establishment providing washing, drying or dry cleaning machines on the premises for rental use to the general public for family laundering or dry cleaning purposes.

Light Manufacturing: A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

Livestock Keeping: The keeping of animals such as poultry, goats, sheep, pigs, cows or horses for the use of the immediate household and not for commercial purposes. The term livestock keeping does not include cats, dogs or other household pets. See Animal Husbandry.

Living Space: As used in this Ordinance, actual enclosed space suitable for year-round occupancy and not porches, patios, and the like, whether or not enclosed.

Locally Established Datum; for floodplain management purposes: 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 described on a deed, plat, or similar legal document.

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 the area beneath roads serving at least one other lot.

Lot, Corner: A lot with at least two (2) contiguous sides abutting upon a road.

Lot Coverage: The percentage of the lot covered by all buildings. In Resource Protection, Shoreland and Shoreland Overlay Districts, lot coverage shall include all unvegetated surfaces.

Lot, Interior: Any lot other than a corner lot.

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

Lot Line, Front: On an interior lot, the line separating the lot from the road. On a corner or through lot, the line separating the lot from either road.

Lot Line, Rear: The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than 10 feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension.

Lot Line, Side: A lot line other than the front lot line or the rear lot line.

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

Lot, Shorefront: Any lot abutting a water body.

Lot, Through: Any interior lot having frontages on two (2) more or less parallel roads, or between a road and a waterbody, or between two water bodies, as distinguished from a corner lot.

Lot Width: The horizontal distance between the side lot lines, measured at the front setback 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 Section 15 of this Ordinance.

Lumen: A measure of light energy emitted by a light source.

Luminaire: The complete lighting fixture including the lamp, lens and the wiring.

Manufactured Home Park or Subdivision: A parcel (or contiguous parcels) of land under unified ownership and approved by the City of Gardiner for the placement of three (3) or more manufactured homes.

Manufactured Home Park or Subdivision: For floodplain management purposes, a parcel (or contiguous parcels) of land divided into two (2) 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. The term includes any type of building that is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this definition, two types of manufactured housing are included. These two types are:

- 1) Those units constructed after June 15, 1976, commonly called "newer mobile home," that 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, that in the traveling mode are fourteen (14) body feet or more in width and are seven hundred fifty (750) or more square feet, and that 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 the plumbing, heating, air conditioning or electrical systems contained in the unit. This term also includes any structure that meets all the requirements of this subparagraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Chapter 70.
- 2) Those units commonly called "modular homes," that the manufacturer certifies are constructed in compliance with 10 M.R.S.A. Chapter 951, and rules adopted under that chapter, meaning structures, transportable in one or more sections, that are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning or electrical systems contained in the unit.

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

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

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

Medical Facility: A facility that provides medical or para-medical services on an out-patient basis such as a medical clinics, emergency care facility, laboratory and diagnostic facility and similar facilities that provide services to patients.

Medical Cannabis Cultivation Facility – Tier 1: Medical Cannabis Cultivation Facility – Tier 1: An establishment registered with the State of Maine for the cultivation of medical cannabis in accordance with the rules established under Title 22 M.R.S. Chapter 558-C that involves the growing of not more than thirty (30) mature cannabis plants, not more than sixty (60) immature cannabis plants and any number of cannabis seedlings.

Medical Cannabis Cultivation Facility – Tier 2: An establishment registered with the State of Maine for the cultivation of medical cannabis in accordance with the rules established under Title 22 M.R.S. Chapter 558-C that involves the growing within a fully enclosed facility with walls and a roof of mature cannabis plants with a plant canopy of not more than two thousand (2,000) square feet.

Medical Cannabis Registered Caregiver Retail Store: An establishment licensed by the State of Maine as an Medical Cannabis Registered Caregiver Retail Store in accordance with the rules established under Title 22 M.R.S. Chapter 558-C.

Medical Cannabis Registered Dispensary: An establishment licensed by the State of Maine as a Registered Medical Cannabis Dispensary in accordance with the rules established under Title 22 M.R.S. Chapter 558-C that does not involve the retail sales of cannabis or cannabis products at a fixed location.

Medical Cannabis Registered Dispensary with Retail Sales: An establishment licensed by the State of Maine as a Registered Medical Cannabis Dispensary in accordance with the rules established under Title 22 M.R.S. Chapter 558-C that involves the retail sales of cannabis or cannabis products at a fixed location.

Meeting Space: A facility not to exceed two thousand (2,000) square feet in area to provide rented space for educational, business or social events, or meetings. Food preparation may be included but is limited to serving only meetings and events at the facility.

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 that transports the product removed, away from the extraction site.

Minimum Lot Width: The closest distance between the side lot lines of a lot. When only two lot lines extend into the Shoreland zone, both lot lines shall be considered to be side lot lines.

Minor Development; for floodplain management purposes: All development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than fifty percent (50%) of the market value of the structure. It also includes, but is not limited to, accessory structures as provided for in Section 15, mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition of extraction materials, public or private sewage disposal systems or water supply facilities that do not involve structures, and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

Minor Revision: Any change in the activity that does not include an expansion and/or enlargement.

Mobile Food Vending Unit (Food Truck): A motor vehicle or trailer that is licensed to operate on public roads and that is designed and used to sell or otherwise dispense prepared food or beverages directly to consumers.

Mobile Home: (See Manufactured Housing)

Mobile Home Park: (See Manufactured Home Park or Subdivision)

Motel: A building in which lodging is offered to the general public for compensation, and where entrance to rooms is made directly from the outside of the building.

Multi-Family Dwelling: A dwelling designed for occupancy by three or more families, each living in its own separate quarters.

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

Museum: A building area used to display and preserve historic, cultural, social, educational or similar artifacts and items.

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

Native Tree: A species of tree that is indigenous to the local forests.

Net Residential Acreage: The gross acreage available for development, excluding the area for roads or access and the areas which are unsuitable for development.

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

New Construction; for floodplain management purposes: Structures for which the "start of construction" commenced on or after the effective date of the initial Flood Plain Management Regulations adopted by the City of Gardiner, including any subsequent improvements to such structures.

Nonconforming Building or Use: A building, structure, use of land, or portion thereof, legally existing at the effective date of adoption or amendment of this Ordinance which does not conform to all applicable provisions of this Ordinance.

Nonconforming Condition: A non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this ordinance or a subsequent amendment took effect

Nonconforming 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-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): That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

Normal Repair and Maintenance: The reconstruction or renewal of any part of an existing building for the purpose of its maintenance. Normal repairs are nonstructural repairs and do not include additions or alterations.

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

Nursery School: (See Day Care Facility)

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

Office: A room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government.

Open Space Development: A land development project comprehensively planned as a self-contained, integrated, unified development which exhibits flexibility in building siting, clustering, usable open space and the preservation of significant natural features, and which meets the Open Space Design Standards of this Ordinance...

Outdoor Recreation: A recreation facility designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities which take place predominantly in the outdoors. Activities include, but are not limited to, golf driving ranges, miniature golf, parks and playgrounds, golf courses, amusements parks, and swimming pools. This includes any accessory structures such as rest rooms, storage, and other buildings necessary to operate the facility.

Outdoor Storage: A land area where goods and materials are stored in specific outdoor locations.

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.

Overnight Accommodations: A building or group of buildings intended to accommodate for a fee travelers and other transient guests, who are staying for a limited duration, with sleeping rooms (with or without cooking facilities); may include restaurant facilities where food is prepared and meals served to its guests and other customers. Uses include hotels and motels.

Owner: An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

Parcel: All contiguous land in the same ownership, provided that lands on the 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. **Parking Lot:** A premises used primarily for the parking or storage of vehicles.

Parking Space: A space for a vehicle, exclusive of drives, aisles and entrances, fully accessible for the storage or parking of vehicles.

Party Wall: A common shared wall between two separate structures, buildings, or dwelling units.

Passive Recreation: A use not involving a structure, earthmoving activity, or the removal or destruction of vegetation cover, spawning grounds or fish, aquatic life, bird and other wildlife habitat. Passive recreation uses are non-intensive uses of land such as hunting, fishing, hiking, picnicking, gardening, forest management, fire prevention, soil and water conservation practices, wildlife management, and harvesting of wild crops.

Permitted Use: Any use allowable in a zoning district and subject to the restrictions applicable to that zoning district.

Personal Services: A business which provides services but not goods, such as hairdressers, shoe repair, etc.

Pet Services: A commercial establishment for the care, grooming, cleaning or daycare of pets. It does not include the overnight keeping of animals on the premises.

Physical or Mental Disability:

A. Physical or mental impairment that:

1. Substantially limits one or more of a person's major life activities;
2. Significantly impairs physical or mental health; or
3. Requires special education, vocational rehabilitation or related services;

B. Without regard to severity unless otherwise indicated:

Absent, artificial or replacement limbs, hands, feet or vital organs; alcoholism; amyotrophic lateral sclerosis; bipolar disorder; blindness or abnormal vision loss; cancer; cerebral palsy; chronic obstructive pulmonary disease; Crohn's disease; cystic fibrosis; deafness or abnormal hearing loss; diabetes; substantial disfigurement; epilepsy; heart disease; HIV or AIDS; kidney or renal diseases; lupus; major depressive disorder; mastectomy; mental retardation; multiple sclerosis; muscular dystrophy; paralysis; Parkinson's disease; pervasive developmental disorders; rheumatoid arthritis; schizophrenia; and acquired brain injury;

C. With respect to an individual having a record of any of the conditions listed above; or

D. With respect to an individual being regarded as having or likely to develop any of the conditions listed above.

(For additional information, see 5 M.R.S.A. Section 4553-A.)

Piers, docks, wharfs, bridges and other structures and uses extending over or 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.

Place of Worship and other Related Religious Structures: A place or structure whose primary use is for public religious services or assembly by a person or organization with tax exempt status. (See Church)

Premises: A lot, parcel, tract or plot of land together with the buildings and structures thereon.

Principal Structure: A building or structure in which the primary use of the lot is conducted.

Principal Use: The primary use to which the premises are devoted and the main purpose for which the premises exist.

Private Assembly: A building which is owned and used as a meeting place for private or semiprivate social organizations and clubs such as grange halls, fraternal organizations and religious institutions, in which the principal use is exclusively for members. Rental of the facilities to outside groups is clearly incidental to the principal use and shall not significantly increase the intensity of the use of the site, especially in regard to parking and traffic.

Private Way: (See Road Classification)

Professional Business: The place of business for professionals such as doctors, lawyers, accountants, architects, surveyors, psychiatrists and counselors, but not including financial institutions or service businesses.

Prohibited Use: A use that is not permitted in a zone or district.

Public Assembly: A building which is available to the public on a non-profit or a for-profit basis. Examples include auditoriums, meeting rooms and halls available for functions. See Auditorium, Theater.

Public Building, Use: Any building or land held, used or controlled exclusively for public purposes by any department or branch of government, federal, state, county or municipal, without reference to ownership of the building or the real estate upon which it is situated. See Governmental Office.

Public Facility; for Shoreland zoning purposes: Any facility, including but not limited to buildings, property, recreation areas, and roads, which is owned, leased or otherwise operated, or funded by a governmental body or public entity.

Public Improvement: All roads, fire protection structures and ponds, any structures or land proposed to be dedicated to the city, any land or structures offered as an easement to the city and all storm drainage structures which are designed to allow water to flow outside the development.

Public Path/Trail: A cleared way, constructed and suitable for public recreational use, together with necessary appurtenances and accessories such as benches or exercise stations, reasonably related to public recreational use. A public path that otherwise meets the requirements of this definition may be owned by a public or private entity or person.

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

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

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, and Winooski.

Recharge Area: Land area that adds to or replenishes water in an aquifer.

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. See Amusement Center.

Recreational Vehicle; for non-floodplain management purposes: A vehicle or vehicular attachment designed for temporary sleeping or living quarters for one or more persons, which is not a dwelling and which may include a pickup camper, travel trailer, tent trailer and motor home.

Recreational Vehicle; for floodplain management purposes: A vehicle which is built on a chassis; four hundred (400) square feet or less when measured at the largest horizontal projection, not including slide outs; designed to be self-propelled or permanently towable by a motor vehicle; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Recycling: The collection, separation, recovery and sale of metals, glass, paper, plastics, and other materials.

Redemption Center: A facility licensed by the Maine Department of Agriculture and whose principal use is to collect beverage containers and refund the statutory deposit pursuant to 32 M.R.S.A. Section 1861. The facility shall also store the beverage containers on-site for a period of time not to exceed thirty (30) days, for the ultimate collection by the beverage distributor.

Regional Flood: The maximum flood on a water body; either the 100-year frequency flood, where calculated, or the flood of record.

Regulatory Floodway: The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and

When not designated on the 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 wastewater disposal system: A 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.

Required Front Yard Area: The area between the front lot line and front setback line.

Residential Care Facility: (See Congregate Care facility or Community Living Facility)

Residential in Appearance: Siding materials such as clapboards, shingles and shakes, including synthetic or metal siding manufactured to closely resemble clapboards, shingles and shakes. This term shall also include masonry, brick, stucco, and wood board-and-batten.

Residential Dwelling Unit: (See Dwelling Unit)

Residential Siding: Siding materials such as clapboards, shingles, and shakes, including synthetic or metal siding manufactured to closely resemble clapboards, shingles and shakes. This term shall also include masonry, wood board-and-batten, and "Texture 1-11" exterior plywood, but shall not include artificial masonry, or fake board-and-batten made from metal.

Residuals; for sludge management purposes: Those materials, including but not limited to pulp and paper mill wastewater treatment sludge, food and fiber processing wastes, municipal wastewater and sludges, vegetable and fish processing residuals, and ash from wood incinerators, generated from municipal, commercial or industrial facilities that are suitable for controlled land

application and result in vegetative assimilation, attenuation of the components in the material or improved soil conditions.

Resource/Mineral Extraction Activities: Any operation within any twelve-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 which transports the product removed, away from the extraction site.

Restaurant: An establishment where meals are prepared and served to the public for consumption for compensation.

Restaurant, Drive-Through : A business involving the preparation and serving of meals for consumption on the premises in a motor vehicle or off the premises, normally requiring short amounts of time between the period of ordering and serving of the meal which is served in edible or disposable containers.

Restaurant, Fast Food: A business involving the preparation and serving of meals for consumption on the premises or off the premises, normally requiring short amounts of time between the period of ordering and serving of the meal which is served in edible or disposable containers.

Restaurant, Sit-down: A business involving the preparation and serving of meals for consumption on the premises, requiring moderate amounts of time between the period of ordering and serving the meal.

Re-Subdivision: The further division of an existing subdivision or any changes of the lot size therein, or the relocation of any road or lot line in a subdivision.

Retail: Connected with the sale of goods to the ultimate consumer for direct use and consumption and not for trade.

Right-of-way: The area or strip of land over which the public has a right of passage in the case of a public way or road, or over which a private individual has the right of passage in the case of a private way, or over which the City of Gardiner or a utility has the right of passage for the installation, maintenance and repair of utility infrastructure.

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 the point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth.

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

Road: An existing state, county, or town way or a street dedicated for public use and shown upon a plan duly approved by the Planning Board and recorded in the County Registry of Deeds. The term "road" shall not include those ways which have been discontinued or abandoned.

Road Classification:

Arterial: A major continuous route serving substantial statewide and interstate travel, linking cities, larger towns, and other major traffic generators, as classified by the Maine Department of Transportation (MDOT) under the provisions of 23 M.R.S.A. Section 53 as amended.

Collector: A road that carries traffic between residential areas and arterials, and roads between smaller communities, as classified by Maine Department of Transportation, as cited above.

Industrial or Commercial Road: A road servicing only industrial or commercial uses.

Minor Road: A road providing access to adjacent land and primarily serving local traffic.

Private Road: A vehicular access way serving more than two (2) dwelling units, which is not proposed to be dedicated to the city.

Roadside Stand/Farm Produce: A booth or stall located on property from which produce and farm products are sold to the general public.

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.

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 three-square occurs in fresher areas.

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

Sawmill: A mill or machine for sawing logs for commercial purposes.

School:

Public and Private - including Parochial School: An institution for education or instruction where any branch or branches of knowledge are imparted and which satisfies either of the following requirements: the school is not operated for a profit or a gainful

business; or the school teaches courses of study which are sufficient to qualify attendance thereby in compliance with State compulsory education requirements.

Commercial School: An institution which is commercial or profit-oriented. Examples thereof are dancing, music, riding, correspondence, aquatic schools, driving or business.

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

Self-Storage Building: A building or group of buildings that contain individual compartmentalized and controlled separate storage spaces leased or rented on an individual basis and accessible through individual doors.

Senior Housing: A housing development designed for persons over the age of 55 years without residential care or similar services.

Septage: Waste, refuse, effluent, sludge, and other materials from septic tanks cesspools, or other similar facilities.

Service Business: Any business or establishment which provides a service of a non-retail nature for hire by others, conducted through the application of some specialized knowledge, training, skill or talent, or through the employment of some special action or work. A service business does not entail outside storage of goods or equipment and does not utilize vehicles larger than nine thousand (9,000) pounds gross vehicle weight. A motor vehicle service station shall not be considered a service business.

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

In the case of electric service, 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 the total length of the extension is less than one thousand (1,000) feet.

In the case of telephone service, the extension, regardless of length, will be made by the installation of telephone wires to existing poles or the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback: The minimum horizontal distance from a lot line to the nearest part of a structure, road, parking space or other regulated object or area.

Setback from Water: The minimum horizontal distance from the normal high-water elevation to the nearest part of a structure.

Shared Entrance or Driveway: A single entrance or driveway serving two or more lots.

Shopping Center: A group of architecturally unified commercial establishments built on a site which is planned, developed, owned and managed as an operating unit related in its location, size and type of shops to one trade area that the unit serves. The unit provides on-site parking in definite relationship to the types and total size of the stores.

Shore Frontage: (See Frontage, Shore)

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

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

Sight Distance: The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway.

Sign: (See Sign definitions contained in the Special Activity Performance Section of this Ordinance)

Significant River Segments: See Appendix A or 38 M.R.S.A. section 437.

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

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

Sit-Down Restaurant: (See Restaurant)

Sludge: The semi-solid or liquid residual generated from a municipal, commercial or industrial wastewater treatment plant.

Small-Scale Alcoholic Beverage Production and Sales: An establishment that is licensed by the state as a small brewery, small winery, or small distillery that produces alcoholic beverages and that may offer the beverages produced by the establishment for sale either for consumption on the premises or for take-out of limited quantities in accordance with state regulation.

Social, Fraternal Organization: A group of people formally organized for a common interest, usually cultural, religious or entertainment, with regular meetings, rituals and formal membership requirements.

Solar Electric Production Facility: A use that is engaged in the production of electricity through the use of solar technology that is either the principal use of the property or that is a

secondary use on the property that is not associated with or accessory to the principal use of the property.

Solar Electric Production Facility – Building-Mounted: A Solar Electric Production Facility that is mounted on the roof or exterior wall surface of a building.

Solar Electric Production Facility – Ground-Mounted: A Solar Electric Production Facility that is mounted on the ground or on a supporting structure other than a building.

Solid Waste: Unwanted or discarded material, including garbage with insufficient liquid content to be free flowing.

Start of Construction: For floodplain management purposes, 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 one hundred eighty (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 pouring 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 street and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Storm-damaged tree: A tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

Stream: 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 or by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock.

Stream; for Shoreland zoning purposes: 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, highest resolution version of the national hydrology dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map to the point where the stream becomes a river or where the stream meets the Shoreland zone of another water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

Street: A public or private right-of-way or private road. (See Road.)

Structure: Anything constructed or erected, except a boundary wall, fence or surface paving, the use of which requires location on the ground or attachment to something on the ground.

Structure; for floodplain management purposes: A walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

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

Structure or Building Front: That side of a structure closest to the street that serves it and contains the primary means of entrance. There shall be only one structure or building front per building.

Studios of artists and craftsmen: Buildings or structures (or portions thereof) used by an artist or craftsman for the production, display, and sale of works of art or crafts. Only works of art or crafts produced by artists or craftsmen who work in the studio shall be displayed or sold in the studio. *(Adopted 06/04/2014, Effective 07/04/2014)*

Sub divider: An individual, firm, association, syndicate, partnership, corporation, trust, or any other legal entity, or agent thereof, that proposes to build a subdivision. The term "sub divider" includes "developer" and "builder."

Subdivision: As defined in the Subdivision Law, 30-A M.R.S.A. Section 4401.

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 fifty (50) percent of the market value of the structure before the damage occurred.

Substantial Improvement; for floodplain management purposes: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (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 Officer 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 Board of Appeals.

Substantial Start: Completion of ten percent (10%) of a permitted structure (thirty percent (30%) in a Shoreland district) or use measured as a percentage of estimated total cost.

Substantially Completed: Completion of construction to the point where normal functioning, use, or occupancy can occur without concern for the general health, safety and welfare of the occupant and general public.

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 M.R.S.A. Section 414, any surface wastewater disposal system licensed under 38 M.R.S.A. Section 413 Subsection 1A, 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 M.R.S.A. Chapter 13, Subchapter 1.

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

Swimming Pool: Any structure intended for swimming or recreational bathing that contains water over twenty-four (24) inches deep. This includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas.

Temporary Structure: A structure without any foundation or footings and which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

Temporary Use: A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

Theater: A building or part of a building devoted to showing motion pictures, or for dramatic, musical or live performances. (See Auditorium, Public Assembly.)

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 clearing of land for approved construction.

Tiny Home: A dwelling unit that either complies with the standards of the Maine Uniform Building and Energy Code for 'Tiny houses' or the definition of a Tiny home set forth in 29-A M.R.S. §101 (80-C).

Tradesperson's Office: The place of business of a tradesperson or a construction business where administrative and similar functions are performed inside a building.

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.

Tributary Stream: For Shoreland zoning purposes, 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 hydrologically connected to 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 and only applies to that portion of the tributary stream located within the Shoreland Zone of the receiving water body or wetland.

Truck Facility: Any building, premises or land in which or upon which a business, service or industry involving the maintenance, servicing, storage or repair of commercial vehicles is conducted or rendered, including the dispensing of motor fuel or other petroleum products directly into motor vehicles, and the sale of accessories or equipment for trucks and similar commercial vehicles.

Upland Edge of a Wetland: The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest annual tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

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

Vegetation: All live trees, shrubs, ground cover and other plants, including without limitation, trees both over and under four (4) inches in diameter, measured at 4 ½ feet above ground level.

Vehicle Fueling Station: A facility for the retail refueling of motor vehicles regardless of the type of fuel dispensed including the retail sale of related automotive goods and services.

Vehicle Sales: Any business which involves a parking or display area for the sale of new or used cars, trucks, motorcycles, campers, farm equipment, recreational vehicles, mobile homes, or similar products.

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

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

Waiver: A relaxation of all or portions of the submission requirements if the information is not required to determine compliance with the standards of this Ordinance.

Warehousing: The storage or deposit of merchandise or commodities in a structure or room.

Waste Processing and Disposal Facilities: The office, plants, substations, other structures and sites used to treat, transport or dispose of wastes.

Water Body/Water Course: Any pond, lake, river, stream, wetland or tidal area.

Water Crossing: Any project extending from one bank to the opposite bank of a river or stream, 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. The definition includes crossings for timber harvesting equipment and related structures.

Watershed: The land area that drains, via overland flow, natural or man-made drainage systems, water bodies, or wetlands to a given water body or wetland.

Wetland: An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include swamps, marshes, bogs, certain forested areas, and similar areas. The parameters that characterize wetlands are:

- (a) The vegetation is predominantly wetland or aquatic;
- (b) The soils are predominantly undrained hydric or wetland soils; and
- (c) The substrate is non-soil (such as sand, gravel or rock) and the area is saturated with water or covered with water at least 2 months during each year.

Wetland, Forested: A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

Wetland, Freshwater: For Shoreland zoning purposes, freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

- (a) 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
- (b) 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.

Wetlands Associated with Great Ponds and Rivers; for Shoreland zoning purposes: Wetlands associated with great ponds or rivers are considered to be part of that great pond or river when they are contiguous with or adjacent to the great pond or river and during normal high water are connected by surface water to the great pond or river or are separated from the great pond or river by a berm, causeway, or similar feature less than one hundred (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.

Wholesale: Selling to retailers or jobbers rather than to consumers.

Windmill: A wind energy conversion system consisting of a wind turbine, a tower and associated control or conversion electronics.

Windmill, Large: A windmill which has a rated capacity of more than ten (10) kw.

Windmill, Mid-Size: A windmill which has a rated capacity more than two (2) kw and not more than ten (10) kw.

Windmill, Small: A windmill which has a rated capacity of two (2) kw or less.

Wind Turbine: Parts of a wind energy system including blades, generator and tail.

Wind Turbine Height: The distance measured from the surface of the tower foundation to the highest point of any turbine rotor blade measured at the highest arc of the blade.

Wireless Communications Facility: Any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange phone services and personal communications service (PCS) or pager services.

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

Yard: The area of land on a lot not occupied by the principal building.

Yard, Front: The area of land between the front lot line and the nearest part of the principal building.

Yard, Rear: The area of land between the rear lot line and the nearest part of the principal building.

Yard, Side: The area of land between the side lot line and the nearest part of the principal building.

Yard or Garage Sale: A sale, conducted indoors or out of doors, of used household goods, curios and the like at a frequency of less than eight (8) days in any six-month period. Yard or garage sales, as distinguished from flea markets, shall be considered to be accessory uses.

Zone: (See District)