

1 **16.3 Definitions**

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9 **16.3.1. Purpose**

10 Except where specifically defined in this chapter, all words used in this title carry their
11 customary dictionary meanings. Words used in the present tense include the future, and the
12 plural includes the singular; the word "lot" includes the word "plot"; the word "building"
13 includes the word "structure"; the words "shall" or "must" are always mandatory; "occupied"
14 or "used" are considered as though followed by the words "or intended, arranged or designed
15 to be used or occupied"; and gender-specific words (e.g., she, he, his, hers) include the
16 opposite sex equivalent.

17 **16.3.2. Definitions**

18 As used in this title, the following terms shall have the meanings indicated:

19 **ABUTS**

20 That which is contiguous to, or shares, a common boundary line. The owner of a property that is
21 contiguous to or shares a common boundary line is an abutter. See § 16.5.2, § 16.7.10.C(2)c and §
22 16.8.9.C(3)c on abutter notification process when a new development or redevelopment is proposed.

23 **ACCESSORY BUILDING**

24 A subordinate building on the lot, the use of which is incidental to that of the main or principal
25 building.

26 **ACCESSORY DWELLING UNIT (ADU)**

27 A secondary dwelling unit with facilities used or intended to be used for living, sleeping, cooking, eating,
28 and sanitary facilities for one or more persons, whether attached to the principal dwelling unit, detached
29 from it or contained within it.

30
31 **[Amended 10-28-2019 by Ord. No. 19-09].**

32 **ACCESSORY STRUCTURE**

33 A structure that is subordinate to and serves a principal building or use on the lot.

34 **ACCESSORY USE**

35 A use customarily incidental and subordinate to a Principal Use and located on the same lot with
36 such Principle Use. See Principle Use definition.

37 **ADJACENT GRADE**

38 The natural elevation of the ground surface prior to construction next to the proposed walls of a
39 structure.

40 **[ADDED 9-26-2011 BY ORD. NO. 11-15]**

41 **ADULT ENTERTAINMENT ESTABLISHMENT**

42 A. Any business in any use category, a substantial or significant portion of which consists of
43 selling, renting, leasing, exhibiting, displaying or otherwise dealing in materials, actions,
44 and/or devices of any kind which appeal to prurient interest and which depict or describe
45 specified sexual activities, including but not limited to:

- 46 (1). Live entertainment, books, magazines, periodicals or other printed matter, or
47 photographs, films, motion pictures, video cassettes or video reproductions, slides
48 or other visual representations which are characterized by the depiction or
49 description of "specified sexual activities," or
50 (2). Instruments, devices or paraphernalia which are designed for use in connection
51 with "specified sexual activities."

- 52 B. For the purpose of this definition, "specified sexual activities" means:
- 53 (1). Human genitals in a state of sexual stimulation or arousal;
- 54 (2). Acts of human masturbation, sexual intercourse or sodomy, fondling or other erotic
- 55 touching of human genitals, pubic region, buttocks or female breasts.

56 **AGE-RESTRICTED HOUSING**

57 A residential use occupied principally by residents who are at least 55 years of age (or in the case of a

58 couple, at least one of whom is at least 55 years of age) in which the accommodations are all dwelling

59 units with private bathrooms and cooking facilities. Occupants of this residential use may also include

60 handicapped individuals of any age. Age-Restricted Housing does not include Residential Care

61 Facilities that are typically referred to as independent living units, congregate care units, assisted

62 living units, dementia or Alzheimer's units or hospice units, or a nursing care or convalescent care

63 facility that provides nursing services.

64 **AGGRIEVED PARTY**

65 An owner of land whose property is directly or indirectly affected by the granting or denial of a

66 permit or variance under this title; a person whose land abuts land for which a permit or variance has

67 been granted; or any other person or group of persons who have suffered particularized injury as a

68 result of the granting or denial of such permit or variance.

69 **AGRICULTURE**

70 The production, storage, keeping, harvesting, grading, packaging, processing, boarding, or

71 maintenance for sale, lease, or personal use of plants and/or animals, including but not limited to:

72 forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry

73 products; livestock, including beef cattle, sheep, swine, horse, ponies, mules, or goats or any

74 mutations or hybrids thereof, including the breeding and grazing of any or all such animals; bees and

75 apiary products; fur animals; trees, and forest berries; vegetables; nursery, floral, ornamental, and

76 greenhouse products; but excluding marijuana. Agriculture does not include forestry or sawmills, as

77 defined in this Ordinance. See § 16.5.4 for Agriculture general performance standards.

78 **AGRICULTURE, PIGGERY**

79 A premises, area, fenced enclosure, building or structure, or portion thereof, used or designed for the

80 keeping of pigs. See § 16.5.5 for Agriculture, Piggery general performance standards.

81 **AGRICULTURE, POULTRY FACILITY**

82 A premises, area, fenced enclosure, building or structure, or portion thereof, used or designed for the

83 keeping of poultry or fowl. See § 16.5.6 for Agriculture, Poultry Facility general performance

84 standards.

85

86 **ALTERNATIVE TOWER STRUCTURE**

87 Includes but is not limited to clock towers, bell steeples, utility/light poles, water towers, and similar

88 alternative-design mounting structures that camouflage or conceal the presence of antennas or

89 towers, referred to by the industry as "stealth" technology.

90

91 **ANTENNA**

92 Any apparatus designed for telephonic, radio, television or similar communications through the sending

93 and/or receiving of electromagnetic waves.

94 **AQUACULTURE**

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

96 **ART STUDIO OR GALLERY**

97 Enclosed place for the exhibition, production and sales of art.

- 98
- 99 **BANNER**
100 Any sign of lightweight fabric or similar material that is mounted for display at one or more edges.
- 101 **BASAL AREA**
102 The area of a tree stem derived by measuring the diameter of a standing tree measured 4.5 feet from
103 ground level and inclusive of bark.
- 104 **BASE FLOOD**
105 The flood having a one-percent chance of being equaled or exceeded in any given year, commonly
106 called the one-hundred-year flood.
- 107 **[ADDED 9-26-2011 BY ORD. NO. 11-15]**
- 108 **BASEMENT**
109 An area below the first floor having a floor-to-ceiling height of six feet or more and 50% of its
110 volume below the existing ground..
- 111 **BED-AND-BREAKFAST**
112 A home occupation in a single-family dwelling in which lodging or lodgings with meals served
113 before noon are offered to the general public for compensation, offering no more than six bedrooms
114 for lodging purposes.
- 115 **BEST MANAGEMENT PRACTICES ("BMP")**
116 Schedules of activities, prohibitions of practices, maintenance procedures, and other management
117 practices to prevent or reduce the pollution of water bodies. BMPs also include treatment
118 requirements, operating procedures, and practices to control plant site runoff, spillage or leaks,
119 sludge or waste disposal, or drainage from raw material storage.
- 120 **BILLBOARD**
121 The surface of any building or structure which is available for hire for advertising goods or services
122 not provided on the premises. Official business directional signs (OBDS) are not considered
123 billboards.
- 124 **BOARD OF APPEALS**
125 The Board of Appeals of the Town of Kittery; may be referred to as the BOA.
- 126 **BOAT LAUNCHING FACILITY**
127 A facility designed primarily for the launching and landing of watercraft, and which may include an
128 access ramp, docking area, and parking spaces for vehicles and trailers.
- 129 **BOAT YARD**
130 A business or gainful occupation where boats are hauled, stored, repaired and/or constructed.
- 131 **BOATHOUSE**
132 A building used exclusively for the keeping, repairing and maintenance of boats.
- 133 **BREAKAWAY WALL**
134 A wall that is not part of the structural support of the building and is intended, through its design and
135 construction, to collapse under specific lateral loading forces without causing damage to the elevated
136 portion of the building or supporting foundation system.
- 137 **[ADDED 9-26-2011 BY ORD. NO. 11-15]**

138 **BROOK**
139 A channel between defined banks, including the floodway, associated floodplain wetlands, where the
140 channel is created by the action of surface water and characterized by the lack of upland vegetation
141 or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing
142 waterborne deposits on exposed soil, parent material or bedrock.

143 **BUFFER**
144 A combination of physical space and vertical elements, such as plants, berms, fences or walls, the
145 purpose of which is to separate and screen incompatible land uses from each other.

146 **BUILDING**
147 Any structure having a roof supported by columns or walls and intended for the shelter, housing or
148 enclosure of persons, animals or property. Each portion of a building separated from other portions
149 by a fire wall is considered as a separate structure.

150 **BUILDING COVERAGE**
151 The aggregate or the maximum horizontal area of all buildings on the lot including accessory
152 buildings but excluding cornices, eaves or gutters projecting not more than 24 inches. Pet shelters,
153 playground equipment, tree houses, and structures that are not also "buildings" are not used in
154 calculating building coverage. Additionally, this is not to be construed to mean the aggregate of
155 floors in a multilevel building.

156 [ADDED 5-22-2017 BY ORD. NO. 17-05]

157 **BUILDING FRONTAGE**
158 Linear footage along the face of the building containing the main public entry, commonly labeled
159 "front elevation" on building plans.

160 **BUSINESS**
161 For the purposes of the sign regulations, any corporation, trust, partnership or other verifiable legal
162 entity with the object of gain, benefit or advantage.

163 **BUSINESS AND PROFESSIONAL OFFICES**
164 A building, or portion thereof, in which there are located the offices of a profession or business,
165 including, but not limited to, banks, insurance, realtors, attorneys, appraisers, engineers, architects,
166 landscape architects, accountants, dentists, optometrists and physicians.

167 **BUSINESS FACILITY**
168 For the purposes of the sign regulations, a workplace of a business other than an employee's or
169 employer's personal residence.

170 **BUSINESS SERVICES**
171 Establishments primarily engaged in providing services to business enterprises on a fee or contract
172 basis, including, but not limited to, advertising, credit agencies, photocopying, commercial graphics,
173 computer programming, cleaning and maintenance services, employment agencies, data processing,
174 consulting and public relations, security and business equipment rental.

175 **CAMPGROUND**
176 Any area or tract of land use to accommodate two or more visitors, including tents, trailers or other
177 camping outfits, not to be used as permanent residence.

178 **CANNABIS**
179 All parts of the plant of the genus Cannabis whether growing or not, the seeds thereof, the resin
180 extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or

181 preparation of the plant, its seeds or its resin including cannabis concentrate. This term does not
182 include industrial hemp, fiber produced from the stalks, oil, cake made from the seeds of the plant,
183 sterilized seed of the plant that is incapable of germination or any ingredient combined with cannabis
184 to prepare topical or oral administrations, food, drink or any other product. Cannabis also means
185 marijuana.

186 **[ADDED 5-22-2017 BY ORD. NO. 17-08]**

187 **CANOPY, TREE (TREE CANOPY)**

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

189 **CEMETERY**

190 A private or public place set apart for the interment of the dead. In the absence of an apparent boundary,
191 i.e., fence, stone wall, survey markers, survey plan, or information from the Kittery Historical and Naval
192 Society or other reliable historic sources, the perimeter of the interment area is determined by starting
193 with a ten-foot distance from existing tombstones and expanded, where necessary, to form a final
194 rectilinear area.**[ADDED 9-28-2015 BY ORD. NO. 15-05]**

195 **CERTIFICATE OF COMPLIANCE**

196 A document signed by the Code Enforcement Officer stating that a structure is in compliance with
197 all of the provisions of § 16.5.10.I et seq.

198 **[ADDED 9-26-2011 BY ORD. NO. 11-15]**

199 **CERTIFICATE OF OCCUPANCY**

200 A permit issued by the Code Enforcement Officer that authorizes the recipient to make use of
201 property in accordance with the requirements of this title and applicable state and federal
202 requirements.

203 **CHARACTER**

204 The main or essential nature, especially as strongly marked and serving to distinguish.

205 **CLEAN WATER ACT**

206 The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq., also known as the "Clean Water
207 Act"), and any subsequent amendments thereto.

208 **[ADDED 5-22-2017 BY ORD. NO. 17-06]**

209 **CLEAR-CUT**

210 Any timber harvesting on a forested site greater than one acre in size which, over a ten-year period,
211 results in an average residual basal area of trees over six inches in diameter of less than 30 square
212 feet per acre, unless one or both of the following conditions exist:

- 213 A. If after harvesting the average residual basal area of trees over one inch in diameter
214 measured at 4.5 feet above the ground is 30 square feet per acre or more, a clear cut does
215 not occur until the average residual basal area of trees six inches or larger measured at 4.5
216 feet above the ground is less than 10 square feet per acre; or
- 217 B. After harvesting, the site has a well-distributed stand of trees at least five feet in height that
218 meets the regeneration standards applicable under 12 M.R.S. Chapter 805, § 8869(1).

219 **CLUSTER RESIDENTIAL DEVELOPMENT**

220 A form of land use improvements and/or change in which the dimensional requirements are reduced
221 below that normally required in the zoning district in which the land use improvements and/or
222 change is located in return for the provision to set aside a portion of the tract as of permanent open

223 space and other environmental enhancements owned and maintained jointly in common by
224 individual lot/unit owners, the Town, or a land conservation organization.

225 **CODE ENFORCEMENT OFFICER (CEO)**

226 The person duly authorized by the Town to carry out the duties as prescribed herein and in the Town
227 Administrative Code.

Commented [1]: Editor's Note: See Title 2.

228 **CO-LOCATION**

229 The location of more than one telecommunications facility (use) on a tower or alternative tower
230 structure.

231 **COMMERCIAL FISHERIES/MARITIME ACTIVITIES (USE)**

232 The active use of lands, buildings, wharves, piers, floats, docks or landings with the principal intent
233 of such activity being the production of income by an individual or legal business entity through the
234 operation of a vessel(s). This activity may be either a principal or accessory use as herein defined.

235 **COMMERCIAL GREENHOUSE**

236 A building or structure made primarily of transparent or translucent material used by a business or in
237 the production of income, which is designed and/or used for the indoor propagation and/or
238 cultivation of plants.

239 **COMMERCIAL KENNEL**

240 A commercial operation that: 1) provides food and shelter and care of eight or more animals for
241 purposes not primarily related to medical care; or 2) has at any one time eight or more animals for
242 the purpose of commercial breeding.

243 **COMMERCIAL MARINA USE STRUCTURE**

244 A structure which is used by a business entity to serve the general public by providing marine-
245 related services.

246 **COMMERCIAL OR HOME OCCUPATION VESSEL**

247 The vessel is used for commercial or home occupation use when its principal purpose or use is in the
248 pursuit of one's business or trade for the purpose of earning a livelihood. The burden of proof in
249 establishing the commercial or home occupation use of a vessel lies with the vessel owner.

250 **COMMERCIAL SCHOOL**

251 A building or buildings which is principally used to conduct commercial educational classes
252 including, but not limited to trade schools, schools of art, beauty, business, dancing, driving, music,
253 martial arts, but not including private nursery, elementary or secondary schools. Retail sales of items
254 related to the school are allowed as an accessory use to commercial schools.

255 **COMMERCIAL USE**

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

259 **COMMERCIAL/INDUSTRIAL AND/OR FISHERIES USE STRUCTURE**

260 A structure which is used by a business entity, Port Authority or municipality having frontage on
261 navigable water and, as its principal use, provides for hire to the general public offshore mooring
262 and/or docking facilities for vessels used for any marine-related commercial, industrial or fisheries
263 use.

264 **COMMUNITY**

265 The Town of Kittery and its people.

266 **COMPACT OR BUILT-UP SECTION**

267 The "compact or built up section" of the Town means a section of the highway where structures are
268 nearer than 200 feet apart for a distance of 1/4 mile.

Commented [2]: Editor's Note: Added at time of adoption of Code (see Ch. 1.1, Code Adoption).

269 **COMPREHENSIVE PLAN**

270 Any part or element of the plan or policy for the development of the Town, as defined in Title 30-A
271 M.R.S. § 4301, as issued in the Kittery Comprehensive Plan as approved by the Town Council, or
272 subsequent revisions or additions thereto.

273 **CONFERENCE CENTER**

274 A facility used for conferences, seminars and meetings, including accessory accommodations for
275 food preparation and eating, recreation, entertainment, resource facilities, and meeting rooms.

276 **CONSTRUCTION DRAWINGS**

277 Drawings showing the location, profile, grades, size and type of drains, sewers, water mains,
278 underground fire alarm ducts, pavements, of streets, miscellaneous structures, etc.

279 **CONSTRUCTION SERVICES**

280 The performance of work and/or the furnishing of supplies to members of the building trades, such
281 as, but not limited to, plumbing, painting, building, well drilling, carpentry, masonry or electrical
282 installation, which requires, or customarily includes, the storage of materials and/or the location of
283 commercial vehicles at the site.

284 **CONTIGUOUS LOTS**

285 Lots which adjoin at any line or point or are separated at any point by a body of water less than 15
286 feet wide.

287 **CONTRACTOR, EXCAVATION**

288 An individual or firm engaged in a business that causes the disturbance of soil, including grading,
289 filling and removal, or in a business in which the disturbance of soil results from an activity that the
290 individual or firm is retained to perform.

291 **[ADDED 10-26-2015 BY ORD. NO. 15-12]**

292 **CONVALESCENT CARE FACILITY**

293 A facility that is licensed by the State of Maine to provide nursing care to persons during periods of
294 recovery or rehabilitation. The facility provides nursing care and related rehabilitation services. The
295 facility does not provide hospital services except as incidental to the delivery of nursing care. A
296 convalescent care facility does not include any facility that is defined as an elder-care facility.

297 **CORNER LOT**

298 A lot or parcel of land abutting on two or more streets at their intersection or on two parts of the
299 same street forming an interior angle of less than 135 degrees.

300 In zones where yards are required:

301 A. Such corner lots, located at the intersection of two streets, are deemed to have a side rather
302 than a front yard between the principal building and the side street. Such side yard may not
303 be less than the front yard requirements of uses located on the side street.

304 B. Such corner lots, located at the intersection of two streets, are deemed to have a side rather
305 than a rear yard between the principal building and the abutting property on the side street.
306 Such side yard may not be less than the side yard requirements of uses located on the side
307 street.

308 C. All such side yards described above must conform to the specific regulations related to
309 yard space and related building height contained in the district provisions of this title.

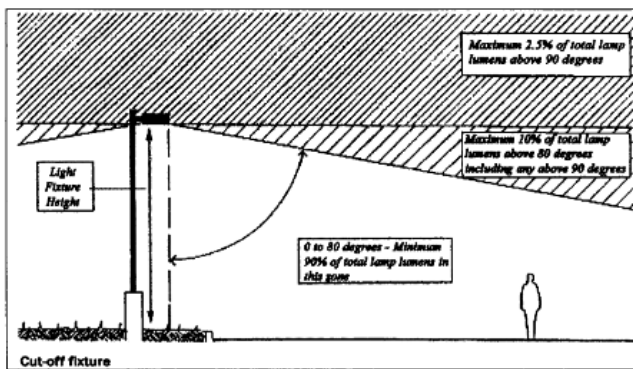
310 **COVERAGE (LOT, BUILDING)**

311 See definition for "building coverage."

312 [AMENDED 5-22-2017 BY ORD. NO. 17-05]

313 **CUTOFF FIXTURE**

314 A lighting fixture or luminaire that controls glare by directing light well below the horizontal. A
315 cutoff fixture limits the direction of light so that a maximum of 2 1/2% of the total lamp lumens
316 shine above 90° or a line parallel to the surface of the ground and a maximum of 10% of the lamp
317 lumens shine above 80°, including any above 90°, as shown in the following sketch.



Commented [3]: Editor's Note: This ordinance also repealed the former definition of "coverage (lot, structure)," which immediately followed this definition.

318 **DAY**

319 A calendar day unless otherwise indicated.

320 **DAY CARE FACILITY**

321 A house or other place conducted or maintained by anyone who provides on a regular basis and for
322 consideration, care and protection for three or more unrelated children under 16 years of age, who
323 are unattended by their parent(s) or guardian(s), for any part of a day. Any facility, the chief purpose
324 of which is to provide education, is not considered a Day Care Facility.

Commented [SD4]: State requirement - not needed here

325 **DECK**

326 An unenclosed, unroofed exterior platform structure, with or without railings, which is elevated
327 above ground and is typically of wood construction, whether attached to a building or freestanding.
328 A deck is not a water-dependent structure.

329 **DESIGNATED HISTORIC BUILDING**

330 A building listed on or located within a historic district listed on the National Register of Historic
331 Places or a list of historic buildings or local historic districts published by the Maine Historic
332 Preservation Office, or contained in the Town's adopted Comprehensive Plan.

333 **DESIGN HANDBOOK**

334 A handbook which is intended to supplement, illustrate and amplify various sections of this Title 16,
335 Land Use and Development Code, and which is on file in the Town offices.

336 [ADDED 5-30-2018 BY ORD. NO. 04-18]

337 **DEVEGETATED AREA**

338 The total area of all existing and proposed structures, driveways, parking areas and other
339 nonvegetated surfaces located in the Shoreland Overlay and Resource Protection Zones.

340 [ADDED 7-25-2016 BY ORD. NO. 16-03]

341 **DEVELOPER**

342 Any person, firm, corporation or other legal entity that makes application for any type of
343 development within the Town.

344 **DEVELOPMENT**

345 [AMENDED 7-25-2016 BY ORD. NO. 16-02]

346 A. A change in land use involving alteration of the land, water or vegetation; or

347 B. The addition or alteration of structures or other construction not naturally occurring.

348 **DEVELOPMENT PLAN**

349 See "master site development plan."

350 **DIMENSIONAL REQUIREMENTS**

351 Numerical standards relating to spatial relationships, including, but not limited to, setbacks, lot width
352 and area, shore frontage, percent of lot coverage and height.

353 **DISABILITY**

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

360 **DISCHARGE**

361 For the purposes of stormwater regulation, means any spilling, leaking, pumping, pouring, emptying,
362 dumping, disposing or other addition of pollutants to "waters of the state." "Direct discharge" or
363 "point source" means any discernible, confined and discrete conveyance, including, but not limited
364 to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock,
365 concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or
366 may be discharged.

367 [ADDED 5-22-2017 BY ORD. NO. 17-06]

368 **DISTURBED AREA**

369 Land altered by the clearing of vegetation, grading, excavation and redevelopment. The cutting of
370 trees without grubbing, stump removal, and the disturbance or exposure of soil is not considered to
371 be disturbed area. Work performed in order to continue the original line and grade, hydraulic
372 capacity, and the original purpose of the land or the improvements thereon is not considered to be
373 disturbed area.

374 **DOCK**

375 The slip or waterway extending between two piers or projecting wharves or cut into the land for the
376 reception of vessels.

377 **DRAINAGE DITCH**

378 A man-made, regularly maintained channel, trench or swale for conducting water that has a direction

379 of flow to remove surface water or groundwater from land by means of gravity. For the purposes of
380 this title, any new activity that reroutes a streambed or dredges a wetland is not considered to be a
381 "drainage ditch." Where a drainage ditch widens out into a larger wetland, a route no more than 12
382 feet in width can be considered to be the drainage ditch. The remainder is considered wetlands unless
383 it is demonstrated that the originally developed drainage ditch was designed to be greater than 12
384 feet in width.

385 **DREDGE**

386 To move or remove, by digging, scraping, scooping or suctioning, any earth, sand, silt, mud, gravel,
387 rock or other material from the bottom of a water body or wetland surface.

388 **DRIVEWAY**

389 A vehicular accessway less than 500 feet in length serving two lots or less.

390 **DRIVE-THROUGH FACILITY**

391 Any portion of a structure from which business is transacted, or is capable of being transacted,
392 directly with customers located in a motor vehicle during such business transaction.

393 **DWELLING**

394 A building designed or used as the living quarters for one or more families. The term does not
395 include motel, rooming house, hotel, inn, club, trailer or structures solely used for transient or
396 overnight occupancy.

397 **DWELLING, ATTACHED SINGLE-FAMILY**

398 A dwelling unit, located on its own lot that shares one or more common or abutting walls with one
399 or more dwelling units. The common or abutting wall must be shared for at least 25 percent of the
400 length of the side of the dwelling.

401 **DWELLING, MANUFACTURED HOUSING**

402 Manufactured housing shall be defined according to 30-A, M.R.S.A. § 4358, as amended from
403 time to time. See § 16.5.14 for Manufactured Housing general performance standards.

404 **[AMENDED 9-26-2011 BY ORD. NO. 11-15]**

405 **DWELLING, MULTI-FAMILY**

406 A structure that contains three (3) or more dwelling units that share common walls or
407 floors/ceilings with one or more units. The land underneath the structure is not divided into
408 separate lots.

409 **DWELLING, SINGLE-FAMILY**

411 A detached dwelling unit located on its own lot.

412 **DWELLING, TWO-FAMILY**

413 A building that contains two primary dwelling units on one lot. The units must share a common
414 wall or common floor/ceiling.

415 **DWELLING UNIT**

416 A room or group of rooms forming a habitable unit for one family, with facilities used or intended to
417 be used for living, sleeping, cooking, eating and sanitary facilities. It comprises at least 650 square
418 feet of habitable floor space, except for elderly housing or an accessory dwelling unit. The term does
419 not include a trailer.

421 **DWELLING UNIT (IN THE SHORELAND AND RESOURCE PROTECTION OVERLAY**
422 **ZONES)**

423 A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or
424 temporary living quarters for only one family at a time and containing cooking, sleeping and toilet
425 facilities. The term includes mobile homes and rental units that contain cooking, sleeping, and toilet
426 facilities regardless of the time period rented. Recreational vehicles are not dwelling units.

427 **[ADDED 1-28-2015 BY ORD. NO. 15-01]**

428 **EASEMENT**

429 The authorization of a property owner for the use by another, and for a specified purpose, of any
430 designated part of the owner's property.

431 **EAVE**

432 The projecting lower edges of a roof overhanging the wall of the building.

433 **ELDERLY DAY CARE FACILITY**

434 A facility that provides short-term care, supervision and recreation and social activities for elderly
435 and handicapped individuals, in which the participants do not stay overnight.

436 **ELEVATED BUILDING**

437 **[ADDED 9-26-2011 BY ORD. NO. 11-15]**

438 A. A nonbasement building:

439 (1). Built, in the case of a building in Zone A1 — 30, AE, A, A99, AO or AH, to have
440 the top of the elevated floor, elevated above the ground level by means of pilings,
441 columns, post, piers or "stilts"; and

442 (2). Adequately anchored so as not to impair the structural integrity of the building
443 during a flood of up to one foot above the magnitude of the base flood.

444 B. In the case of Zone A1 — 30, AE, A, A99, AO or AH, "elevated building" also includes a
445 building elevated by means of fill or solid foundation perimeter walls less than three feet in
446 height with openings sufficient to facilitate the unimpeded movement of floodwaters.

447 **ELEVATION CERTIFICATE**

448 An official form (FEMA Form 81-31, 05/90, as amended) that:

449 **[ADDED 9-26-2011 BY ORD. NO. 11-15]**

450 A. Is used to verify compliance with the floodplain management regulations of the National
451 Flood Insurance Program; and

452 B. Is required for purchasing flood insurance.

453 **EMERGENCY OPERATIONS**

454 Operations conducted by or on behalf of the municipality for the public health, safety or general
455 welfare, such as protection of resources from immediate destruction or loss, law enforcement and
456 operations to rescue human beings, property and livestock from the threat of destruction or injury.

457 **ESSENTIAL SERVICES**

458 The construction, alteration or maintenance of gas, electrical or communication facilities; steam,
459 fuel, electric power or water transmission or distribution lines, towers and related equipment;
460 telephone cables or lines, poles and related equipment; gas, oil, water, slurry, or other similar
461 pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such
462 systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms, all
463 police call boxes, traffic signals, hydrants and similar accessories, but do not include service drops or
464 buildings which are necessary for the furnishing of such services.

465 **EXEMPT PERSON OR DISCHARGE**

466 For the purposes of stormwater regulation, means any person who is subject to a multi-sector general
467 permit for industrial activities, a general permit for construction activity, a general permit for the
468 discharge of stormwater from the Maine Department of Transportation and the Maine Turnpike
469 Authority, municipal separate storm sewer systems, or a general permit for the discharge of
470 stormwater from state or federally owned authority, municipal separate storm sewer system
471 facilities, and any nonstormwater discharge permitted under a National Pollutant Discharge
472 Elimination System permit, waiver, or waste discharge license or order issued to the discharger and
473 administered under the authority of the U.S. Environmental Protection Agency (EPA) or the Maine
474 Department of Environmental Protection (DEP).

475 **[ADDED 5-22-2017 BY ORD. NO. 17-06]**

476 **EXPANSION OF STRUCTURE**

477 An increase in the footprint of a structure, including all extensions, such as, but not limited to, piers
478 or attached decks, garages, porches and greenhouses.

479 **EXPANSION OF USE**

480 The addition of weeks or months to a use's operating season; additional hours of operation; or the
481 use of more floor area or ground area devoted to a particular use.

482 **FAA**

483 The Federal Aviation Administration.

484 **FAMILY**

485 One or more persons occupying premises and living as a single housekeeping unit.

486 **FARMERS MARKET**

487 An event where farmers, ranchers, other agricultural producers, craftspersons, artists or a
488 combination thereof, assemble to sell food, plants, flowers, marine-products, and added-value
489 products, such as jams and jellies, handmade crafts or artistic works, they have grown, raised, caught,
490 created or prepared for retail sale. In addition, some vendors sell food that is available for immediate
491 consumption on site, and some may be community groups, services, or other vendors or
492 organizations. Farmers Markets occur on a regular basis in the same location. They are free and open
493 to the public. Some markets are seasonal, while others occur year-round.

494 **FCC**

495 The Federal Communications Commission.

496 **FILL**

497 Materials such as select soils, rock, sand and gravel added to a land area or wetland area.

498 **FILLING**

499 The act of adding and/or placing fill into or upon a land area or wetland area.

500 **FINAL SUBDIVISION PLAN**

501 The final drawings on which an applicant's plan of a subdivision is presented to the Planning Board
502 for approval and which, if approved, must be filed for the record with the Municipal Clerk and York
503 County Registry of Deeds.

504 **FINGER FLOAT**

505 A float extending from the main float of a pier, ramp and float system that creates slips and/or
506 increases the pier or float edge available for mooring boats.

- 507 **FLAG**
508 Any fabric containing distinctive colors, patterns or symbols, used as a symbol of a government or
509 recognized political subdivision.
- 510 **FLOAT**
511 A platform that floats and is anchored, moored or secured at or near the shore, used for landing or
512 other purposes.
- 513 **FLOOD, AREA OF A SHALLOW FLOODING**
514 A designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM), with a one-
515 percent or greater annual chance of flooding to an average depth of one to three feet, where a clearly
516 defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow
517 may be evident. Such flooding is characterized by ponding or sheet flow.
- 518 **[ADDED 9-26-2011 BY ORD. NO. 11-15]**
- 519 **FLOOD, AREA OF SPECIAL FLOOD HAZARD**
520 The land in the floodplain having a one-percent or greater chance of flooding in any given year, as
521 specifically identified in the Flood Insurance Study cited in § 16.5.10.C, Establishment of areas.
- 522 **[ADDED 9-26-2011 BY ORD. NO. 11-15]**
- 523 **FLOOD ELEVATION STUDY**
524 An examination, evaluation and determination of flood hazards and, if appropriate, corresponding
525 water surface elevations.
- 526 **[ADDED 9-26-2011 BY ORD. NO. 11-15]**
- 527 **FLOOD HAZARD ZONE**
528 That portion of land which has one-percent chance of flooding in any given year, as designated on
529 Flood Insurance Rate Maps issued by the Federal Insurance Administration, if available, or on Flood
530 Hazard Boundary Maps issued by the Federal Insurance Administration.
- 531 **FLOOD INSURANCE RATE MAP (FIRM)**
532 An official map of a community on which the Administrator of the Federal Insurance Administration
533 has delineated both the special hazard areas and the risk premium zones applicable to the
534 community.
- 535 **[ADDED 9-26-2011 BY ORD. NO. 11-15]**
- 536 **FLOOD INSURANCE STUDY**
537 See "flood elevation study."
- 538 **[ADDED 9-26-2011 BY ORD. NO. 11-15]**
- 539 **FLOOD OR FLOODING**
540 **[ADDED 9-26-2011 BY ORD. NO. 11-15]**
- 541 A. A general and temporary condition of partial or complete inundation of normally dry land
542 areas from:
543 (1). The overflow of inland or tidal waters; or
544 (2). The unusual and rapid accumulation or runoff of surface waters from any source.

545 B. The collapse or subsidence of land along the shore of a lake or other body of water as a
546 result of erosion or undermining caused by waves or currents or water exceeding
547 anticipated cyclical levels or suddenly caused by an unusually high water level in a natural
548 body of water, accompanied by a severe storm, or by an unanticipated force of nature, such
549 as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable
550 event which results in flooding as defined in Subsection A(1) of this definition.

551 **FLOOD, ONE-HUNDRED-YEAR**

552 The highest level of flood that, on the average, is likely to occur once every 100 years (that has a
553 one-percent chance of occurring in any given year). See Base Flood.

554 **FLOODPLAIN MANAGEMENT**

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

558 [ADDED 9-26-2011 BY ORD. NO. 11-15]

559 **FLOODPLAIN MANAGEMENT REGULATIONS**

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

565 [ADDED 9-26-2011 BY ORD. NO. 11-15]

566 **FLOODPLAIN OR FLOOD-PRONE AREA**

567 Any land area susceptible to being inundated by water from any source (see "flood").

568 [ADDED 9-26-2011 BY ORD. NO. 11-15]

569 **FLOODPROOFING**

570 Any combination of structural and nonstructural additions, changes or adjustments to structures
571 which reduce or eliminate flood damage to real estate or improved real property, water and sanitary
572 facilities, structures and contents.

573 [ADDED 9-26-2011 BY ORD. NO. 11-15]

574 **FLOODWAY**

575 See "regulatory floodway."

576 [ADDED 9-26-2011 BY ORD. NO. 11-15]

577 **FLOODWAY ENCROACHMENT LINES**

578 The lines marking the limits of floodways on federal, state and local floodplain maps.

579 [ADDED 9-26-2011 BY ORD. NO. 11-15]

580 **FLOOR AREA**

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

583 **FOREST MANAGEMENT ACTIVITIES**

584 Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application,
585 management planning activities, timber stand improvement, pruning, regeneration of forest stands, and
586 other similar or associated activities, exclusive of timber harvesting and the construction, creation or
587 maintenance of roads.

588 **FOUNDATION**

589 The supporting substructure of a building or other structure, including, but not limited to, basements,
590 slabs, sills, posts or frost walls.

591 **FREEBOARD**

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

596 **[ADDED 9-26-2011 BY ORD. NO. 11-15] FUNCTIONALLY WATER-DEPENDENT USES**

597 Those uses that require, for their primary purpose, location on submerged lands or that require direct
598 access to, or location in, coastal and inland waters and which cannot be located away from these
599 waters. The uses include, but are not limited to, commercial and recreational fishing and boating
600 facilities, finfish and shellfish processing, fish storage and retail and wholesale fish marketing
601 facilities, waterfront dock and port facilities, excluding recreational boat storage buildings, shipyards
602 and boat-building facilities, marinas, navigation aids, basins and channels, industrial uses dependent
603 upon waterborne transportation or requiring large volumes of cooling or processing water and which
604 cannot reasonably be located or operated at an inland site, and uses which primarily provide general
605 public access to marine or tidal waters.

606 **GAMBLING OR GAMING**

607 Any banking or percentage game played for money, property, or any representative of value with cards,
608 dice, or any device or machine and located exclusively within a facility licensed for such activity.

609 **GAMBLING CASINO**

610 A room or rooms in which legal gaming or gambling is conducted. .

611 **GASOLINE SALES**

612 The retail sales of fuel for motor vehicles, including, but not limited to, gasoline, diesel fuel, bio-
613 diesel, kerosene, ethanol, propane and hydrogen, and related goods and services. The gasoline sales
614 can be the principal use or accessory to another principal use, such as a convenience store or other
615 retail or service use.

616 **GASOLINE SERVICE STATION**

617 An establishment for the retail sales of fuel for motor vehicles, including, but not limited to,
618 gasoline, diesel fuel, bio-diesel, kerosene, ethanol, propane and hydrogen, and related goods and
619 services, and may provide service and minor repairs for motor vehicles.

620 **GRADE PLANE**

621 A reference plane representing the average of finished ground level adjoining the building at all
622 exterior walls. Where the finished ground level slopes away from the exterior walls, the reference
623 plane is to be established by the lowest points within the area between the building and the lot line
624 or, where the lot line is more than six feet (1,829 mm) from the building, between the building and a
625 point six feet (1,829 mm) from the building.

626 **GROSS FLOOR AREA**

627 The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls or a roof,
628 plus the horizontal area of portions of the site used for customer seating, display of merchandise, or
629 outdoor sales.

630 **GROUND COVER**

631 Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest
632 floor.

633 **HAZARDOUS WASTE**

634 As defined in 38 M.R.S. § 1319-O, a waste substance or material in any physical state, designated as
635 hazardous by the Board of Environmental Protection under 38 M.R.S. § 1303-C.

Commented [5]: Editor's Note: Amended at time of adoption of Code (see Ch. 1.1, Code Adoption).

636 **HEIGHT OF BUILDING**

637 The vertical measurement from the average grade between the highest and lowest elevation of the
638 original ground level to the highest point of the roof beams in flat roofs; to the highest point on the
639 deck of mansard roofs; to a level midway between the level of the eaves and highest point of pitched
640 roofs or hip roofs; or to a level 2/3 of the distance from the level of the eaves to the highest point of
641 gambrel roofs. For this purpose, the level of the eaves is taken to mean the highest level where the
642 plane of the roof intersects the plane of the outside wall on a side containing the eaves. This is not
643 intended to include weather-vanes or residential antennas that protrude from a roof, but does include
644 all towers, excepting those utilized for amateur radio communications, and other structures. Building
645 height restrictions do not apply to roadside utility poles approved by the Town Council of less than
646 45 feet in height above ground.

647 **HEIGHT OF STRUCTURE**

648 The vertical distance between the mean original grade at the downhill side of the structure and the
649 highest point of the structure, excluding chimneys, steeples, antennas and similar appurtenances
650 which have no floor area.

651 **HEIGHT OF WIRELESS COMMUNICATION SERVICES FACILITIES**

652 The distance measured from ground level to the highest point on the tower or other structure, even if
653 such highest point is an antenna.

654 **HIGH INTENSITY SOIL SURVEY**

655 A map prepared by a certified soil scientist using the guidance defined and prepared by the Maine
656 Association of Professional Soil Scientists. The soils must be identified in accordance with the
657 National Cooperative Soil Survey. The map must show the location of all test pits used to identify
658 the soils, and be accompanied by a log of each sample point, identifying the textural classification
659 and the depth to seasonal high-water table or bedrock at that point. Evaluations of single soil test pits
660 for subsurface waste disposal do not meet the requirements for high intensity soil surveys and are not
661 suitable replacement.

662 **HISTORIC STRUCTURE**

663 Any structure that is:

664 **[ADDED 9-26-2011 BY ORD. NO. 11-15]**

- 665 A. Listed individually on the National Register of Historic Places (a listing maintained by the
666 Department of the Interior) or preliminarily determined by the Secretary of the Interior as
667 meeting the requirements for individual listing on the National Register;
- 668 B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the
669 historical significance of a registered historic district or a district preliminarily determined
670 by the Secretary of the Interior to qualify as a registered historic district;
- 671 C. Individually listed on a state inventory of historic places in states with historic preservation
672 programs which have been approved by the Secretary of the Interior; or
- 673 D. Individually listed on a local inventory of historic places in communities with historic

674 preservation programs that have been certified either:

675 (1). By an approved state program as determined by the Secretary of the Interior; or

676 (2). Directly by the Secretary of the Interior in states without approved programs.

677 **HOME OCCUPATION**

678 Any activity carried out for gain by a resident of the premises with the permission of the property
679 owner and conducted as an accessory use to the principal residential use.

680 **HOME OCCUPATION, MAJOR**

681 A type of home occupation that fails to meet all of the standards for a "minor home occupation"
682 established in § 16.5.11, but is found by the Board of Appeals to satisfy the standards established in
683 § 16.5.11 to ensure that a business results in no more than a minor intrusion in the quality of life of
684 residents in the surrounding neighborhood.

685 **HOME OCCUPATION, MINOR**

686 The least intensive type of home occupation that meets the standards established in § 16.5.11 to
687 ensure compatibility with the surrounding neighborhood.

688 **HOSPITAL**

689 An institution specializing in providing inpatient and outpatient treatment and emergency services of
690 a medical nature to human patients. A hospital may include the offices or facilities of independent
691 service providers and/or a freestanding outpatient clinic or diagnostic facility that operates as part of,
692 or an adjunct to, the main facility.

693 **HOTEL**

694 A building in which lodging or boarding and lodging capabilities are provided for more than 20
695 persons, and offered to the public for compensation, and in which ingress and egress to and from
696 rooms are made primarily through an inside lobby or office supervised by a person in charge at all
697 hours. As such, it is open to the public in contradistinction to a rooming house or a motel, which are
698 separately defined in this section.

699 **HYDRIC SOIL**

700 A soil that in its undrained condition is saturated, flooded or ponded long enough during the growing
701 season to develop anaerobic conditions that favor the growth and regeneration of wetland
702 (hydrophytic) vegetation. Soils found in Kittery which may be considered hydric soils include but
703 are not limited to: Biddeford, Brayton, Chocorua, Rumney, Scantic, Sebago, Vassalboro, Naumberg,
704 Raynham and Waskish. All hydric soils listed in the Natural Resources Conservation Service list
705 entitled "National Hydric Soils List by State" are included for consideration in this title.
706 (<http://soils.usda.gov/use/hydric/lists/state.html>)

707 **HYDROPHYTIC VEGETATION**

708 Plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result
709 of excessive water content. Hydrophytic vegetation includes plants classified as obligate wetland,
710 facultative wetland, or facultative in the U.S. Fish and Wildlife Service publication National List of
711 Plant Species That Occur in Wetlands: 1988 – Maine, as amended or superseded. This publication is
712 available at the municipal offices for inspection.

713 **ILLICIT DISCHARGE**

714 For the purposes of stormwater regulation, means any discharge to the small municipal separate
715 storm sewer system (MS4) that does not consist entirely of stormwater or authorized nonstormwater
716 discharges.

717 **[ADDED 5-22-2017 BY ORD. NO. 17-06]**

718 **IMPROVEMENT PLANS**

719 Maps, plans, profiles, studies, cross sections and other required details for the construction of all
720 improvements.

721 **INDIVIDUAL PRIVATE CAMPSITE**

722 An area of land which is not associated with a campground, but which is developed for repeated
723 camping by only one group not to exceed 10 individuals and no more than one recreational vehicle,
724 and which involves site improvements which may include but not be limited to gravel pads, parking
725 areas, fireplaces or tent platforms.

726 **INDUSTRIAL ACTIVITY**

727 The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the
728 extraction of minerals. For the purposes of stormwater regulation, means activity or activities subject
729 to National Pollutant Discharge Elimination System industrial permits as defined in 40 CFR
730 122.26(b)(14).

731 [Added 5-22-2017 by Ord. No. 17-06]

732 **INN**

733 A commercial place of lodging which contains a dwelling unit occupied by an owner or resident
734 manager, which has 12 or fewer guest rooms, and may include a restaurant which also serves non-
735 guests. Rentals to the same party for more than 12 weeks in a calendar year are prohibited.

736 **INTERMITTENT STREAM**

737 A channel of a stream, river or brook that is without flowing surface water for at least one month of a
738 year.

739 **INVASIVE NONNATIVE PLANT**

740 Grasses, forbs, shrubs or trees not native to the State of Maine and which proliferate in and dominate
741 vegetation to the exclusion or elimination of native plants.

742 **JULY 13, 1977**

743 That date upon which a complete revision of the first zoning ordinances was adopted by the Town
744 and upon which certain existing nonconforming conditions are considered to be protected
745 (grandfathered).

746 **JUNKYARD**

747 A lot or part thereof exposed to the elements, which is used for the sale or for the storage, keeping or
748 abandonment of junk or scrap materials, or the storage, dismantling, demolition, abandonment or
749 sale of construction equipment or machinery, or parts thereof or of unregistered automobiles or other
750 vehicles not in condition for use on the public highway.

751 **LANDING**

752 A place for loading or discharging persons or goods, as from a vessel.

753 **LANDSCAPE PLANTER STRIP**

754 A vegetated area (naturally vegetated and/or landscaped) located adjacent and parallel to a road or
755 street and designed to visually and functionally separate the roadway from the abutting property
756 upon which it is located.

757 **LARGE, HEALTHY TREE**

758 A tree with a diameter at breast height (dbh) of at least 12 inches and which does not exhibit any
759 indicators of stress, damage, disease or decay that will limit its expected additional life to less than 20

760 years.**LEGISLATIVE BODY**
761 Town Council.

762 **LIGHT FIXTURE HEIGHT**

763 The vertical distance between the surface that will be illuminated by the fixture and the bottom of the
764 light source (see "cutoff fixture" diagram).

765 **LINER BUILDING**

766 A building that lines the edge of a street or other public space. Liner Buildings are typically used to
767 shield public space, like a street or sidewalk, from something less desirable to view, such as a
768 parking garage. They can also be used to enclose a space such as protecting a courtyard from a busy
769 street. Where allowed, a Liner Building must be a minimum of eight feet deep and a maximum of 14
770 feet deep. [Added 11-26-2018 by Ord. No 10-18]

771 **LOCALLY ESTABLISHED DATUM**

772 For purposes of § 16.5.10 Floodplain Management, an elevation established for a specific site to
773 which all other elevations at the site are referenced. This elevation is generally not referenced to the
774 National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas
775 where mean sea level is too far from a specific site to be practically used.

776 [ADDED 9-26-2011 BY ORD. NO. 11-15]

777 **LOT**

778 A parcel of land, legally created and recorded, having frontage upon an approved public or private
779 street; or a tract of land legally created and recorded prior to July 13, 1977.

780 **LOT AREA**

781 The area of land enclosed within the boundary lines of a lot, minus:

- 782 A. Land below the normal high-water line of a water body or upland edge of a coastal
783 wetland;
- 784 B. Areas beneath Planning Board-approved right-of-way; and
- 785 C. Land within public street rights-of-way.

786 **LOT WIDTH**

787 The horizontal distance between the side lot lines, measured at the setback lines.

788 **LOWEST FLOOR**

789 The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant
790 enclosure, usable solely for parking of vehicles, building access or storage in an area other than a
791 basement area, is not considered a building's lowest floor, provided that such enclosure is not built so
792 as to render the structure in violation of the applicable nonelevation design requirements described in
793 § 16.5.10.H.

794 [ADDED 9-26-2011 BY ORD. NO. 11-15]

795 **LUMEN**

796 A standard measure of light energy generated by a light source, normally reported by the
797 manufacturer of the lamp or bulb.

798 **MANUFACTURING PROCESSING & TREATMENT, HEAVY**

799 A facility and/or site used in the basic processing and manufacturing of materials or products
800 predominantly from extracted or raw materials, or a use engaged in storage of or manufacturing

801 processes using flammable or explosive materials, or storage or manufacturing processes that
802 potentially involve hazardous or commonly recognized offensive conditions.

803 **MANUFACTURING OPERATIONS, LIGHT**

804 A facility used in the manufacture, predominantly from previously prepared materials, of finished
805 products or parts, including processing, fabrication, assembly, treatment, blending, packaging, inside
806 an enclosed structure. Basic industrial processing, such as paper manufacturing, petroleum
807 processing, manufacture of explosives, production of chemicals or fertilizer, are not light industrial
808 uses.

809 **MARIJUANA**

810 Cannabis. See Cannabis definition.

811 **[Added 5-22-2017 by Ord. No. 17-08]**

812 **MARIJUANA MEDICAL USE**

813 The cultivation, manufacturing, or distribution of cannabis by a medical marijuana cultivation
814 facility, a medical marijuana dispensary, a medical marijuana testing facility, or a primary caregiver,
815 as defined in § 16.3 of this Code. This definition is not intended to restrict a caregiver that is a
816 licensed hospice provider, long-term nursing care facility or convalescent care facility from
817 distributing cannabis to their qualifying patients, per 22 M.R.S., Maine Medical Use of Marijuana
818 Act.

819 **[ADDED 5-22-2017 BY ORD. NO. 17-08]**

820 **MARIJUANA RETAIL USE**

821 The cultivation, manufacture, distribution or selling of cannabis by a retail marijuana establishment
822 or retail marijuana social club, as referenced in 7 M.R.S. § 2442.

823 **[ADDED 5-22-2017 BY ORD. NO. 17-08]**

824 **MARINA**

825 A facility for the storing, servicing, fueling, berthing, and securing of boats and which may include
826 eating, sleeping, and retail facilities for owners, crews, and guests.

827 **MARKET VALUE**

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

831 **MASS TRANSIT STATION**

832 A place where people transfer between modes of transportation or any premises for the transient
833 housing or parking of buses, trains or ride-sharing vehicles and the loading and unloading of
834 passengers.

835 **MASTER SITE DEVELOPMENT PLAN**

836 A conceptual, integrated design and infrastructure plan for the development of a master planned
837 property, in which:

- 838 A. The development standards are applied to the land as defined by its perimeter, rather than
839 by the individual lots, tracts and parcels into which the land may be divided; and
840 B. The standards are applied to the zone rather than to individual lots, tracts and parcels
841 within the zone.

842 **MEAN SEA LEVEL**
843 For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum
844 (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood
845 Insurance Rate Map are referenced.

846 [ADDED 9-26-2011 BY ORD. NO. 11-15]

847 **MECHANICAL SERVICE**
848 Establishments primarily engaged in mechanical or electronic repair or maintenance of motorized or
849 mechanical equipment, such as, but not limited to, welding repair, small engine repair, tool
850 sharpening, and refrigeration and air-conditioning repair, but excluding repair garages.

851 **MEDICAL MARIJUANA CULTIVATION FACILITY**
852 A facility registered in accordance with 22 M.R.S. § 2428 that cultivates and manufactures
853 marijuana or related supplies for a registered medical marijuana dispensary under common
854 management and operating under the same state and local license(s).

855 [ADDED 5-22-2017 BY ORD. NO. 17-08]

856 **MEDICAL MARIJUANA DISPENSARY**
857 A not-for-profit entity registered under 22 M.R.S. § 2428 that acquires, possesses, cultivates,
858 manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies
859 and educational materials to qualifying patients who have designated the dispensary to cultivate
860 marijuana for their medical use, and the primary caregivers of those patients.

861 [ADDED 5-22-2017 BY ORD. NO. 17-08]

862 **MEDICAL MARIJUANA QUALIFYING PATIENT OR PATIENT**
863 A person who has been diagnosed by a medical provider as having a debilitating medical condition
864 and who possesses a valid written certification regarding medical use of marijuana, as defined under
865 22 M.R.S. § 2422.

866 [ADDED 5-22-2017 BY ORD. NO. 17-08]

867 **MEDICAL MARIJUANA TESTING FACILITY**
868 A public or private laboratory that:

869 [ADDED 5-22-2017 BY ORD. NO. 17-08]

- 870 A. Is licensed, certified or otherwise approved under 22 M.R.S. § 2423-A to analyze
871 contaminants in, and the potency and cannabinoid profile of, samples; and
872 B. Is accredited pursuant to standard International Standards Organization/International
873 Electrotechnical Commission 17025 of the International Organization for Standardization
874 by a third-party accrediting body or is certified, registered, or accredited by an
875 organization approved by the state.

876 **MINERAL EXTRACTION**
877 Any operation within any twelve-month period which removes more than 100 cubic yards of soil,
878 topsoil, loam, sand, gravel, clay, rock, peat or other like material from its natural location and to
879 transport the product removed away from the extraction site.

880 **MINERAL/EARTH MATERIAL EXPLORATION**
881 Hand sampling, test boring or other methods of determining the nature or extent of mineral/earth
882 resources which create minimal disturbance to the land and which include reasonable measures to

883 restore the land to its original condition.

884 **MINI STORAGE**

885 A commercial facility for the storage of consumer or business property on a rental basis in which the
886 tenant receives the exclusive use of a storage unit or locker and can access the unit to drop off or
887 retrieve property at designated times.

888 **MINIMUM LAND AREA PER DWELLING UNIT**

889 The gross area of a parcel not subject to subdivision regulations minus the land area listed below.
890 Where land areas to be subtracted overlap, the area therein shall be subtracted once. For land area
891 subject to subdivision, see "net residential acreage."

892 **[ADDED 9-28-2015 BY ORD. NO. 15-05]**

893 A. All land located below the highest annual tide elevation as published in the Maine DEP
894 Highest Annual Tide (HAT) levels for the most-current year.

895 B. All wetlands as defined in the definition of "wetland," as well as vernal pools, ponds,
896 streams and other water bodies.

897 C. All land located on filled tidal lands, per the definition of "tidal land, filled."

898 D. All land located within existing rights-of-way and other existing easements wherein
899 dwelling units cannot be built.

900 **MIXED-USE BUILDING**

901 A building occupied by two or more types or categories of principal uses (for example, residential
902 and office, or office and retail) in which any category of uses occupies at least 10% of the gross floor
903 area of the building.

904 **MOBILE HOME PARK**

905 Manufactured housing shall be defined according to 30-A, M.R.S.A. § 4358, as amended from time
906 to time. See § 16.5.16.

907 **MOTEL**

908 A building or group of detached or connected buildings designed, intended or used primarily to
909 provide sleeping accommodations without cooking facilities for travelers for compensation and
910 having a parking space adjacent to a sleeping room. An automobile court or a tourist court with more
911 than one unit or a motor lodge is deemed to be a motel.

912 **MUNICIPAL SEPARATE STORM SEWER SYSTEM OR MS4**

913 A conveyance or system of conveyances designed or used for collecting or conveying stormwater
914 [other than a publicly owned treatment works (POTW), as defined at 40 CFR 122.2, or a combined
915 sewer], including, but not limited to, roads with drainage systems, municipal streets, catch basins,
916 curbs, gutters, ditches, human-made channels or storm drains owned or operated by any
917 municipality, sewer or sewage district. Maine Department of Transportation (MaineDOT), Maine
918 Turnpike Authority (MTA), state agency or federal agency or other public entity that discharges
919 directly to waters of the state other than groundwater. See also "regulated small MS4" and "small
920 MS4."

921 **[AMENDED 5-22-2017 BY ORD. NO. 17-06]**

922 **MUNICIPALITY**

923 Town of Kittery, Maine.

924 **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)**

925 **STORMWATER DISCHARGE PERMIT**

926 A permit issued by the EPA or by the DEP that authorizes the discharge of pollutants to waters of the
927 United States, whether the permit is applicable on an individual, group, or general area-wide basis.

928 **[ADDED 5-22-2017 BY ORD. NO. 17-06]**

929 **NAVIGABLE WATERS**

930 The "waters of the United States including territorial seas" as defined in the Federal Clean Water Act
931 and 33 CFR Part 328, as amended.

932 **NET RESIDENTIAL ACREAGE**

933 The land area subject to subdivision that is identified for regulatory purposes as developable and is
934 the gross available acreage minus land area identified in § 16.5.17, Net Residential Acreage, unless
935 otherwise exempt in § 16.5.17.D, Exemptions to net residential acreage calculations.

936 **[AMENDED 9-28-2015 BY ORD. NO. 15-05]**

937 **NET RESIDENTIAL DENSITY**

938 The number of dwelling units in a subdivision per net residential acre. This is calculated by dividing
939 the net residential acreage by the square feet specified as minimum land area per dwelling unit in the
940 dimensional standards in § 16.4, for the relevant base zone or overlay zone(s) where applicable.

941 **[AMENDED 9-28-2015 BY ORD. NO. 15-05]**

942 **NEW CONSTRUCTION**

943 Structures for which the "start of construction" commenced on or after the effective date of
944 floodplain management regulations adopted by a community, and includes any subsequent
945 improvements to such structures.

946 **[ADDED 9-26-2011 BY ORD. NO. 11-15]**

947 **NEW MOTOR VEHICLE SALES**

948 A commercial establishment whose primary business is the buying and selling or offering to
949 negotiate a sale of new motor vehicles, including related service activities, and has a franchise from
950 a distributor or manufacturer. An establishment is "engaged in the business of buying, selling or
951 offering to negotiate the sale of a vehicle" if that business buys motor vehicles for the purpose of
952 resale, sells or offers to negotiate the sale of more than five motor vehicles in any twelve-month
953 period, or displays or permits the display of three or more motor vehicles for sale at any one time or
954 within any thirty-day period upon the premises, unless that person has owned and registered each
955 vehicle for at least six months.

956 **NONCONFORMING LOT OF RECORD**

957 A single lot of record which was created prior to July 13, 1977, or subsequently created by
958 legislative or judicial decision, which does not meet the area and/or frontage requirements of the
959 district in which it is located; or is the result of legally authorized development created between July
960 13, 1977 and April 26, 1990, and became nonconforming as a direct result of the implementation of
961 this title.

962 **NONCONFORMING STRUCTURE**

963 A structure that does not meet one or more of the following dimensional requirements: setbacks,
964 yard, height or lot coverage. It is allowed solely because it was lawful when created and became
965 legally nonconforming as a direct result of a change in the provisions of this title.

966 **NONCONFORMING USE**

967 Use of buildings, structures, premises, land or parts thereof which is not allowed in the district and/or
968 zone in which it is situated, but which is allowed to remain solely because it was in lawful existence
969 when created or became legally nonconforming as a direct result of a change in the provisions of this
970 title.

971 **NONCONFORMING, LEGALLY**

972 It was lawfully created but became nonconforming due to a change in the Town Code.

973 **NONSTORMWATER DISCHARGE**

974 Any discharge to an MS4 that is not composed entirely of stormwater.

975 **[ADDED 5-22-2017 BY ORD. NO. 17-06]**

976 **NORMAL HIGH-WATER LINE**

977 The line which is apparent from visible markings, changes in the character of soils due to prolonged
978 action of the water or changes in vegetation, and which distinguishes between predominantly aquatic
979 and predominantly terrestrial land.

980 **NURSERY SCHOOL**

981 A house or other place in which a person or combination of persons maintains or otherwise carries
982 out for consideration during the day a regular program which provides care for three or more
983 children in accordance with 22 M.R.S. § 8401, provided that:

984 **[AMENDED 5-30-2018 BY ORD. NO. 04-18]**

- 985 A. No session conducted for the children is longer than 3 1/2 hours in length;
986 B. No more than two sessions are conducted per day;
987 C. Each child in attendance at the nursery school attends only one session per day; and
988 D. No hot meal is served to the children.

989 **NURSING CARE FACILITY, LONG-TERM**

990 A facility that is licensed by the State of Maine to provide nursing care to persons who are unable to
991 care for themselves. The facility provides long-term residential and nursing care to its residents. The
992 facility does not provide hospital services except as incidental to the delivery of nursing care. A
993 long-term nursing care facility does not include any facility that is defined as a Residential Care
994 Facility.

995 **OFFICIAL BUSINESS DIRECTIONAL SIGN (OBDS)**

996 Any sign erected and maintained in accordance with the Maine Traveler Information Services Act,
997 23 M.R.S. § 1901 et seq., and regulations adopted pursuant to it, and which complies with the
998 requirements of this title.

999 **[AMENDED 5-30-2018 BY ORD. NO. 04-18]**

1000 **OFFICIAL MAP**

1001 The map adopted by the municipality showing the location of public property, ways used in common
1002 by more than two owners of abutting property, and approved subdivision or site plan, and any
1003 amendments thereto adopted by the municipality or additions thereto resulting from the approval of a
1004 subdivision or site plan by the Planning Board and the subsequent filing for record of such plan.

1005 **[AMENDED 9-26-2011 BY ORD. NO. 11-15]**

1006 **OFFICIAL SUBMITTAL DATE**

1007 The date upon which the Town Planner receives a complete application and issues a receipt so
1008 indicating.

1009 **ONE-HUNDRED-YEAR FLOOD**
1010 See "base flood."

1011 **[ADDED 9-26-2011 BY ORD. NO. 11-15]**

1012 **OPEN SPACE**
1013 Includes all dedicated portions of a parcel that has vegetated surfaces or is in an undisturbed natural
1014 state. "Open space" does not include areas occupied by a building or a parking area, except where
1015 required by the management plan in place to govern the open space and as approved by the Planning
1016 Board. Vegetated surfaces of outdoor commercial uses may be used to satisfy up to 50% of the
1017 required open space on any parcel, except those parcels within a cluster residential development.

1018 **[ADDED 9-24-2012 BY ORD. NO. 12-10]**

1019 **OPEN SPACE, COMMON**
1020 Usable land within or related to a development, not individually owned, which is designed and
1021 intended for the common use or enjoyment of the residents of the development and may include such
1022 complementary structures, improvements and uses approved by the Planning Board. Such uses may
1023 include active or passive recreation or agriculture, where permitted.

1024 **[ADDED 9-24-2012 BY ORD. NO. 12-10]**

1025 **OPEN SPACE, PUBLIC**
1026 Land accessible or dedicated for public use.

1027 **[ADDED 9-24-2012 BY ORD. NO. 12-10]**

1028 **OPEN SPACE, RESERVED**
1029 Dedicated land that is permanently protected from further development and remains in a natural
1030 condition or is managed according to an approved management plan for natural resource functions,
1031 e.g., forestry, agriculture, habitat protection, passive recreation, or limited uses as approved by the
1032 Planning Board as part of cluster residential developments.

1033 **[ADDED 9-24-2012 BY ORD. NO. 12-10]**

1034 **OUTDOOR SERVICE AREAS**
1035 Areas located outside of a building or structure that are used for the delivery, handling, storage or
1036 processing of materials, goods or wastes, including areas used for the servicing, repairing, washing
1037 or fueling of motor vehicles and equipment.

1038 **OWNER**
1039 Any person, corporation or other legal entity having record title ownership to the property or the
1040 expressly authorized agent or designee thereof.

1041 **PARAPET**
1042 The extension of the wall(s) of a building above the roof eave and/or roofline.

1043 **PARCEL**
1044 See "tract or parcel of land."

- 1045 **PARKING AREA**
 1046 Any public or private area, under, within or outside of a building or structure, designed and used for
 1047 parking motor vehicles, including parking lots, garages, private driveways, and legally designated
 1048 areas of public streets. .
- 1049 **PATIO**
 1050 An unenclosed, unroofed, exterior floor-like surface, usually composed of brick, stone or concrete,
 1051 situated no higher than 18 inches above ground level, accessory to a dwelling and serving as an area
 1052 for outdoor living.
- 1053 **PERSON**
 1054 Any individual, firm, corporation, municipality, quasi-municipal corporation, two or more
 1055 individuals having a joint or common interest, state agency or federal agency or other legal entity.
- 1056 **PERSONAL SERVICES**
 1057 Establishments primarily engaged in providing services generally involving the care of one's
 1058 personal appearance or apparel, including, but not limited to, barbers and beauty shops, laundries,
 1059 photographic studios, shoe repair, garment altering, and diaper services.
- 1060 **PIER**
 1061 A structure built out into the water generally with piles for use as a landing place.
- 1062 **POLLUTANT**
 1063 Dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage
 1064 sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or
 1065 byproducts, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal,
 1066 domestic, commercial or agricultural wastes of any kind.
- 1067 **[ADDED 5-22-2017 BY ORD. NO. 17-06]**
- 1068 **POST-CONSTRUCTION STORMWATER MANAGEMENT PLAN**
 1069 An inspection and maintenance plan as required by rule for projects that require approval by the
 1070 Maine Department of Environmental Protection (MDEP) under Chapter 500, Stormwater
 1071 Management; or a plan to inspect and maintain best management practices (BMPs) and stormwater
 1072 management facilities employed by a new development or redevelopment, not subject to MDEP
 1073 Chapter 500 rules, to meet the stormwater standards of this Code.
- 1074 **[AMENDED 7-25-2016 BY ORD. NO. 16-06]**
- 1075 **PRACTICABLE**
 1076 Available and feasible, considering cost, existing technology, and logistics, based on overall project
 1077 purposes.
- 1078 **PREEXISTING ACCESSORY-USE TOWERS/ANTENNAS**
 1079 Legally existing prior to December 21, 1997, wireless communication system facility (WCSF),
 1080 towers/antennas and alternative tower structures. Enlargements of WCSF, accessory use
 1081 towers/antennas legally existing prior to December 21, 1997 must conform to the requirements of
 1082 this title.
- 1083 **PRELIMINARY SUBDIVISION PLAN**
 1084 The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the
 1085 Planning Board for its consideration.
- 1086 **PREMISES**

1087 For the purposes of stormwater regulation, means any building, lot, parcel of land, or portion of land,
1088 whether improved or unimproved, including adjacent sidewalks and parking strips, located within
1089 the municipality from which discharges into the storm drainage system are or may be created,
1090 initiated, originated or maintained.

1091 [ADDED 5-22-2017 BY ORD. NO. 17-06]

1092 **PRIMARY CAREGIVER**

1093 A person or an employee of that person, a licensed hospice provider or licensed nursing facility that
1094 provides care for a qualifying patient and is registered under 22 M.R.S. § 2425 and receives Board of
1095 Appeals approval for a major home occupation.

1096 [ADDED 5-22-2017 BY ORD. NO. 17-08]

1097 **PRINCIPAL BUILDING**

1098 The primary building on a lot or a building that shelters or encloses the principal use on a lot.

1099 **PRINCIPAL STRUCTURE**

1100 The primary structure on a lot or a structure that supports, shelters or encloses the principal use on
1101 the lot.

1102 **PRINCIPAL USE**

1103 The primary or predominant use. An activity that is conducted in conjunction with the principal use
1104 and such activity that either constitutes only an incidental or insubstantial part of the total activity
1105 that takes place on a lot; or is commonly associated with the principal use and integrally related to it,
1106 is regarded as "accessory to the principal use." An accessory to the principal use is regarded as
1107 "incidental or insubstantial" if it is both incidental and insubstantial in and of itself, and in relation to
1108 the principal use. Quantitative measures for consideration in this determination include the
1109 percentage and total amount of square footage attributed to the accessory to the principal use and
1110 sales or income derived from the accessory to the principal use.

1111 **PRIVATE ASSEMBLY**

1112 A building which is owned and used as a meeting place for private or semi-private social
1113 organization and clubs such as grange halls, fraternal organizations, religious institutions, etc. in
1114 which the principle use is exclusively for members. Rental of the facilities to outside groups is
1115 clearly incidental to the principle use and shall not significantly increase the intensity of the use of
1116 the site, especially regarding parking.

1117 **PRIVATE MARINA USE STRUCTURE**

1118 A structure which is owned and/or used by a private group, club, association or other legal entity's
1119 organization, and is used by its members only, and has frontage on navigable water, and as its
1120 principal use provides offshore moorings and/or docking facilities for vessels for use by its members
1121 and/or guests. The private marina may also provide accessory boating services. These accessory
1122 boating services may be provided to the boating public, members or guests.

1123 **PRUDENT AVOIDANCE**

1124 In any case where aboveground electrical utilities are approved, the plan is to be designed to avoid
1125 human residences as distant as possible without prohibitive cost.

1126 **PUBLIC ASSEMBLY AREA**

1127 Any area where large numbers of individuals collect to participate or to observe programs of
1128 participation.

1129 **PUBLIC FACILITY**

- 1130 Any facility, including, but not limited to, buildings, property, recreation areas and roads which are
 1131 owned, leased or otherwise operated, or funded by a governmental body or public entity.**PUBLIC OR**
 1132 **PRIVATE SCHOOL**
 1133 A building or buildings and its associated grounds which is principally used to conduct educational
 1134 classes including public and private elementary schools and nursery schools, including post-
 1135 secondary schools, but not including commercial schools.
- 1136 **PUBLIC UTILITY**
 1137 As defined in Title 35-A M.R.S. § 102, as amended.
- 1138 **PUBLIC UTILITY FACILITY**
 1139 Buildings, structures, and facilities, including generating and switching stations, poles, lines, pipes,
 1140 pumping stations, repeaters, antennas, transmitters and receivers, valves, and all buildings and
 1141 structures relating to the furnishing of utility services, such as electric, gas, telephone, water and
 1142 sewer, to the public.
- 1143 **QUALIFIED POST-CONSTRUCTION STORMWATER INSPECTOR**
 1144 A person who conducts post-construction stormwater management facilities inspections for
 1145 compensation and who has received the appropriate training for the same from the Maine
 1146 Department of Environmental Protection.
- 1147 **RECENT FLOODPLAIN SOILS**
 1148 The following soil series as described and identified by the National Cooperative Soil Survey:
 1149 Alluvial, Cornish, Charles, Fryeburg, Hadley, Limerick, Lovewell, Medomak, Ondawa, Podunk,
 1150 Rumney, Saco, Suncook, Sunday and Winooski.
- 1151 **RECREATION, COMMERCIAL INDOOR**
 1152 The use of a building for play, sports, games, fitness, and other similar diversions operated as a
 1153 business and open to the public for a fee.
- 1154 **RECREATION, COMMERCIAL OUTDOOR**
 1155 The use of a land outside of a fully enclosed building, as defined, for play, sports, games, and other
 1156 similar diversions operated as a business and open to the public for a fee.
- 1157 **RECREATION, PASSIVE**
 1158 Outdoor recreational activities which have a low impact on the environment and neighborhood and
 1159 require no motorized vehicles, significant earthmoving or substantial structures, such as hiking,
 1160 fishing, canoeing, hunting, cross-country skiing, and wildlife observation and study. Benches and
 1161 boardwalks, steps, railings and other structures necessary to provide safe accessibility for physically
 1162 handicapped persons are allowed.
- 1163 **RECREATION, PUBLIC FACILITY**
 1164 A not-for-profit recreational facility open to the general public at no charge or a subsidized charge.
- 1165 **RECREATION, PUBLIC OPEN SPACE**
 1166 Open Space owned by a public agency and maintained by it for the use and enjoyment of the general
 1167 public. **RECREATIONAL VEHICLE**
 1168 A vehicle or an attachment to a vehicle designed to be towed, hauled, or driven and is primarily
 1169 designed as temporary living accommodations for one or more persons. The vehicle must be
 1170 registered with the State Division of Motor Vehicles.
- 1171 **RECREATIONAL VEHICLE PARK**
 1172 Any lot or parcel of land upon which two or more sites are located, established, or maintained for

1173 occupancy by recreational vehicle for a fee as temporary living quarters for recreation or vacation
1174 purposes.

1175 **REGULATED SMALL MS4**

1176 Any small municipal separate storm sewer system (MS4) regulated by the State of Maine "General
1177 Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems"
1178 dated July 2013 ("general permit"), including all those located partially or entirely within an
1179 urbanized area (UA) and those additional small MS4s located outside an UA that as of the issuance
1180 of the general permit have been designated by the DEP as regulated small MS4s. The Town of
1181 Kittery is a regulated small MS4.

1182 **[ADDED 5-22-2017 BY ORD. NO. 17-06]**

1183 **REGULATORY FLOODWAY**

1184 **[ADDED 9-26-2011 BY ORD. NO. 11-15]**

- 1185 A. The channel of a river or other watercourse and the adjacent land areas that must be
1186 reserved in order to discharge the base flood without cumulatively increasing the water
1187 surface elevation more than one foot; and
- 1188 B. In riverine areas, is considered to be the channel of a river or other watercourse and the
1189 adjacent land areas to a distance of 1/2 the width of the floodplain, as measured from the
1190 normal high-water mark to the upland limit of the floodplain.

1191 **RELIGIOUS USE**

1192 A structure of place in which worship, ceremonies, rituals, and education pertaining to a particular
1193 system of beliefs are held.

1194 **REPAIR GARAGE**

1195 An establishment providing for the repair or servicing of motor vehicles. A repair garage does not
1196 include activities that are defined as mechanical service or a junkyard.

1197 **REPAIR SERVICE**

1198 A business providing for the repair of personal or small business property, such as radios and
1199 televisions, household or office electrical or electronic equipment, watches, clocks and jewelry,
1200 furniture and upholstery, sporting equipment, and similar items, but not including items included
1201 under mechanical services or automotive services and repair.

1202 **REPLACEMENT SYSTEM**

1203 A system intended to replace:

- 1204 A. An existing system which is either malfunctioning or being upgraded with no significant
1205 change of design flow or use of the structure; or
- 1206 B. Any existing overboard wastewater discharge.

1207 **RESEARCH AND DEVELOPMENT**

1208 A building or group of buildings in which are located facilities for technical or scientific research,
1209 investigation, testing or experimentation, but not facilities for the manufacture or sale of products,
1210 except as incidental to the main purpose of the facility.

1211 **RESIDENTIAL CARE FACILITY**

1212 A house or other place that, for consideration, is maintained wholly or partly for the purpose of
1213 providing residents with assisted living services. Residential Care Facilities provide housing and
1214 services to residents in private or semi-private bedrooms in buildings with common living areas and
1215 dining areas. "Residential Care Facility" does not include a licensed nursing home or supportive

- 1216 living arrangement certified by the state.
- 1217 **RESIDENTIAL CARE UNIT**
 1218 A type of residential accommodation in a Residential Care Facility that has private sleeping and
 1219 bathroom facilities but does not have permanent complete cooking facilities within the unit. The
 1220 occupant of a residential care unit typically eats all or most of meals in a shared dining room.
 1221 Residential care units may have a portable or removable kitchen or partial kitchen facilities such as a
 1222 refrigerator and microwave oven. A residential care unit may be a unit with a separate bedroom, a
 1223 suite or a room. A residential care unit is distinct from a dwelling unit that is defined separately.
- 1224 **RESIDENTIAL DEVELOPMENT USE PIER, RAMP AND FLOAT SYSTEM**
 1225 A pier and/or ramp and float system which is used in common by lot owners or residents of a
 1226 subdivision or residential planned development. The purpose is to provide waterfront access to the
 1227 owners of lots in a residential development that has the potential for more than one waterfront lot.
 1228 The object is to minimize the number of piers, ramps and floats resulting from new development.
- 1229 **RESIDENTIAL HOME OCCUPATION USE PIER, RAMP AND FLOAT SYSTEM**
 1230 A pier and/or ramp and float system which is used for the residential home occupation workers in an
 1231 approved functionally water-dependent home occupation (minor or major) in addition to its
 1232 customary residential accessory use.
- 1233 **RESIDENTIAL JOINT/SHARED-USE PIER, RAMP AND FLOAT SYSTEM**
 1234 A pier and/or ramp and float system which is used by the owners of not more than four residential
 1235 shorefront lots, at least one boundary of whose building lot lies within 1,000 feet of the lot on which
 1236 the joint/shared-use pier is constructed.
- 1237 **RESIDENTIAL SINGLE-USE PIER, RAMP AND FLOAT SYSTEM**
 1238 A pier and/or ramp and float system which is used by the owner(s) of a single residential shorefront
 1239 lot.
- 1240 **RESIDUAL BASAL AREA**
 1241 The sum of the basal area of trees remaining on a harvested site.
- 1242 **RESIDUAL STAND**
 1243 A stand of trees remaining in the forest following timber harvesting.
- 1244 **RESTAURANT**
 1245 An establishment where food or food and drink are prepared and sold for consumption on the
 1246 premises by the public and includes cafes, coffee shops and similar establishments that serve food.
- 1247 **RESUBDIVISION**
 1248 The division of an existing subdivision or any change of lot size therein or the relocation of any
 1249 street or lot in a subdivision, or any changes thereto.
- 1250 **RETAIL SALES**
 1251 Any business engaged primarily in the sale of goods for personal or household consumption and/or
 1252 use, and not for resale. The term "retail use" does not include specific types of retail uses that are
 1253 individually listed in § 16.4.
- 1254 **RETAIL SALES, BUILDING MATERIALS AND GARDEN SUPPLY**
 1255 A retail establishment primarily engaged in selling lumber and other building materials; paint, glass,
 1256 floor covering and wallpaper; hardware, drapery and upholstery; flowers and/or nursery stock, lawn
 1257 and garden supplies; modular homes and mobile homes.

- 1258 **RETAIL SALES, CONVENIENCE STORE**
 1259 A retail store containing less than 2,000 square feet of gross floor area that is designed and stocked
 1260 to sell primarily food, beverages and other household supplies to customers who purchase only a
 1261 relatively few items (in contrast to a grocery store). It is designed to attract and depends upon a large
 1262 volume of stop-and-go traffic. Supplementing these uses with accessory gasoline sales requires
 1263 additional parking and traffic considerations.
- 1264 **RIGHT-OF-WAY, PRIVATE**
 1265 A platted and dedicated access route normally to back lot(s); and as approved by the Planning Board
 1266 and recorded in the York County Registry of Deeds.
- 1267 **RIPRAP**
 1268 Rocks, irregularly shaped, and at least six inches in diameter, used for erosion control and soil
 1269 stabilization, typically used on ground slopes of two units horizontal to one unit vertical or less.
- 1270 **RIVER**
 1271 A free-flowing body of water, including its associated floodplain wetlands, from that point at which
 1272 it provides drainage for a watershed of 25 square miles to its mouth.
- 1273 **RIVERINE**
 1274 Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
- 1275 **[ADDED 9-26-2011 BY ORD. NO. 11-15]**
- 1276 **ROAD**
 1277 A route or track consisting of a bed of exposed mineral soil, gravel, asphalt or other surfacing
 1278 material constructed for or created by the repeated passage of motorized vehicles.
- 1279 **ROOMING HOUSE**
 1280 A residential use in which the owner or manager of the facility resides on the premises and in which
 1281 more than three persons who are not part of the owner's/manager's family are housed in rooms for
 1282 compensation with or without meals. This includes fraternities and sororities.
- 1283 **SALT MARSH**
 1284 Areas along coastal waters (most often along coastal bays) which support salt-tolerant species, and
 1285 where, at average high tide during the growing season, the soil is regularly inundated by tidal waters.
 1286 The predominant species is salt marsh cordgrass (*Spartina alterniflora*). More open areas often
 1287 support widgeon grass, eelgrass and Sago pondweed.
- 1288 **SALT MEADOW**
 1289 Areas which support salt-tolerant plant species bordering the landward side of salt marshes or open
 1290 coastal water, where the soil is saturated during the growing season, but which is rarely inundated by
 1291 tidal water. Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black
 1292 rush; common three-square occurs in fresher areas.
- 1293 **SAWMILL, PERMANENT**
 1294 A facility where logs are cut into boards or timbers; a mill or machine for sawing logs or producing
 1295 firewood that is in operation on a permanent basis. Sawmill operations may be subject to State
 1296 regulations.
- 1297 **SAWMILL, TEMPORARY**
 1298 A facility where logs are cut into boards or timbers, a mill or machine for sawing logs or producing
 1299 firewood that is in operation for a cumulative duration of two (2) months or fewer in any twelve (12)

1300 month period. Sawmill operations may be subject to State regulations. This definition does not
1301 include the use of handheld chainsaws.

1302 **SCREEN**

1303 A method of significantly reducing the impact of noise and unsightly visual intrusions with less
1304 offensive or more harmonious elements, such as plants, berms, fences, walls, or any appropriate
1305 combination thereof.

1306 **SCREENING**

1307 Either: 1) a strip of at least 10 feet wide, densely planted (or having equivalent natural growth) shrubs or
1308 trees at least four feet high at the time of planting, of an evergreen type that will grow to a year-round
1309 dense screen at least six feet high in three years; or 2) an opaque wall or barrier of uniformly colored
1310 fence at least six feet in height. Screening of either type must be maintained in good condition at all
1311 times.**SEPTIC SYSTEM**

1312 See "subsurface wastewater disposal system."

1313 **[ADDED 10-14-2015 BY ORD. NO. 15-10]**

1314 **SERVICE DROP**

1315 Any utility line extension which does not cross or run beneath any portion of a water body, provided
1316 that:

1317 A. In the case of electric service:

- 1318 (1). The placement of wires and/or the installation of utility poles is located entirely
1319 upon the premises of the customer requesting service or upon a roadway at the
1320 right-of-way; and
1321 (2). The total length of the extension is less than 1,000 feet.

1322 B. In the case of telecommunications service:

- 1323 (1). The extension, regardless of length, will be made by the installation of telephone
1324 wires to existing utility poles; or
1325 (2). The extension requiring the installation of new utility poles or placement
1326 underground is less than 1,000 feet in length.

1327 **SETBACK**

1328 The minimum horizontal distance from an identified object, line, boundary or feature to the nearest
1329 part of a regulated object, use or feature. (Note: See § 16.1, for setbacks from water bodies and
1330 wetlands. See § 16.7.8 for applying setbacks in special situations.)

1331 **SETBACK FROM STREAMS, WATER BODIES AND WETLANDS**

1332 The minimum horizontal distance allowed from the upland edge of a wetland and/or from the normal
1333 high-water line to the nearest part of a structure (excluding cornices, eaves or gutters projecting not
1334 more than 24 inches), roads, parking areas, or other regulated activities. See Table 16.5.28.

1335 Minimum Setbacks from Wetlands and Water Bodies, for required horizontal distances, and § 16.7.8
1336 and § 16.8.7 for applying setbacks in special situations. Adjacent to tidal waters, setbacks are
1337 measured from the upland edge of the coastal wetland.

1338 **SHOP IN PURSUIT OF TRADES**

1339 An establishment occupied by a business or craftsman in a skilled trade, including, by way of
1340 example only, plumbing, carpentry or electrical work. Not more than 10 people may be employed at
1341 and/or work from the shop. The shop may include work space, storage space and/or office space. A
1342 shop in pursuit of trades does not include "construction services," which is separately defined.

1343

- 1344 **SHORE FRONTAGE**
 1345 The width of a lot as it fronts the shore as measured in a straight line between the point of
 1346 intersection of the side lot lines with the shoreline at normal high-water elevation.
- 1347 **SHOREFRONT DEVELOPMENT PLAN**
 1348 A plan for any development extending into or within 100 feet of the upland edge of a coastal
 1349 wetland, or into or within 100 feet of the upland edge of a fresh water wetland shown on the Zoning
 1350 Map, including but not limited to public and private access paths; piers, ramps and floats; storage of
 1351 boats and/or floats; clearing of vegetation, visual impact and controls to assure continuing
 1352 conformance to the plan.
- 1353 **SHORELINE**
 1354 The normal high-water line or upland edge of a wetland.
- 1355 **SIGN**
 1356 Any structure or part of the structure attached thereto or painted or represented thereon, which
 1357 displays or includes any letter, word, model, banner, flag, pennant, insignia, trade name, trademark,
 1358 logo, device or representation used as, or which is in the nature of, any announcement of the purpose
 1359 of a business, entity or person, direction or advertisement. The term "sign" does not include a flag.
- 1360 **SIGN AREA**
 1361 The enclosed space within a geometric figure which contains the advertising message, illustration,
 1362 insignia or display, together with any frame, color or other material which comprises the display and
 1363 is used to differentiate or draw attention to the sign and away from the background. Each face of a
 1364 sign is considered a separate sign for area computations, but supporting brackets and posts are not
 1365 included.
- 1366 **SIGN, CHANGEABLE MESSAGE**
 1367 Any sign or portion thereof designed to allow characters, letters and numbers on the face of the sign
 1368 to be changed or rearranged.
- 1369 **SIGN, FREESTANDING**
 1370 Any sign supported by a structure or supports that are permanently anchored in the ground and that
 1371 is independent from any building.
- 1372 **SIGN, REAL ESTATE**
 1373 Any sign advertising real estate for sale, lease or rent.
- 1374 **SIGN, TEMPORARY**
 1375 A sign that is intended to remain where it is erected or placed for a period of time not to exceed 21
 1376 days in any calendar quarter.
- 1377 **SIGN, TRAILER**
 1378 A portable sign mounted on a chassis and wheels or supported by legs.
- 1379 **SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEM, OR SMALL MS4**
 1380 Any MS4 that is not already covered by the Phase I MS4 stormwater program including municipally
 1381 owned or operated storm sewer systems, state or federally owned systems, such as colleges,
 1382 universities, prisons, Maine Department of Transportation and Maine Turnpike Authority road
 1383 systems and facilities, and military bases and facilities. The Town of Kittery is a small MS4.
- 1384 **[ADDED 5-22-2017 BY ORD. NO. 17-06]**
- 1385 **SOILS**

1386 A soil's drainage class must be determined by a Maine certified soil scientist and based on the most-
1387 recent Natural Resources Conservation Service Supplemental Key for the Identification of Soil
1388 Drainage Class that reflects the Maine Association of Professional Soil Scientists, Key to Drainage
1389 Classes. The Key includes, among other terms, the following:

1390 **[AMENDED 9-28-2015 BY ORD. NO. 15-05]**

- 1391 A. **VERY POORLY DRAINED** Water is removed from the soil so slowly that the water table
1392 remains at or above the surface most of the year. A seasonal high water table is at or above
1393 the surface from at least October through July and sometimes throughout the year. In
1394 August and September, the water table may recede below 12 inches. The high water table
1395 severely limits the use of these soils for most agricultural, forestry, and urban activities.
1396 These soils are hydric and typically support a wetland plant community.
- 1397 B. **POORLY DRAINED** Water is removed from the soil so slowly that the soil remains wet
1398 most of the year. A seasonal high water table is at or near the surface from October
1399 through June. In July, August and September, it may recede below 16 inches. The seasonal
1400 high water table limits the use of these soils for most agricultural, forestry, and urban
1401 activities. These soils are hydric and typically support a wetland plant community.
- 1402 C. **SOMEWHAT POORLY DRAINED** Water is removed from the soil slowly enough to
1403 keep it wet for significant periods of time but not the entire year. A seasonal high water
1404 table is at seven inches to 16 inches in depth from October through May and sometimes
1405 June. From July to October, it may recede below 30 inches in depth. A seasonal water
1406 table limits the use of these soils for some agricultural, forestry and urban activities. These
1407 soils are not hydric in Maine and are commonly found in the transitional landscape
1408 positions between wetland and upland soils.

1409 **SPECIAL EXCEPTION**

1410 A use that would not be appropriate generally or without restriction throughout the zoning district,
1411 but which, if controlled as to number, area, location or relation to the neighborhood, would promote
1412 the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or
1413 general welfare. Such uses may be permitted in such zoning districts as special exceptions, if specific
1414 provision for such special exceptions is made in § 16.4.

1415 **SPECIAL FLOOD HAZARD AREA**

1416 See "Flood, area of special flood hazard."

1417 **[ADDED 9-26-2011 BY ORD. NO. 11-15]**

1418 **SPECIALTY FOOD AND/OR BEVERAGE FACILITY**

1419 A facility wherein food and/or beverage is produced, sold on a wholesale and/or retail basis,
1420 distributed, and/or consumed on the premises. This may include, but not be limited to, a brew pub,
1421 microbrewery, coffee roaster and/or other facilities producing crafted alcoholic or nonalcoholic
1422 beverages and/or artisan food.

1423 **[ADDED 6-10-2013 BY ORD. NO. 13-02]**

1424 **START OF CONSTRUCTION**

1425 The date the building/regulation activity permit was issued, provided the actual start of construction,
1426 repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other
1427 improvement was within 180 days of the permit date. The "actual start" means either the first
1428 placement of permanent construction of a structure on a site, such as the pouring of slab or footings,
1429 the installation of piles, the construction of columns, or any work beyond the stage of excavation; or
1430 the placement of a manufactured home on a foundation. Permanent construction does not include

1431 land preparation, such as clearing, grading and filling; nor does it include the installation of streets
1432 and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the
1433 erection of temporary forms; nor does it include the installation on the property of accessory
1434 buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
1435 For a substantial improvement, the "actual start of construction" means the first alteration of any
1436 wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the
1437 external dimensions of the building.

1438 **[ADDED 9-26-2011 BY ORD. NO. 11-15]**

1439 **STORM DRAINAGE SYSTEM**

1440 The entire Town's storm drainage system.

1441 **[ADDED 5-22-2017 BY ORD. NO. 17-06]**

1442 **STORMWATER**

1443 Any stormwater runoff, snowmelt runoff, and surface runoff and drainage.

1444 **[ADDED 5-22-2017 BY ORD. NO. 17-06]**

1445 **STORY**

1446 That portion of a building included between the upper surface of a floor and the upper surface of the
1447 floor or roof next above. For any building that contains no floors in the vertical plane, every 10 feet
1448 or portion thereof counts as a floor.

1449 **[AMENDED 9-24-2012 BY ORD. NO. 12-11]**

1450 **STORY ABOVE GRADE**

1451 Any story having its finished floor surface entirely above grade, except that a basement is considered
1452 as a story above grade where the finished surface of the floor above the basement is:

- 1453 A. More than six feet (1,829 mm) above the grade plane;
1454 B. More than six feet (1,829 mm) above the finished ground level for more than 50% of the
1455 total building perimeter; or
1456 C. More than 12 feet (3,658 mm) above the finished ground level at any point.

1457 **STREAM OR BROOK**

1458 A channel between defined banks, including the floodway and associated floodplain wetlands, where
1459 the channel is created by the action of surface water and characterized by the lack of upland
1460 vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil
1461 containing waterborne deposits on exposed soil, parent material or bedrock.

1462 **STREET**

1463 A way established or maintained under public authority, or a minimum forty-foot-wide private way
1464 constructed to Town standards as contained in § 16.5 and § 16.8, approved by the Planning Board
1465 and plotted, dedicated and recorded, or a way shown on a plan of a subdivision duly approved by the
1466 Planning Board. Also included are such ways as alleys, avenues, boulevards, highways, roads, streets
1467 and other rights-of-way.

1468 **STREET FRONTAGE**

1469 A continuous portion of a boundary of a lot which abuts a street, ordinarily regarded as the front of
1470 the lot. When a lot is bounded by more than one street, any one of them, but only one, may be
1471 designated as the frontage street by the owner, provided that the lot meets the frontage requirement

1472 on that street, front, side and rear yard setbacks, and that the principal building is numbered on that
1473 street.

1474 **STREET LINE**

1475 The exterior line of a street right-of-way which separates it from abutting lots.

1476 **STRUCTURALLY ALTERED**

1477 Any work which requires or contemplates any changes to the structural capabilities of a building.

1478 **STRUCTURE**

1479 Anything built for the support, shelter or enclosure of persons, animals, goods or property of any
1480 kind, or anything constructed or erected with a fixed location on or in the ground, or attached to
1481 something having a fixed location on or in the ground. The term includes decks. The term does not
1482 include fences less than eight feet in height, nor any required by the Planning Board or Town
1483 Planner to be taller; flagpoles no higher than 50 feet in height; signs located in conformance with §
1484 16.5.21; and electricity generators and propane and oil tanks for residential use only and the pads on
1485 which they are located, provided the pad is less than 20 square feet in size.

1486 **SUBDIVIDER**

1487 Any person, firm, corporation or other legal entity making application for the subdivision of land or
1488 buildings within the Town.

1489 **SUBDIVISION**

1490 The division of a tract or parcel of land into three or more lots within any five-year period that
1491 begins on or after September 23, 1971. This definition applies whether the division is accomplished
1492 by sale, lease, development, building or otherwise. The term "subdivision" also includes the division
1493 of a new structure of structures on a tract or parcel of land into three or more dwelling units within a
1494 five-year period, the construction or placement of three or more dwelling units on a single tract or
1495 parcel of land and the division of an existing structure or structures previously used for commercial
1496 or industrial use into three or more dwelling units within a five-year period, as set forth in 30-A
1497 M.R.S. § 4401, as amended.

Commented [6]: Editor's Note: Amended at time of adoption of Code (see Ch. 1.1, Code Adoption).

1498 **SUBDIVISION, MAJOR**

1499 Any subdivision containing more than four lots or any subdivision requiring any new public street
1500 extension or the extension of public or municipal facilities.

1501 **SUBDIVISION, MINOR**

1502 A subdivision containing not more than four lots.

Commented [7]: Editor's Note: the definition of "subsurface sewage disposal system," which immediately followed this definition, was repealed 10-14-2015 by Ord. No. 15-10.

1503 **SUBSTANTIAL DAMAGE**

1504 Damage of any origin sustained by a structure whereby the cost of restoring the structure to its
1505 before-damage condition would equal or exceed 50% of the market value of the structure before the
1506 damage occurred.

1507 **[ADDED 9-26-2011 BY ORD. NO. 11-15]**

1508 **SUBSTANTIAL IMPROVEMENT**

1509 Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which
1510 equals or exceeds 50% of the market value of the structure before the start of construction of the
1511 improvement. This term includes structures which have incurred substantial damage, regardless of
1512 the actual repair work performed. The term does not, however, include either:

1513 **[ADDED 9-26-2011 BY ORD. NO. 11-15]**

- 1514 A. Any project for improvement of a structure to correct existing violations of state or local
1515 health, sanitary or safety code specifications which have been identified by the local code
1516 enforcement official and which are the minimum necessary to assure safe living
1517 conditions; or
- 1518 B. Any alteration of an historic structure, provided that the alteration will not preclude the
1519 structure's continued designation as an historic structure.

1520 **SUBSURFACE WASTEWATER DISPOSAL SYSTEM (SWDS)**

1521 Any system designed to dispose of waste or wastewater on or beneath the surface of the earth. These
1522 include, but are not limited to, septic tanks, disposal fields, holding tanks, pretreatment filters,
1523 piping, or any other fixture, mechanism or apparatus used for such purposes. This definition does not
1524 include any discharge system licensed under 38 M.R.S. § 414, any surface wastewater disposal
1525 system or any municipal or quasi-municipal sewer or wastewater treatment system. (See also
1526 "wastewater" and "domestic wastewater.")

1527 **[ADDED 10-14-2015 BY ORD. NO. 15-10]**

1528 **SUSTAINED SLOPE**

1529 A change in elevation where the referenced percent grade is substantially maintained or exceeded
1530 throughout the measured area.

1531 **TEMPORARY STRUCTURE**

1532 A structure which by type and materials of its construction is erected for not more than 30 days with
1533 a permit from the CEO. Such structures include tents, portable bandstands, bleachers, reviewing
1534 stands, a mobile home, tractor trailers or structures of a similar character. Temporary structures
1535 erected in conjunction with licensed circuses are not construed to be temporary structures under this
1536 title.

1537 **THEATER**

1538 A building or portion of a building for the showing of motion pictures or the presentation of
1539 dramatic, musical or other live performances.

1540 **THEATER, DRIVE-IN**

1541 An open lot devoted primarily to the showing of motion pictures and theatrical productions on a paid
1542 admission basis to patrons seated in automobiles.

1543 **TIDAL LAND, FILLED**

1544 Portions of the submerged and intertidal lands that have been rendered by human activity to be no
1545 longer subject to tidal action or below the natural low-water mark after October 1, 1975.

1546 **[ADDED 9-28-2015 BY ORD. NO. 15-05]**

1547 **TIDAL WATERS**

1548 All waters where the high-water line is affected by the ebb and flow of tidal action.

1549 **TIMBER HARVESTING**

1550 A. **TIMBER HARVESTING** Selective cutting or removal of 10 or more cords, or the
1551 equivalent thereof, but no more than 40% of the total volume of trees four inches or more
1552 in diameter measured at 4 1/2 feet above ground level on any lot in any ten-year period for
1553 the purpose of selling or processing forest products. Clearing of land necessary for
1554 approved construction is not considered as timber harvesting.

1555 B. For the purposes of this title, timber harvesting activities taking place outside the shoreland
1556 overlay zone on land classified by the Town Assessor as enrolled in the state tree growth

1557 program (36 M.R.S. §§ 571 to 584-A), which is conducted in compliance with a forest
1558 management and harvest plan prepared by a licensed professional forester, is not
1559 considered timber harvesting.

1560 **TOWER**

1561 Any structure, whether freestanding or in association with a building or other permanent structure,
1562 that is designed and constructed primarily for the purposes of supporting one or more antennas,
1563 including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio
1564 and television transmission towers, microwave towers, common-carrier towers, cellular telephone
1565 towers, alternative tower structures, and similar structures.

1566 **TRACT OR PARCEL OF LAND**

1567 All contiguous land in the same ownership, except that lands located on opposite sides of a public or
1568 private street are considered separate tracts or parcels of land unless the street was established by the
1569 owner of land on both sides of the street after September 22, 1971.

1570 **TRANSPORTATION TERMINAL**

1571 Land and buildings used as a relay station for the transfer of a load from one vehicle to another. The
1572 terminal facility may include storage areas for trucks and buildings or areas for the repair of trucks
1573 associated with the terminal.

1574 **TRAVELED WAY**

1575 That portion of a road or driveway designed for vehicle travel. Where a road or driveway surface is
1576 paved, the traveled way is that portion of the road surface between the edges of the paved width.

1577 **TRIBUTARY STREAM**

1578 A channel between defined banks created by the action of surface water, whether intermittent or
1579 perennial, and which is characterized by the lack of upland vegetation or presence of aquatic
1580 vegetation and by the presence of a bed devoid of topsoil, containing waterborne deposits on
1581 exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined.
1582 This definition does not include the term "stream" as defined elsewhere in this title and only applies
1583 to that portion of the tributary stream located within the shoreland or resource protection overlay
1584 zones of the receiving water body or wetland.

1585 **UPLAND EDGE**

1586 The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the
1587 line formed by the landward limits of the salt-tolerant vegetation and/or the elevation being six feet
1588 above mean sea level based on the North American Vertical Datum of 1988 (NAVD 88), including
1589 all area affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed
1590 where the soils are not saturated for a time period sufficient to support wetland vegetation or where
1591 the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems
1592 that are 20 feet tall or taller; whichever is more restrictive.

1593 **URBANIZED AREA (UA)**

1594 The areas of the State of Maine so defined by the latest decennial census by the U.S. Bureau of the
1595 Census.

1596 **[ADDED 5-22-2017 BY ORD. NO. 17-06]**

1597 **USED CAR LOT**

1598 A lot exposed to the elements which is used for the sale of secondhand automobiles or trucks which
1599 can pass the state inspection tests in their existing conditions.

1600 **VARIANCE**

- 1601 A. A relaxation of the terms of this title where such relaxation will not be contrary to the
1602 public interest and where, owing to conditions peculiar to the property and not the result of
1603 the actions of the applicant or prior owner, a literal enforcement of the title will result in
1604 unnecessary or undue hardship.
- 1605 B. As used in this title, a variance is authorized only for dimensional requirements related to
1606 height, area and size of structure, or size of yards and open spaces. Establishment or
1607 expansion of a use otherwise prohibited is not allowed by variance, nor may a variance be
1608 granted because of the presence of nonconforming uses in the particular zone or adjoining
1609 zone.

1610 **VEGETATION**

1611 All live trees, shrubs, ground cover and other plants.

1612 **VETERINARY HOSPITAL**

1613 A commercial establishment, operated by a licensed veterinarian, for the medical and surgical care
1614 of sick or injured animals.

1615 **VIOLATION**

1616 The failure of a structure or development to comply with a community's floodplain management
1617 regulations.

1618 **[ADDED 9-26-2011 BY ORD. NO. 11-15]**

1619 **VOLUME OF A STRUCTURE**

1620 The volume of all portions of a structure enclosed by roof and fixed exterior walls, as measured from
1621 the exterior faces of these walls and roof.

1622 **WAREHOUSING AND STORAGE**

1623 Premises where goods or materials are stored in an enclosed structure or in specific outdoor areas.

1624 **WASTE**

1625 Any unwanted or discarded substance or material, whether or not such substance or material has any
1626 future use, and includes any substance or material that is spilled, leaked, pumped, poured, emitted,
1627 disposed of, emptied, or dumped onto the land or into the water.

1628 **WASTEWATER**

1629 Any domestic wastewater, or other wastewater from commercial, industrial or residential sources
1630 that has attributes similar to those of domestic wastewater. This term specifically excludes hazardous
1631 or toxic wastes and materials. (Applicable only to Title 16. If there is a conflict with the definition of
1632 "wastewater" in Title 13, the Title 13 definition takes precedence.)

1633 **[ADDED 10-14-2015 BY ORD. NO. 15-10]**

1634 **WASTEWATER, DOMESTIC**

1635 Any wastewater produced by ordinary living uses, including liquid waste containing animal or
1636 vegetable matter in suspension or solution, or the water-carried waste from the discharge of water
1637 closets, laundry tubs, washing machines, sinks, dishwashers, or other source of water-carried wastes
1638 of human origin.

1639 **[ADDED 10-14-2015 BY ORD. NO. 15-10]**

1640 **WATER BODY**

1641 Any pond, river, brook, stream, intermittent stream or coastal wetland.

- 1642 **WATER CROSSING**
 1643 Any project extending from one bank to the opposite bank of a water body, whether under, through
 1644 or over the watercourse. Such projects include but may not be limited to roads, fords, bridges,
 1645 culverts, waterlines, sewer lines and cables, as well as maintenance work on these crossings.
- 1646 **WATER-DEPENDENT USE**
 1647 See "functionally water-dependent use."
- 1648 **WETLAND**
 1649 Areas that under normal circumstances have hydrophytic vegetation, hydric soils and wetland
 1650 hydrology, as determined in the Corps of Engineers Wetlands Delineation Manual — Waterways
 1651 Experiment Station Technical Report Y-87-1, January 1987" (1987 manual). This definition of
 1652 wetland is based on the 1987 manual and is not subject to further revisions and/or amendments.
- 1653 **WETLAND ALTERATION**
 1654 Filling, dredging, removal of vegetation, muck or debris, draining or otherwise changing the
 1655 hydrology; construction or repair of a structure. On a case-by-case basis and as determined by the
 1656 Planning Board, the term "alteration" may exclude:
- 1657 A. An activity of installing a fence post or planting shrubs by hand;
 1658 B. Alteration of an existing structure such as a bench or handrail; and
- 1659 The construction, repair or alteration of a structure with minimal impact such as a nesting box,
 1660 pasture fence or staff gauge.
- 1661 **WETLAND, COASTAL**
 1662 All tidal and subtidal lands; all lands below any identifiable debris line left by tidal action; all lands
 1663 with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine
 1664 habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal
 1665 action during the maximum spring tide level as identified in tide tables published by the National
 1666 Ocean Service. Coastal wetlands may include portions of coastal sand dunes.
- 1667 **WETLAND CREATION**
 1668 Conversion of a nonwetland area into a wetland, where a wetland never existed.
- 1669 **WETLAND ENHANCEMENT**
 1670 An activity increasing the value of one or more functions in an existing wetland. Activities may also
 1671 include improvements to upland buffers where timber harvesting or other activities have degraded
 1672 the value for wildlife.
- 1673 **WETLAND, FORESTED**
 1674 A fresh water wetland dominated by woody vegetation that is 20 feet tall or taller.
- 1675 **WETLAND, FRESHWATER**
 1676 Noncoastal types of wetlands, including, but not limited to, freshwater swamps, marshes, bogs and
 1677 similar areas.
- 1678 **WETLAND, FRESHWATER (IN THE SHORELAND AND RESOURCE PROTECTION**
 1679 **OVERLAY ZONES)**
- 1680 A. Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which
 1681 are: **[Added 5-22-2017 by Ord. No. 17-04]**
- 1682 (1). Of 10 or more contiguous acres; or of less than 10 contiguous acres and adjacent to
 1683 a surface water body, excluding any river, stream or brook, such that in a natural
 1684 state, the combined surface area is in excess of 10 acres; and

1685 (2). Inundated or saturated by surface- or groundwater at a frequency and for a duration
1686 sufficient to support, and which under normal circumstances do support, a
1687 prevalence of wetland vegetation typically adapted for life in saturated soils.

1688 B. Freshwater wetlands may contain small stream channels or inclusions of land that do not
1689 conform to the criteria in this definition.

1690
1691 **WETLAND FUNCTIONS**

1692 The roles wetlands serve which are of value to society or the environment, including, but not limited
1693 to, floodwater storage, floodwater conveyance, groundwater recharge and discharge, erosion control,
1694 wave attenuation, water quality protection, scenic and aesthetic use, food chain support, fisheries,
1695 wetland plant habitat, aquatic habitat and wildlife habitat.

1696 **WETLAND HYDROLOGY**

1697 In general terms, a condition where permanent or periodic inundation or prolonged soil saturation is
1698 sufficient to create anaerobic conditions in the soil. According to the 1989 Manual, inundation or
1699 saturation for one week or more during the growing season and a water table within at least 18
1700 inches of soil surface is required to meet the wetland hydrology criterion.

1701 **WETLAND PRESERVATION**

1702 The maintenance of an area of wetlands or adjacent upland so that it remains in a natural or
1703 undeveloped condition. Preservation measures include, but are not limited to, conservation
1704 easements and land trusts.

1705 **WETLAND RESTORATION**

1706 An activity returning a wetland from a disturbed or altered condition with lesser acreage or fewer
1707 functions to a previous condition with greater wetland acreage or function.

1708 **WETLAND VALUE**

1709 The importance of a wetland with respect to the individual or collective functions it provides.

1710 **WETLAND VEGETATION**

1711 Those plants classified as Obligate, Facultative Wetland or Facultative in the U.S. Fish and Wildlife
1712 Service publication, Wetland Plants of the State of Maine, 1986, as amended or superseded.

1713 **WETLANDS ASSOCIATED WITH RIVERS**

1714 Wetlands contiguous with or adjacent to a river, and which during normal high water are connected
1715 by surface water to the river. Also included are wetlands which are separated from the river by a
1716 berm, causeway or similar feature less than 100 feet in width, and which have a surface elevation at
1717 or below the normal high-water line of the river. Wetlands associated with rivers are considered to
1718 be part of that great pond or river.

1719 **WETLANDS IMPACT**

1720 Any disturbance, including but not limited to filling, dredging, draining, bridging and cutting or
1721 clearing of vegetation in the wetland and buffer areas.

1722 **WHARF**

1723 A structure on the shore, parallel to the shoreline of navigable waters, alongside of which vessels can
1724 be brought for loading or unloading.

1725 **WHOLESALE BUSINESS**

1726 The sale of goods not produced on the premises primarily to customers engaged in the business of
1727 reselling the goods.

- 1728 **WIRELESS COMMUNICATION SERVICES FACILITIES (WCSF)**
1729 Any structure, antenna, tower or other device which provides radio/television transmission,
1730 commercial mobile wireless services, unlicensed wireless services, cellular phone services,
1731 specialized mobile radio communications (SMR), common carrier wireless exchange access
1732 services, and personal communications service (PCS) or pager services, and associated development.
1733 Telecommunications facilities are considered a principal use.
- 1734 **WORK**
1735 Activity related to physical change for improvements and not the engineering, production or
1736 correction of construction drawings, or real estate marketing.
- 1737 **YARD, ACCESSORY BUILDING SIDE AND REAR**
1738 In the R-RL, R-U, R-S and B-L Zones, accessory building side and rear yard setbacks that are at
1739 least 10 feet, except no building may be closer than 30 feet to a principal building on an adjoining
1740 lot.
- 1741 **YARD, FRONT**
1742 An open area unoccupied by any structure, excluding cornices, eaves or gutters projecting not more
1743 than 24 inches, on the same lot with the building between the front line of the building and the front
1744 line of the lot and extending the full width of the lot as it abuts along a public or private street.
- 1745 **YARD, REAR**
1746 An open area unoccupied by any structure, excluding cornices, eaves or gutters projecting not more
1747 than 24 inches, on the same lot with the building between the rear line of the building and the rear
1748 line of the lot and extending the full width of the lot.
- 1749 **YARD, SIDE**
1750 An open area unoccupied by any structure, excluding cornices, eaves or gutters projecting not more
1751 than 24 inches, on the same lot with the building situated between the building and the side line of
1752 the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line
1753 will be deemed a side line.
- 1754