

2018

# City of Hallowell Maine Ordinances

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**CHAPTER 1**

**GENERAL PROVISIONS**

**SECTION 1-101**      HOW CODE DESIGNATED AND CITED

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Revised Code of Ordinances, City of Hallowell (1997)", and may be so cited.

[Derivation: Section 1-1, 1973 Revised Code of Ordinances]

**SECTION 1-102**      RULES OF CONSTRUCTION

1.     In General. In the construction of this Code, and of all ordinances, the rules and definitions set out in this section shall be observed, unless such construction would be inconsistent with the manifest intent of the City Council, The rules of construction set out herein or the definitions under Section 1-103 shall not be applied to any section of this Code which shall contain any express provision excluding such construction, or where the subject matter of context of such section may be repugnant thereto.
2.     Liberal Construction. Generally, all general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the City Council may be fully carried out.
3.     Most Restrictive Provision Controls. In the interpretation and application of any provisions of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.
4.     Computation of time. Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the day on which such notice is given, or such act is done, shall not be counted in computing the time, but the day on which such proceeding is to be held shall be counted.
5.     Delegation of authority. Whenever a provision appears requiring the head of a department or some other City officer to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.
6.     Gender. Words of the masculine gender may include the feminine.



7. Joint authority. Words giving authority to three (3) or more persons authorize a majority to act, when the enactment does not otherwise determine.
8. Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
9. Number. Words of the singular number may include the plural; and words of the plural number may include the singular.
10. Officials, boards, commissions. Whenever reference is made to officials, boards, commissions by title only, i.e., "City Council", "City Clerk", "The Mayor", "City Manager", etc., they shall be deemed to refer to the officials, boards, and/or commissions of the City of Hallowell.
11. Or, And. "Or" may be read "and" and "and" may be read "or" if the sense requires it.
12. Shall. The word "shall" is mandatory.
13. Signature or subscription. Signature or subscription includes a mark when the person cannot write.
14. Tense. Words used in the past or present tense include the future as well as the past and present.

[Derivation: Section 1-2, 1973 Revised Code of Ordinances as amended]

**SECTION 1-103**      DEFINITIONS

Unless otherwise defined within subdivisions of this Code, the enumerated words and terms enumerated in this Section and as used in this Code are defined as follows:

1. City. "City" means the City of Hallowell, Maine.
2. City Council, Council. Whenever the words "council" or "City Council" are used, they shall be construed to mean the City Council of the City of Hallowell, Maine.
3. City Charter, Charter. "City Charter" or "Charter" means the City Charter of the City of Hallowell as amended.
4. Code, Hallowell Code. "Code" or "Hallowell Code" means this Revised Code of Ordinances, City of Hallowell (1977) and all amendments thereto.
5. Compact, Built Up Section, Urban Area. The compact or built up section of the City means a section of the highway where structures are nearer than two hundred (200) feet apart for a distance of one-quarter (1/4) of a mile.

6. Corporate or City limits. The terms "corporate limits" or "City limits" shall mean the legal boundaries of the City of Hallowell, Maine.
7. County. The words "the county" or "this county" shall mean the County of Kennebec in the State of Maine.
8. Mayor. "Mayor" shall mean the Mayor of the City.
9. Oath. The word "oath" includes an affirmation, when affirmation is allowed. Affirmation is allowed when a person required to be sworn is conscientiously scrupulous of taking an oath.
10. Owner. The word "owner", applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant, lessee or sublessee of the whole or of a part of such building or land.
11. Person. "Person" means an individual, partnership, corporation, trust or other legal entity.
12. Personal property. "Personal property" includes every species of property except real property, as herein described.
13. Property. The word "property" shall include real and personal property.
14. Sidewalk. The word "sidewalk" shall mean any portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians, excluding parkways.
15. State. "State" means the State of Maine.
16. Street. The word "street" means all public ways in the City, and shall include all areas thereof between the property lines and dedicated to the public use, whether or not part of the traveled way.
17. Tenant or occupant. The words "tenant" or "occupant", applied to a building or land, includes any person holding a written or oral lease or who occupies the whole or a part of such buildings or land, either alone or with others.
18. Written, in writing. The words "written" or "in writing" means any representation of words, letters or figures, whether by printing or otherwise.

[Derivation: Section 1-2, 1973 Revised Code of Ordinances as amended]

**SECTION 1-103**      CATCHLINES OF SECTIONS

The catchlines of the several sections of this Code printed in capital type are intended to indicate the contents of the section and shall not be deemed or taken to be the title of the Section, nor as any part of the Section.

[Derivation: Section 1-3, 1973 Revised Code of Ordinances as amended]

**SECTION 1-104**      (Reserved)

**SECTION 1-105**      UNAUTHORIZED ALTERATION OR TAMPERING WITH CODE

It shall be unlawful for any person in the City to change or amend, by additions or deletions, any part or portions of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City to be misrepresented thereby.

[Derivation: Section 1-5, 1973 Revised Code of Ordinances]

**SECTION 1-106**      EFFECTIVE DATE; REPEAL OF PRIOR ORDINANCES

This Code shall be effective April 18, 1997. The Revised Code of Ordinances, City of Hallowell, Maine (1973) as amended prior to the effective date of this Code, the Zoning Ordinance of the City of Hallowell, Maine (1989) as amended prior to the effective date of this Code, and the General Assistance Ordinance of the City of Hallowell (1993) as amended prior to the effective date of this Code are repealed and replaced by this Code.

**SECTION 1-107**      EFFECT OF REPEAL OF ORDINANCES

When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause or provision unless it shall be therein so expressly provided.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.

[Derivation: Section 1-6, 1973 Revised Code of Ordinances]

**SECTION 1-108**      SEVERABILITY OF PARTS OF CODE

The chapters, subchapters, divisions, sections, subsections, paragraphs, subparagraphs, sentences, clauses and phrases of this Code are severable, and if any portion of this Code shall be declared unconstitutional, invalid or un-enforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity or un-enforceability shall not affect any of the remaining portions of this Code.

[Derivation: Section 1-7, 1973 Revised Code of Ordinances]

**SECTION 1-109**      GENERAL PENALTY FOR VIOLATION OF CODE, CONTINUING VIOLATION

Any violation of this Code by any person shall be a civil violation. Any person whose act or failure to act is described as unlawful under this Code or whose conduct otherwise constitutes a violation of this Code shall be fined not less than fifty dollars (\$50.00) nor more than two hundred fifty dollars (\$250.00) for each offense unless a greater or lesser fine for a specific violation is expressly provided. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. Any penalty imposed for a civil violation under this Code shall not preclude, and shall be in addition to, any other civil remedies that may be available to the City.

[Derivation: Section 1-8, 1973 Revised Code of Ordinances as amended 1/11/88 and Ord. No. 01-3, eff. 1/18/01]

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**CHAPTER 2**

**ADMINISTRATION**

**SUBCHAPTER I - IN GENERAL**

**SECTIONS 2-101 THROUGH 2-103** (Reserved)

**SECTION 2-104**      THE CITY SEAL

The design hereunto annexed shall be the device of the City Seal, and the inscription shall be as follows, to wit:

"Hallowell Founded A.D. 1771" "City Incorporated A.D. 1850."

The City Seal shall be as follows:

A circular seal containing two closely spaced outer and one inner concentric circles. Between these circles the words "Hallowell Founded A.D. 1771" shall appear in the upper half, and "City Incorporated 1850" in the lower half. Within the inner circle is a scene depicting the west bank of the Kennebec River. A sailing ship and wharf appear at the left, with two derricks on the shore above, three buildings center and right, and with church steeple, ship and wharf at far right. In the foreground is a small sailing vessel.

[Derivation: Section 2-1, 1973 Revised Code of Ordinances]

**SECTION 2-105**      ORDERS AND RESOLVES

In all votes, when anything is to be expressed by way of command, the form of expression shall be, "Ordered"; and when opinions, principles, facts or purposes are to be expressed, the form shall be "Resolved."

[Derivation: Section 2-2, 1973 Revised Code of Ordinances]

**SECTION 2-106**      FORM AND ENACTMENT OF ORDINANCES

1.      Enacting Style. All by-laws passed by the council shall be termed ordinances, and the enacting style shall be, "Be it ordained by the City Council of the City of Hallowell, as follows:"
2.      Integration with Code. It is the intent of the City Council that all ordinances adopted after the effective date of the Code be integrated into the Code based on the organization, format, subject classifications, and numbering system used in the Code as adopted.

3. Proposed Ordinances. Each ordinance prior to final passage shall be marked "PROPOSED ORDINANCE."
4. Numbering. Each ordinance, upon enactment, shall be numbered sequentially in chronological order beginning with each calendar year, showing the calendar year as a prefix. For example, the first ordinance enacted in 1998 would be numbered "98-1," and the first ordinances enacted in 1999 and 2000 would be numbered "99-1" and "00-1" respectively.

[Derivation: Section 2-2, 1973 Revised Code of Ordinances]

**SECTION 2-107**      RECORD OF ORDINANCES

All ordinances shall be enrolled and recorded by the City Clerk and such ordinances shall be preserved in the office of the City Clerk, subject to the inspection by the public, in accordance with statute.

1. Record of Ordinances. Upon final passage of any additions and amendments to the Code or any other ordinances of whatever nature, a copy of the full text of such ordinance as finally enacted shall be prepared by the City Clerk. The City Clerk shall note the date of each reading and final passage on the face of the ordinance, and place the City seal and the Clerk's signature thereon. This signed copy of each ordinance shall be preserved as a permanent record in a separate loose leaf notebook kept in the City's safe. An attested copy of each ordinance as enacted shall be kept in a separate loose leaf notebook by the City Clerk, and shall be available for public inspection and copying during regular office hours. The Clerk shall maintain an index to the record of ordinances listing each ordinance sequentially by number, showing the title of the ordinance, the section numbers of the Code affected, and the effective date.
2. Preservation of Code. An official copy of the Code, as amended from time to time, shall be kept by the City Clerk in a loose leaf notebook and preserved as a public record in the City's safe. One or more attested copies of the Code, as amended, shall be kept in the Clerk's office and shall be available for public inspection and copying during regular office hours.
3. Supplementation of Code. Immediately after the enactment of any addition or amendment to the Code, the City Clerk shall prepare replacement pages, and supplementary pages if necessary, with respect to all changes and additions to the Code. Additional inserted pages shall be numbered with alphabetical suffixes (i.e., 50A, 50B, etc.) until such time as the entire Code is repaginated. Index pages shall be replaced as necessary. After each section of the Code that is added or amended, there shall be a notation of its derivation showing the ordinance number, date of adoption, and dates of amendment, as applicable. Each new page, at the bottom, shall include a printed notation of the month and year of the filing of the page by the City Clerk, who shall immediately insert the pages into the official copy of the Code and each public review copy kept in the Clerk's office. The pages replaced in the

official copy of the Code shall be removed by the City Clerk, who shall note the date of removal on each of the pages removed, and preserve them as a permanent record in a separate file containing all pages removed from the official copy of the Code.

4. Items Incorporated by Reference. All writings incorporated or adopted by reference in this Code, including but not limited to the Maine Uniform Building and Energy Code under Section 4-501, the Official Zoning Map under Section 9-171, and the “Flood Insurance Study” and “Flood Insurance Rate Map” under Section 9-531, shall be filed by the Clerk with the official Code, and attested copies of such items shall be made available in the Clerk’s office for review and copying by the general public during regular office hours.

[Derivation: Section 2-3, 1973 Revised Code of Ordinances; Ord. No. 12-03, Eff. 5/23/2012; Ord. No. 15-03, eff. 07/23/2015]

**SECTION 2-108**      OFFICE HOURS AT CITY HALL

The office hours at City hall shall be from 8:00 a.m. to 5:00 p.m. Monday through Friday except on holidays recognized by the State of Maine.

[Derivation: Section 2-8, 1973 Revised Code of Ordinances]



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**SUBCHAPTER II - CITY COUNCIL**

**DIVISION A - IN GENERAL**

**SECTIONS 2-201 THROUGH 2-210** (Reserved)

**SECTION 2-211**      **COUNCILOR'S REQUEST REGARDING DEPARTMENTS OR OTHER BUSINESS TO GO THROUGH MANAGER**

All requests from members of the City Council pertaining to individual departments or any other business shall go through the City Manager.

[Derivation: Section 2-129, 1973 Revised Code of Ordinances]

**DIVISION B - RULES OF PROCEDURE**

**SECTION 2-221**      **PRESIDING OFFICER**

The Mayor, or in his absence the elected President of the City Council, shall take the chair at the meetings of the council.

In the absence of the Mayor and the President of the City Council, the City Clerk shall call the meeting to order, and a presiding officer for the time being shall be elected by the council.

[Derivation: Section 2-136, 1973 Revised Code of Ordinances]

**SECTION 2-222**      **DUTIES OF THE PRESIDING OFFICER GENERALLY**

The presiding officer shall do the following:

1. Take any question by yeas and nays, on demand of any member.
2. Preserve order and decorum and may speak on points of order in preference to members on the floor. (Reference Roberts' Rules of order.)
3. Decide all questions of order, subject to an appeal on motion of any member regularly seconded.
4. Address the council, state facts, put questions and read to the council.
5. Propound all questions in the order in which they are moved unless the subsequent motion shall be previous in nature; except that in naming sums and fixing times, the largest sum and the longest time shall be put first.

6. Nominate all committees, unless otherwise provided for or especially directed by council.
7. Declare all votes, but if a vote be doubted he may call for a revote or roll call vote.
8. Call any member to the chair, who may preside for one (1) meeting.
9. May only express his opinion on any subject under debate, by leaving the chair, and appointing a member to take it; and in such case, he shall return to the chair after speaking; however, he may state facts and give his opinion on questions of order, without leaving his place.

[Derivation: Section 2-137, 1973 Revised Code of Ordinances]

**SECTION 2-223**      SUSPENSION OF RULES BY VOTE

The rules and order of business set out in this division shall be observed in all cases, unless suspended by a vote of five-seventh (5/7) of the council members present.

[Derivation: Section 2-138, 1973 Revised Code of Ordinances]

**SECTION 2-224**      SUBMISSION OF SUGGESTED BUSINESS PRIOR TO COUNCIL MEETING: PLACING MATTERS ON AGENDA. AGENDA FOR CITY COUNCIL MEETINGS

1. All matters to be taken before the council for discussion or action shall be listed in an agenda prepared by the City Manager. Items proposed for the agenda by council members shall be received by the City Manager not later than four (4) calendar days prior to the meeting.
2. Any business or matter not on the agenda must in order to be discussed or acted upon, have the approval of five-seventh (5/7) of the council members present.
3. The council members or the City Manager or Mayor shall have the exclusive authority to place matters on the agenda for council meetings.

[Derivation: Section 2-139, 1973 Revised Code of Ordinances]

**SECTION 2-225**      ORDER OF BUSINESS

The order of business at a council meeting shall be as follows:

1. Items on agenda.
2. New business.

3. Reports of committees.
4. Communications.
5. Petitions.

[Derivation: Section 2-140, 1973 Revised Code of Ordinances]

**SECTION 2-226**      ORDER OF PRECEDENCE OF MOTIONS

The order of precedence of motions shall be as follows:

1. To adjourn.
2. To recess.
3. To lay on the table.
4. For the previous question.
5. To refer to a committee.
6. To amend.
7. To postpone indefinitely.
8. To move the main question.

The motions enumerated in this section shall have precedence in the order in which they are arranged. The first four (4) motions shall not be debatable and the motion for the previous question shall require a five-seventh (5/7) vote to carry.

[Derivation: Section 2-141, 1973 Revised Code of Ordinances]

**SECTION 2-227**      MOTIONS TO BE IN WRITING IF DEMANDED

Every motion shall be reduced to writing, if the presiding officer or any member demands it.

[Derivation: Section 2-142, 1973 Revised Code of Ordinances]

**SECTION 2-228**      DISPOSAL OF MOTIONS, WITHDRAWAL

After a motion is stated or read by the chair, it shall be deemed to be in possession of the council, and shall be disposed of by vote; but the mover may withdraw it at any time before a division or amendment.

[Derivation: Section 2-143, 1973 Revised Code of Ordinances]

**SECTION 2-229**      MOTION FOR RECONSIDERATION

When a motion has once been made and carried by a majority of members present in the affirmative or negative, any member voting with the majority may move a reconsideration thereof at the same meeting, and if seconded, it shall be open to debate, and be disposed of by the council; and if the motion is made at such meeting, a majority of the members present may pass a vote of reconsideration; but only one (1) motion for the reconsideration of any vote shall be permitted.

[Derivation: Section 2-144, 1973 Revised Code of Ordinances]

**SECTION 2-230**      DEBATING, PRESENTING MATTERS TO THE COUNCIL

1.      When any member is about to speak in debate, or present any matter to the council, he shall respectfully address the chair, confining himself to the subject under debate and avoiding personalities.
2.      No member shall speak more than once until the other members who have not spoken shall speak, if they desire it.
3.      No member shall call another member by name in debate, but may allude to him by an intelligible or respectful designation.

[Derivation: Section 2-145, 1973 Revised Code of Ordinances]

**SECTION 2-231**      INTERRUPTION OF A MEMBER SPEAKING

No member speaking shall be interrupted by another, but by a call to order or to correct a mistake. If any member in speaking, or otherwise, transgresses the rules of the council, the presiding officer shall, or any member may call him to order; in which case the member so called to order shall explain if permitted to do so; and the council, if appealed to, shall decide on the case without debate. If the decision be in favor of the member so called to order, he shall be at liberty to proceed; if otherwise, he shall not proceed without leave of the council.

[Derivation: Section 2-146, 1973 Revised Code of Ordinances]

**SECTION 2-232**      FORM OF MOVING THE PREVIOUS QUESTION

The previous question shall be in the form: "Shall the main question be now put?" It shall only be admitted when demanded by a majority of the members present, and its effect shall be to put an end to all debate, and bring the council to a direct vote.

[Derivation: Section 2-147, 1973 Revised Code of Ordinances]

**SECTION 2-233**      IMPROPER USE OF AMENDMENTS

No motion or proposition on a subject different from that under consideration shall be admitted under color of an amendment.

[Derivation: Section 2-148, 1973 Revised Code of Ordinances]

**SECTION 2-234**      REQUIREMENT TO VOTE: PREVIOUS QUESTION EXCEPTION

Every member who shall be present when a question is put shall give his vote, unless the council for special reasons shall excuse him; application for such excuse must be made before the council is divided; or before the calling of the yeas and nays, and such application shall be decided without debate.

[Derivation: Section 2-149, 1973 Revised Code of Ordinances]

**SECTION 2-235**      QUORUM

A legal quorum for council business shall require a majority of members be present.

[Derivation: Section 2-150, 1973 Revised Code of Ordinances]

**SECTION 2-236**      ORDINANCE ENACTMENT

No ordinance shall be passed until it has been read on three (3) separate days.

[Derivation: Section 2-151, 1973 Revised Code of Ordinances, Enacted 6/11/90]

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**SUBCHAPTER III - CITY ELECTIONS**

**DIVISION A - VOTING WARDS**

**SECTION 2-301      VOTING WARDS**

Let it hereby be established that the City of Hallowell be divided into five (5) voting wards.

[Derivation: Section 8-1, 1973 Revised Code of Ordinances]

**SECTION 2-302      VOTING PLACES DEFINED, ENUMERATED**

1. Voting place shall mean the building in which ballots are case at an election.
2. The voting place for all voting wards shall be the Hall-Dale Elementary School, 26 Garden Lane.

[Derivation: Section 8-2, 1973 Revised Code of Ordinances; Ordinance No. 06-07, Effective August 17, 2006]

**SECTION 2-303      BOUNDARIES OF WARDS**

1. Ward 1. Ward 1 shall be bounded on the north by the Augusta Line between Balsam Drive and Second Street; on the east by Second Street between the Augusta Line and Lincoln Street; on the south by Lincoln Street between Second Street and Middle Street, by Middle Street between Lincoln Street and Winthrop Street, by Winthrop Street between Middle Street and Pleasant Street, by Pleasant Street between Winthrop Street and Getchell Lane, by Getchell Lane between Pleasant Street and the end of Getchell Lane, by an imaginary line drawn to extend Getchell Lane to Reed Street between the end of Getchell Lane and Reed Street, by Reed Street between its intersection with said imaginary line and Winthrop Street, by Winthrop Street between Reed Street and Balsam Drive; and on the west by Balsam Drive between Winthrop Street and the Augusta Line.
2. Ward 2. Ward 2 shall be bounded on the north by the Augusta line between Second Street and the Kennebec River; on the east by the Kennebec River between the Augusta Line and Wharf Street; on the south by Wharf Street between the Kennebec River and Water Street, by Water Street between Wharf Street and Perleys Lane, by Perleys Lane between Water Street and Second Street, by Second Street between Perleys Lane and Union Street, by Union Street between Second Street and Franklin Street, by Franklin Street between Union Street and Central Street, and by Central Street between Franklin Street and High Street; and on the west by High Street between Central Street and Winthrop Street, by Winthrop Street between High Street and Reed Street, by Reed Street between Winthrop Street and the intersection of Reed Street with an imaginary line drawn to extend Getchell Lane to Reed Street, by said imaginary line between Reed Street and the end of Getchell Lane, by Getchell Lane between the end of Getchell Lane and Pleasant Street, by Pleasant Street between Getchell Lane and Winthrop Street, by



Winthrop Street between Pleasant Street and Middle Street, by Middle Street between Winthrop Street and Lincoln Street, by Lincoln Street between Middle Street and Second Street, by Second Street between Lincoln Street and the Augusta Line.

3. Ward 3. Ward 3 is bounded on the north by Winthrop Street between the Maine Turnpike and High Street, by High Street between Winthrop Street and Central Street, by Central Street between High Street and Franklin Street; on the east by Franklin Street between Central Street and Union Street, by Union Street between Franklin Street and Second Street, by Second Street between Union Street and Perleys Lane, by Perleys Lane between Second Street and Water Street, by Water Street between Perleys Lane and Temple Street, by Temple Street between Water Street and Second Street, by Second Street between Temple Street and Academy Street, by Academy Street between Second Street and Middle Street, by Middle Street between Academy Street and Chestnut Street, by Chestnut Street between Middle Street and Summer Street, and by Summer Street between Chestnut Street and Litchfield Road; on the south by Litchfield Road between Summer Street and the Maine Turnpike; and on the west by the Maine Turnpike between Litchfield Road and Winthrop Street.
4. Ward 4. Ward 4 is bounded on the north by Vaughan Road between the Farmingdale Line and Smith Road, by Smith Road between Vaughan Road and Litchfield Road, by Litchfield Road between Smith Road and Summer Street, by Summer Street between Litchfield Road and Chestnut Street, by Chestnut Street between Summer Street and Middle Street, by Middle Street between Chestnut Street and Academy Street, by Academy Street between Middle Street and Second Street, by Second Street between Academy Street and Temple Street, by Temple Street between Second Street and Water Street, by Water Street between Temple Street and Wharf Street, by Wharf Street between Water Street and the Kennebec River; on the east by the Kennebec River between Wharf Street and the Farmingdale Line; on the south by the Farmingdale line; and on the west by the Farmingdale Line.
5. Ward 5. Ward 5 is bounded on the north by the Manchester line between Foye Road and the Augusta Line, by the Augusta Line between the Manchester Line and Balsam Drive; on the east by Balsam Drive between the Augusta Line and Winthrop Street, by Winthrop Street between Balsam Drive and the Maine Turnpike, by the Maine Turnpike between Winthrop Street and Litchfield Road; on the south by Litchfield Road between the Maine Turnpike and Smith Road, by Smith Road between Litchfield Road and Vaughan Road, by Vaughan Road between Smith Road and the Farmingdale Line, by the Farmingdale Line between Vaughan Road and Manchester Line; and on the west by the Manchester Line.

[Derivation: Ord. No. 02-04, eff. 06/13/02; Ord. No. 14-01, eff. 03/20/2014]

**SECTION 2-304**      DUTY TO ESTABLISH TIME FOR POLLS TO OPEN AND CLOSE:  
WARRANTS OR NOTICES OF ELECTION TO SHOW TIME

It shall be the duty of the Mayor and councilmen to fix the time when the polls shall be opened and closed and they shall insert the same in all warrants or notices of elections.

[Derivation: Section 8-4, 1973 Revised Code of Ordinances; Ordinance No. 06-07, Effective August 17, 2006]

**SECTION 2-305**      SERVICE AND RETURN OF WARRANTS OR NOTICES OF ELECTION

All warrants or notices of elections shall be served by a constable or resident of the City; warrants or notices of elections shall be returned to the City Clerk on or before the time of meeting therein named.

[Derivation: Section 8-5, 1973 Revised Code of Ordinances; Ordinance No. 06-07, Effective August 17, 2006]

**SECTION 2-306**      NOTICE OF ELECTION

The service of warrants or notices of elections shall be made by posting copies thereof in at least two (2) public and conspicuous places in the polling place and at City Hall, at least seven (7) days before the time of the election mentioned therein.

[Derivation: Section 8-6, 1973 Revised Code of Ordinances; Ordinance No. 06-07, Effective August 17, 2006]

**DIVISION B - INITIATIVE AND REFERENDUM**

**SECTION 2-321**      MAINE CONSTITUTION AND STATUTES TO GOVERN

1. Initiative and referendum for the electors of the City of Hallowell in regard to revisions of or amendments to the City charter is hereby established in accordance with Article IV, Part 3, Section 21 and Article 8 VIII-A of the Constitution of Maine and as further set forth in 30-A M.R.S.A. §§2004, 2101–2109 as amended.
2. Initiative and referendum for the electors of the City of Hallowell in regard to any ordinance, order resolve or question is hereby established under Article VIII, §1-3 of the City charter.

[Derivation: Section 8-17, 1973 Revised Code of Ordinances]

**SECTION 2-322**      COUNCIL'S AUTHORITY TO ESTABLISH FURTHER REGULATIONS

The council shall, by ordinance, make such further regulations as may be necessary to carry out the provisions of these articles.

[Derivation: Section 8-18, 1973 Revised Code of Ordinances]

**SECTION 2-323**      EFFECT OF REPEAL

All ordinances, orders, resolves or questions in parts thereof which are hereafter repealed through the initiative and referendum, provided in this article, shall remain in force for the trial, and punishment of all past violations of them and for the recovery of the penalties and forfeitures already incurred and for the preservation of all rights and remedies existing by them, and, so far as they apply, to any office, trust, proceeding, right, contract or event already effected by them.

[Derivation: Section 8-19, 1973 Revised Code of Ordinances]

**SECTION 2-324**      FORM OF PETITION

The petition used to originate the initiative or the referendum shall be substantially in the following form:

PETITION TO THE CITY COUNCIL FOR THE  
SUBMISSION TO THE PEOPLE OF THE QUESTION:

Shall the ordinance, order, resolve or question, a copy of which is hereunto attached, be adopted?

We, the undersigned, depose and say that we are duly qualified voters of the City of Hallowell, residing respectively at the addresses placed opposite our names, and we hereby petition the City Council to submit the foregoing to the voters of the City of Hallowell.

Name	Street Address	Date
_____	_____	_____
_____	_____	_____

I, \_\_\_\_\_, a resident and legal voter of the City of Hallowell, do solemnly affirm that I witnessed the signing of each of the above signatures and that, at the time of signing, I made certain that the person affixing his name hereto had reasonable knowledge of the purpose of the petition.

Signed: \_\_\_\_\_  
City of Hallowell

STATE OF MAINE  
KENNEBEC, ss.

Subscribed and sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

(SEAL)

\_\_\_\_\_  
Notary Public

[Derivation: Section 8-20, 1973 Revised Code of Ordinances]

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**SUBCHAPTER IV - CITY OFFICIALS**

**DIVISION A - GENERAL**

**SECTIONS 2-401 THROUGH 2-410 (Reserved)**

**SECTION 2-411      OATH OF OFFICE**

Every City officer, and all members of boards, commissions and districts shall be duly sworn to the faithful and impartial performances of the duties of his office by the City Clerk, a notary public, a justice of the peace, or an attorney.

[Derivation: Section 2-5, 1973 Revised Code of Ordinances]

**SECTION 2-412      TERM OF THOSE FILLING VACANCIES**

Any person appointed to fill a vacancy in any appointive City office, due to any cause other than expiration of the term of office, shall hold office during the unexpired term of his predecessor.

[Derivation: Section 2-4, 1973 Revised Code of Ordinances]

**DIVISION B - CITY DEPARTMENTS**

**SECTIONS 2-421      CITY DEPARTMENTS; DEPARTMENT HEADS**

The departments within the City government are as follows:

1. Repealed.
2. Police Department, headed by the Chief of Police (see Chapter 4, Subchapter I).
3. Fire Department, headed by the Fire Chief (see Chapter 4, Subchapter II).
4. Repealed.
5. Department of Public Works, headed by the City Manager (see Chapter 6, Subchapter I).
6. Repealed.
7. Administration Department, headed by the City Manager, and composed of the Office of the City Manager (see Chapter 2, Subchapter VI), Office of the City Clerk (see Chapter 2, Subchapter VII), Office of the City Treasurer (see Chapter 3,

Subchapter IV), Office of the General Assistance Administrator (see Chapter 10) and Office of Code Enforcement (see Chapter 4, Subchapter V and Chapter 9, Subchapter IX).

[Derivation: Ordinance No.: 04-03, Effective May 20, 2004]

**SECTION 2-422**      ANNUAL REPORT OF DEPARTMENT HEADS REQUIRED

All department heads of the City shall submit an annual report, or more often if directed by the City Manager or council, to the City Manager.

[Derivation: Section 2-7, 1973 Revised Code of Ordinances]

**SUBCHAPTER V - CITY EMPLOYEES**

**SECTION 2-501      PERSONNEL REGULATIONS**

The City Council shall adopt, by Order, Personnel Regulations governing the employment practices of the City and conduct of its employees. Unless otherwise provided in this Code, the Personnel Regulations shall specifically include or provide the following:

1.      A Position Classification Plan, which shall group employee positions in classes or grades with regard to duties and responsibilities, and requirements of education, knowledge, experience, skills and fitness.
2.      A Compensation Plan, which shall establish, in matrix form, ranges of rates of pay for each position classification.
3.      Recruitment, Employment and Probation Policy.
4.      Hours of Work and Overtime Policy.
5.      Annual Leave Policy.
6.      Sick Leave Policy.
7.      Holiday Policy.
8.      Leave of Absence Policy (with or without pay).
9.      Transfer and Promotion Policy.
10.     Employee Benefits.
11.     Reimbursement of Expenses.
12.     Employee Training Policy.
13.     Separation and Layoff Policy.
14.     Discipline Policy.
15.     Suspension and Termination Policy.
16.     Grievance Procedures.
17.     Substance Abuse and Testing Policy.

The Personnel Regulations shall be administered by the City Manager. All employees of the



City, as defined herein, shall be subject to the Personnel Regulations, however, the Personnel Regulations are not a contract of employment and may not be construed as such.

For the purposes of this section, "employees of the City" shall mean the City Manager and all persons who are compensated by the City and are under the direction and control of the City Manager or supervisor appointed by him, excluding persons hired pursuant to 22 M.R.S.A. § 4316-A(2).

[Derivation: Section 2-100, 1973 Revised Code of Ordinances, Enacted 11-7-94]

**SECTION 2-551**      MAINE PUBLIC EMPLOYEES RETIREMENT SYSTEM ADOPTED

The City of Hallowell adopts the provisions of the Maine Public Employees Retirement System and approves its participation as a local district pursuant to 5 M.R.S.A., Chapter 425.

[Derivation: Section 2-6, 1973 Revised Code of Ordinances; Ord. No. 15-03, eff. 07/23/2015]

**SUBCHAPTER VI - CITY MANAGER**

(Reserved)

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**SUBCHAPTER VII - CITY CLERK**

**SECTION 2-701**      DUTIES GENERALLY

The City Clerk shall perform such duties as may be prescribed by the City Council or City Manager, and shall generally do and perform all duties, and exercise all the powers by law incumbent upon or vested in a town or City Clerk.

[Derivation: Section 2-160, 1973 Revised Code of Ordinances]

**SECTION 2-702**      CLERK OF MUNICIPAL OFFICERS

The City Clerk shall be the clerk of the municipal officers.

[Derivation: Section 2-161, 1973 Revised Code of Ordinances]

**SECTION 2-703**      DEPUTY CLERK

The City Clerk may appoint in writing a qualified person as his deputy, who before assuming the duties of his office shall be sworn and the fact of his office recorded as provided in 30-A M.R.S.A. §2526(9)(D). The deputy shall serve at the will of the clerk and may perform any of the duties of office prescribed by the City Clerk. The appointing official and the surety on his bond are liable for all acts and omissions of his deputy. If the clerk fails to do so, the City Council may appoint a deputy clerk to act during his absence.

[Derivation: Section 2-162, 1973 Revised Code of Ordinances]

**SECTIONS 2-704 through 2-750**      (Reserved)

**SECTIONS 2-751**      FEES FOR COPIES OF RECORDS AND DOCUMENTS

Copies of records and documents in the custody of the City of Hallowell shall be made available upon payment of \$1.00 per page and \$2.00 per attested page except as provided in the following fee schedule:

1. Clerk/Registrar
  - a. Certified copy of marriage, death, or birth certificate, or other vital record - \$7.00 for the first copy and \$3.00 for additional copies, if requested at the same time.
  - b. Non-certified attested copies of any vital record - \$5.00.
  - c. Voter registration list - \$50.00 or \$10.00 per ward.
  - d. Voter registration card (typed) - \$3.00.

- e. Address stickers of voter registration list \$25.00 or \$5.00 per ward.
2. Code Enforcement Officer
- a. Copies of existing permits or approvals - \$2.00 per page.
  - b. Copies of maps and / or subdivision approvals - \$5.00 per page or for large or color maps and plans, the actual cost of reproduction at a commercial facility plus 50%.
  - c. Land Use Ordinance - \$50.00 and full set of Ordinance - \$100.00.
3. Police Department
- a. Accident Reports - \$15.00 per report.
  - b. Non-confidential investigation or criminal reports - \$2.00 per page.
  - c. Repealed.
- [Derivation: Ord. No. 09-01, effective 01/22/2009; Ord. No. 15-01, effective 1/22/2015]
4. Assessor's Office
- a. Copy of property card – 1 copy per year to owner of record at no charge and all others \$5.00 per card.
  - b. Tax map (full size) – actual cost of reproduction at a commercial facility plus 50%.
  - c. Tax map (reduced 8-1/2 x 11 - \$2.00 per page, 11 x 17 - \$5.00 per page and full set of 11 x 17 - \$50.00).
5. Treasurer
- a. Copies of previously issued tax bills - \$2.00 per page.
  - b. Audit reports - \$2.00 per page.
  - c. Return check fee - \$25.00.
  - d. Photocopy - \$1.00 per page (8-1/2 x 11), \$2.00 per page (8-1/2 x 14), \$3.00 per page (11 x 17).

- e. Faxes - \$1.00 per page.

These fees shall be paid in full when copies are provided unless the person requesting the copies signs a written agreement to pay the full amount within 30 days and that if the amount is not paid within that period, interest will accrue daily on the unpaid balance at the rate of 18% per annum and the City may in any collection proceeding recover its reasonable attorney's fees, interest and costs.

[Derivation: Ord. No. 01-4 eff. 1/18/01; Ord. No. 03-06 eff. 4/17/03]

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**SUBCHAPTER VIII - CITY SOLICITOR**

**SECTION 2-801**      REQUIRED TO BE ATTORNEY; RESPONSIBLE TO DRAFT CONTRACTS, ETC.

The City solicitor shall be an attorney-at-law and it shall be his duty to draft all contracts, bonds, deeds and other instruments which may be required of him by any ordinance, or by order of the City Manager or council, and which by law, usage or agreement, are to be drawn at the expense of the City. It shall be his duty to draft any ordinance when requested by the City Manager or City Council.

[Derivation: Section 2-172, 1973 Revised Code of Ordinances]

**SECTION 2-802**      PROSECUTE AND DEFEND SUITS

The City solicitor shall commence and prosecute any suit for a breach of this Code, when requested by the City Manager; also any other suit by order of the City Manager in writing, or by direction of the council, on account of any of the estates, rights, privileges, claims or demands of the City; and to defend all actions against the City or any officer thereof, whenever any of the estates, rights, privileges, ordinances, orders or acts of the City government may be brought in question.

[Derivation: Section 2-173, 1973 Revised Code of Ordinances]

**SECTION 2-803**      RENDER LEGAL OPINIONS AND ADVISE CITY OFFICERS

The City solicitor shall, when required, furnish the City Manager or council with his opinion on any legal subject which may be submitted to him; and he shall render professional advice to officers of the City government who may require his opinion on any subject touching the duties of their respective offices.

[Derivation: Section 2-174, 1973 Revised Code of Ordinances]

**SECTION 2-804**      ATTEND COUNCIL MEETINGS AND RENDER SERVICES

The City Solicitor, when requested by the City Manager, Mayor or City Council (majority), shall attend the City Council meeting for the purpose of giving such advice or drafting such ordinances, orders or reports as may be required by the City Solicitor.

[Derivation: Section 2-175, 1973 Revised Code of Ordinances]

[Derivation: Ordinance No.: 03-01, Effective: February 21, 2003]



**SECTION 2-805**      RESPONSIBILITY IN MATTERS OF BANKRUPTCY, WAGE EARNER PLAN

The City solicitor shall have the responsibility for matters involving bankruptcy and wage earner plans.

[Derivation: Section 2-176, 1973 Revised Code of Ordinances]

**SECTION 2-806**      PAYMENT OF MONIES TO TREASURER

It shall be the duty of the City solicitor to account for and pay over to the treasurer all monies received by him in any prosecution or suit wherein the City is or may be interested, and he shall notify the City Manager of the payment thereof.

[Derivation: Section 2-177, 1973 Revised Code of Ordinances]

**SUBCHAPTER IX - BOARD OF APPEALS**

**SECTION 2-901      BOARD OF APPEALS**

1.     Membership. The Board of Appeals shall consist of seven (7) members and two (2) alternate members, each of whom shall be a resident of the City of Hallowell. The terms of office shall be three (3) years. Those members appointed prior to the enactment of this amendment shall continue to serve the balance of their terms. A vacancy in the office of a member shall be filled for the unexpired term only. To act on any appeal a quorum of at least four members must be present at any hearing. Any member of the board may be removed for cause by the City Council upon written charges and after public hearing. The members of the Board of Appeals shall receive no compensation for their services. The Board shall select a Chairman and Secretary from its own membership and shall adopt from time to time such rules and regulations as it may deem necessary to carry out the duties conferred on it by this Ordinance. The Chairman shall designate which alternate member shall serve in place of the absent member.
  
2.     Minutes. The Board of Appeals shall keep minutes of its proceedings, recording the vote of each member upon each matter coming before the Board for vote and indicating the absence or failure to vote, as the case may be, of any member. The minutes of the Board's proceedings and all correspondence required by this Ordinance to be made by the Board, shall be a public record.
  
3.     Conflicts. Members of the City Council, Planning Board members, and the Code Enforcement Officer or any of their spouses, shall not simultaneously serve on the Board of Appeals. Any questions of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting shall be decided by a majority of the members except the member who is being challenged.

[Derivation: 1989 Zoning Ordinance, Section 7.1]

**SECTION 2-902      POWERS AND DUTIES**

1.     Land use. The Board of Appeals shall review and decide appeals and requests for variances to the extent permitted under Subchapter 10 of Chapter 9.
  
2.     [Repealed]
  
3.     Special amusement permits. The Board of Appeals shall hear and decide appeals of a denial, revocation, or suspension of a special amusement permit, as provided under Chapter 7 and 28-A M.R.S.A. § 1054(8).

[Derivation: Ordinance No.: 01-8, Eff. 5/17/01]

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**SUBCHAPTERS X - XIV**

(Reserved)

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**SUBCHAPTER XV - CITY HISTORIAN**

**SECTION 2-1501     APPOINTMENT OF CITY HISTORIAN**

The office of City Historian is hereby established. The City Historian shall be appointed annually by the Mayor, with the advice and consent of the City Council.

[Derivation: Section 2-501, 1973 Revised Code of Ordinances as amended 2/10/97]

**SECTION 2-1502     QUALIFICATIONS OF CITY HISTORIAN**

The City Historian shall have, by education and experience, knowledge of the history of the City of Hallowell, and the care, preservation and handling of original documents and records.

[Derivation: Section 2-502, 1973 Revised Code of Ordinances as amended 2/10/97]

**SECTION 2-1503     DUTIES OF CITY HISTORIAN**

The City Historian shall:

1.     Serve as the liaison between the City and persons who wish to use records or documents, in the City's custody and control, for the purposes of historical research;
2.     Recommend or establish methods of collecting, organizing, preserving, and cataloging documents and records held by the City that have or may have historical significance, and be authorized to implement such methods with the approval of the City Manager;
3.     Recommend to the City Manager any appropriate modifications to State regulations relating to the archiving, retention, and destruction of City records and documents;
4.     Make recommendations to the City Council and Planning Board with respect to the Historic District or any City landmark, or the designation of either;
5.     Serve as advisor to the Board of Directors of the Dr. John Hubbard Association;
6.     Make recommendations to the City Council with respect to the acquisition by the City of original documents, including records, photographs, and paintings that are of historical significance;
7.     Identify and list State agencies, libraries, museums, and other institutions and organizations that have custody of documents or tangible items that are relevant to the history of the City of Hallowell;
8.     Identify and list books, treatises, and other scholarly works relating to the history of the City of Hallowell;

9. Identify and list any substantial or significant original documents or tangible items privately held, including paintings, diaries, letters, photographs, and recordings, and make recommendations with respect to the desirability and feasibility of copying or reproducing such items; and
10. Make a written report to the City Council not less than annually, and not later than November 15 of each year.

[Derivation: Section 2-503, 1973 Revised Code of Ordinances as adopted 2/10/97]

**CHAPTER 3**

**FINANCE**

**SUBCHAPTER I - GENERAL**

**SECTION 3-101**      FISCAL YEAR

The fiscal year of the City shall begin on the first day of July, and end on the last day of the following June, including both days.

[Derivation: Section 2-221, 1973 Revised Code of Ordinances]

**SECTION 3-102**      OBLIGATIONS NOT TO EXCEED APPROPRIATION

No officer of the City or any department, whose duty it is to expend money under an appropriation, shall contract any bill or incur any obligation on behalf of the City in excess of the appropriation, unless expressly required by statute.

[Derivation: Section 2-227, 1973 Revised Code of Ordinances]

**SECTION 3-103**      COUNCIL'S ADVICE REQUIRED WHEN ESTIMATES EXCEED APPROPRIATIONS

In all contracts or expenditures to be made under the authority of the council, whenever the estimates shall exceed the appropriations made therefor, or whenever any officer shall have expended the sum specifically appropriated for his use, and in either case shall require a further sum, it shall be the duty of each officer having such matter in charge to submit the same to the council for instructions, before such contract is made, or any further expenditure for the object is incurred.

[Derivation: Section 2-228, 1973 Revised Code of Ordinances]

**SECTION 3-104**      PROCEDURE FOR MAKING FURTHER EXPENDITURES SUBSEQUENT TO ORDER OF APPROPRIATION

After the annual order of appropriations (the budget) shall have been passed, no subsequent expenditures shall be authorized for any purpose, unless provision for the same shall be made by special transfer from some of the appropriations contained in such annual order, contingency fund, from surplus, or by expressly creating therefore a City debt.

[Derivation: Section 2-229, 1973 Revised Code of Ordinances]



**SECTION 3-105**      SURPLUS FUND ESTABLISHED, OVERDRAFT OF APPROPRIATION CARRIES AS DEBT, LIQUIDATION OF DEBT

All unexpended balances of all appropriations remaining at the end of each financial year shall, except as otherwise specifically ordered by action of the Council, be merged into one (1) fund to be designed "Surplus."

All overdrafts of all appropriations at the end of each financial year shall be charged to the surplus account, and if such account is insufficient, it shall be carried as a debt of the City, and a like amount shall be appropriated the following year to liquidate such debt.

[Derivation: Section 2-225, 1973 Revised Code of Ordinances]

**SECTION 3-106**      COUNCIL'S APPROVAL FOR USE OF UNASSIGNED GENERAL FUND BALANCE (SURPLUS FUND)

1. Unassigned General Fund Balance (Surplus Fund).
  - A. The City's unassigned general fund balance, identified in the Annual Audit Report, is a surplus of funds which have accrued from unexpended operating budgets and unanticipated excess revenues. This surplus proves financial stability to bond holders and rating agencies. This surplus provides the City with a "rainy day" fund for use in unforeseen, unbudgeted emergency situations. This surplus generally prevents the need for issuing tax anticipation notes thereby saving taxpayers the interest cost if the fund is maintained at the designated levels. For purposes of this Section, the unassigned fund balance will be adjusted upward by the balance owed by the City on loans taken from the City's Cemetery Trust Fund so as to more accurately reflect the financial position of the City.
  - B. In order to maintain financial stability, the City establishes a policy to maintain an (adjusted) unassigned general fund balance no less than 10% and no more than 15% of the previous fiscal year's operating expenditures. This will be calculated as follows:
    - 1) Municipal expenditures plus School expenditures (RSU #2) plus Kennebec County expenditures equals net expenditures (labeled "Total Expenditures" on Statement 4 of the Audit Report).
    - 2) The (adjusted) unassigned fund balance divided by net expenditures equals percent of fund balance.
2. Use of Funds.
  - A. Any fund balance in excess of 15% shall be used to increase one, or a combination of, the following reserve accounts: street paving, vehicle/equipment replacement, Public Safety building, Public Works building, City Hall building or to set aside to reduce taxes in the following fiscal year, if the

Council so desires.

- 1) A majority vote of the City Council is required to designate which accounts in subsection 2.A. the funds in excess of 15% are to be transferred.
  - 2) A 5/7 vote of the 7-member City Council is required to designate another purpose for the funds in excess of 15%.
- B. In the case of a serious, unexpected municipal event, the City Council, by 5/7 vote, may reduce the (adjusted) unassigned general fund balance below the 10% minimum to compensate for those losses. A written plan to replenish the fund in a maximum of three fiscal years must be approved by a majority of the City Council at the time of the emergency unassigned general fund balance appropriation.
- C. Whenever the (adjusted) unassigned general fund balance is below 10%, notwithstanding subsection 2.B., the following budgetary action will occur: reduction in expenditures of the fiscal year budget by at least one-half (1/2) of one (1) percent up to one (1) percent of the total City budget until the minimum level of 10% is achieved. This dollar amount of the total City budget is to be translated to a percentage of the municipal budget since the school and county budgets can not be factored into the equation. Any spending reductions that are achieved in excess of one (1) percent at the end of the fiscal year are to be accepted.
3. Transfer or Appropriation of General Fund Balance Surplus.

Upon receipt of the audit for the previous fiscal year, the City Manager shall calculate the percentage of (adjusted) unassigned general fund balance to net operating expenditures. This percentage shall be made known to the City Council who may take one of the following actions:

- A. Transfer of funds.
- 1) By a one vote order transfer of funds in excess of 15% to one of the accounts listed in subsection 2.A.
  - 2) By a 3-vote order on at least two separate days designate another purpose for the funds in excess of 15%.
- B. Appropriation of funds.
- 1) By a 3-vote order on at least two separate days the Council may designate a use of funds when the (adjusted) unassigned general fund balance is between 10% and 15%.

- 2) By a 3-vote order with an emergency declaration on at least two separate days the Council may designate an emergency use of funds when the (adjusted) unassigned general fund balance is below 10%.

C. Take no action.

The City Council may take no action and allow the (adjusted) unassigned general fund balance to continue to increase to maintain a financial stability for the City.

[Derivation: Section 2-226, 1973 Revised Code of Ordinances; Ord. No.: 03-24, eff. December 18, 2003; Ord. No. 13-03, eff. February 21, 2013]

**SECTION 3-107**      BIDS REQUIRED, EXCEPTION

1. All contracts for construction, new equipment and services at the expense of the City or the sale by the City of any item involving a total estimated cost of ten thousand dollars (\$10,000) or more, shall be awarded by competitive bids with reasonable and fair requests for bids and specifications and with fair notice to prospective bidders. The City's bid and exception policies will be determined following the stipulations of the Charter and recorded in the City's Policy Manual.
2. The City may reserve the right to accept or reject any or all bids.

[Derivation: Section 2-233, 1973 Revised Code of Ordinances, Amended 7/12/93]

[Derivation: Ordinance No.: 02-02, Effective 3/23/02; Ord. No. 17-01, effective 1/19/2017]

**SUBCHAPTER II**

(Reserved)

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**SUBCHAPTER III - BUDGET PROCEDURE**

**SECTION 3-301**      ANNUAL BUDGET

Not later than the regular April Council Meeting the City Manager, in cooperation with the standing committees of the City Council, shall submit to the City Council a budget containing estimates of expenses for the ensuing fiscal year. This budget shall be compiled from detailed information furnished by the administrative officers, boards and commissions on forms which shall be furnished by the City Manager.

[Derivation: Section 2-222, 1973 Revised Code of Ordinances]

**SECTION 3-302**      BUDGET CONTENTS GENERALLY

This budget of the City government shall contain a complete plan for the fiscal year, setting forth all proposed expenditures for the administration operation and maintenance of the departments and agencies of the City government; all interest and debt redemption charges, and all expenditures for capital projects to be undertaken and executed during the fiscal year. In addition thereto, the budget shall set forth the anticipated revenues of the City government and any other additional means of financing the expenditures proposed.

[Derivation: Section 2-223, 1973 Revised Code of Ordinances]

**SECTION 3-303**      CONTINGENT ACCOUNT

The City Council may in the City budget allocate in any year an amount for a contingent account.

[Derivation: Section 2-224, 1973 Revised Code of Ordinances]

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**SUBCHAPTER IV - CITY TREASURER**

**SECTION 3-401**      DUTIES IN GENERAL

The City treasurer shall perform such duties as may be prescribed by the City Council or City Manager, and shall generally do and perform all duties and exercise all powers by law incumbent upon or vested in a City treasurer.

[Derivation: Section 2-200, 1973 Revised Code of Ordinances]

**SECTION 3-402**      DEPUTY TREASURER

The City treasurer may appoint in writing a qualified person as his deputy, under the same conditions applying to the deputy City Clerk as set forth in Section 2-603.

[Derivation: Section 2-201, 1973 Revised Code of Ordinances]

**SECTION 3-403**      BOOKS TO SHOW APPROPRIATIONS, EXPENDITURES

It shall be the duty of the treasurer to keep in a neat, methodical style and manner, a complete set of records, under the direction of the City Manager, wherein shall be entered among other things the various appropriations made by the council, each under its appropriate head, and wherein shall be charged to each appropriation the different expenditures and payments that from time to time shall be made therefrom.

[Derivation: Section 2-202, 1973 Revised Code of Ordinances]

**SECTION 3-404**      RECEIVE BILLS AND ACCOUNTS, MAINTAIN RECORDS

1. The treasurer shall receive all bills and accounts from persons having demands against the City, examine them carefully in detail and maintain records of such bills and accounts in accordance with the State Statutes.
2. The treasurer shall take advantage of all discounts offered for early payment of statements and invoices, obtaining approval as set forth in Section 3-405.

[Derivation: Section 2-203, 1973 Revised Code of Ordinances]

**SECTION 3-405**      APPROVAL OF BILLS

The City treasurer shall check and furnish to the City Council on or before the first regular meeting of each month a list of the bills incurred for the preceding calendar month. The council shall approve these bills, or it may delegate from time to time one or more councilmen to examine and approve said bills for payment.

[Derivation: Section 2-204, 1973 Revised Code of Ordinances]



**SECTION 3-406**      SIGNING OF WARRANTS (CHECKS)

1. The treasurer or in his absence the deputy treasurer shall sign all warrants.
2. All warrants shall be countersigned by one member of the City Council. At least two members of the council shall be appointed from time to time by the Mayor and council as counter signers.

[Derivation: Section 2-205, 1973 Revised Code of Ordinances]

**SECTION 3-407**      SURETY BOND

A corporate surety bond in an amount satisfactory to the City Council shall be obtained for all persons in City employ trusted with the collection, custody or disbursement of the public monies, conditioned on the faithful discharge of their duties. Such a bond may be required from such other officials as the council may deem advisable. The premium charges for said bonds shall be paid by the City. All surety bonds shall be filed with the City Clerk.

[Derivation: Section 2-206, 1973 Revised Code of Ordinances]

**SECTION 3-408**      ACCOUNTS RECEIVABLE: RECORDS, COLLECTION, INTEREST

1. The treasurer shall keep and maintain at all times an accurate and true record of all accounts receivable that may be due the City.
2. If accounts receivable (excluding taxes) are not paid within sixty (60) days subsequent to the billing date, an interest of eighteen percent (18%) per annum shall be charged.
3. Wherever any person owes any monies to the City, the treasurer shall withhold an equal amount of money, including interest, from that due that person until the debt to the City is satisfied.

[Derivation: Section 2-207, 1973 Revised Code of Ordinances]

**SECTION 3-409**      TREASURER TO RECORD PAYMENTS TO CITY

Upon payment to the City, the treasurer shall maintain a record of such payment and take proper receipts therefrom and place the same on file.

[Derivation: Section 2-208, 1973 Revised Code of Ordinances]

**SECTION 3-410**      AUTHORITY TO CHARGE OFF COLLECTION COSTS OF COUNSEL

In instances where the tax collector has turned over personal and real property taxes and accounts receivable to the City solicitor for collection, the treasurer shall have the authority to

charge off the actual cost of such collection.

[Derivation: Section 2-209, 1973 Revised Code of Ordinances]

**SECTION 4-111** (Reserved)

**SECTION 3-412** ACCESS TO CITY BOOKS

The Treasurer shall have access to all of the books of the departments of the City, and upon exercising such authority, he shall from time to time make recommendations for improvements in such bookkeeping to the City Manager as in his judgement be necessary or desirable.

[Derivation: Section 2-210, 1973 Revised Code of Ordinances]

**SECTION 3-413** MONTHLY REPORT OF EXPENDITURES VS APPROPRIATIONS,  
NOTICE OF APPROPRIATION EXHAUSTIONS

The treasurer shall prepare monthly and submit to the Mayor and council members a comparative report showing for each account the appropriation, the amount expended during the month, the total expenditures to date and the unexpended balance in the account.

In case an appropriation shall become exhausted, the treasurer shall immediately give written notice of such fact to the City Manager.

[Derivation: Section 2-211, 1973 Revised Code of Ordinances]

**SECTION 3-414** SAFEKEEPING OF RECORDS, DELIVERY TO SUCCESSOR

The treasurer shall cause all books, vouchers and documents under his care, belonging to the City, to be securely deposited in a fire-proof safe or vault at the end of each work day, and shall deliver them to his successor in office.

[Derivation: Section 2-212, 1973 Revised Code of Ordinances]

**SECTION 3-415** ANNUAL AUDIT

The City books of the treasurer and City Clerk shall be subject to an annual audit as directed by the City Council.

[Derivation: Section 2-213, 1973 Revised Code of Ordinances]

**SECTION 3-416** ISSUANCE OF QUIT-CLAIM DEEDS UPON PAYMENT OF TAXES

1. The Treasurer is authorized to execute and deliver upon behalf of the City, quitclaim deeds of property acquired by tax deeds and tax liens to an individual to whom the taxes were assessed or to that person's personal representative, upon payment of

such taxes in full with all interest and costs plus all sums listed under Subsection 2, and compliance with Subsections 3 and 4.

2. The Treasurer shall, prior to the issuance of a quitclaim deed to an individual taxpayer, require payment of all other moneys owed by such taxpayer to the City on the date of issuance of the quitclaim deed. This shall include the amount of all unpaid real or personal property taxes, assessments, penalties, judgments, and fees owed by taxpayer to the City, plus the sum of \$100.00 for expenses relating to preparing, processing and recording of the quitclaim deed. If the individual taxpayer and his or her spouse own a majority interest in an entity that owes money to the City, a quitclaim deed may not be issued except by Order of the City Council.
3. Prior to the issuance of a quitclaim deed for payment of taxes and other amounts due the City under Subsections 1 and 2, the Treasurer shall have received from the City's Code Enforcement Officer a written statement certifying that to the best of his knowledge, after inspection, the property described in the quitclaim deed is not in violation of any ordinance of the City or other land use, health or safety laws. If the Code Enforcement Officer cannot make such certification, the quitclaim deed may only be issued, if at all, by the City Council.
4. Except as specifically delegated to the Treasurer under this Section, all quitclaims of property or property interests acquired by the City shall be approved by Order of the City Council.
5. All moneys paid to the Treasurer for quitclaim deed issued under this section or by order of the City Council shall be in U.S. currency or by certified check, wire transfer, or other method that assures that such moneys are deposited in accounts of the City free and clear of claims by any person.

[Derivation: Ord. No. 00-15, eff. 12/21/00]

**SECTION 3-417      TREASURER'S ANNUAL REPORT LISTING TAX ACQUIRED PROPERTY**

1. Within the first 45 days of each calendar year the Treasurer shall transmit to the City Manager, a report listing all properties owned by the City by virtue of automatic tax lien foreclosures under 36 M.R.S.A. Sec. 943. The report shall include with respect to each listed property: (1) the full name of the last assessed owner and the current owner, if different; (2) the amount of taxes, interest, and costs owed the City with respect to each tax lien foreclosed; (3) the total amount of all taxes owed to the City with respect to each listed property, as of the date of the report; and per diem interest; (4) the total amount of non-tax obligations owed to the City by each listed current or previous owner; (5) the most recent assessed valuation of each listed property.

2. The City Manager, not later than April 1 of each year, shall transmit a copy of the Treasurer's report, described in Subsection 1. to the City Council, accompanied by the City Manager's written recommendations regarding the disposition of any or all of the listed tax acquired properties.

[Derivation Ord. No. 01-5, Eff. 01/18/01]

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**SUBCHAPTER V - BOARD OF ASSESSORS**

**SECTIONS 3-501 THROUGH 3-502** (Reserved)

**SECTION 3-503**      ASSESSORS TO SUBMIT TAX LISTS TO COLLECTOR

The Board of Assessors shall complete its assessment, and place the list of taxes in the hands of the tax collector on or before the first day of June annually; but the council may extend the time when, in its judgment, it is necessary.

[Derivation: Section 2-230, 1973 Revised Code of Ordinances]

**SECTION 3-504**      RECORD OF ABATEMENTS BY ASSESSORS REQUIRED

When any tax shall be abated in whole or in part by the Board of Assessors, it shall maintain a record of such abatement with the name of the person whose tax shall have been abated, the amount originally assessed, the amount abated and the reasons for such abatement.

[Derivation: Section 2-231, 1973 Revised Code of Ordinances]

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**SUBCHAPTER VI - CITY TAX COLLECTOR**

(Reserved)



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**CHAPTER 4**

**PUBLIC SAFETY**

**SUBCHAPTER I - POLICE DEPARTMENT**

**SECTION 4-101**      APPOINTMENT OF CHIEF OF POLICE

The Chief of Police shall be appointed by the City Manager with the advice and consent of the council as permitted under Article VI of the City Charter. For all purposes and as used in this Code, the office of the City Marshal designated under Article VI, Section 1(b)(1) of the City Charter is the office of the Chief of Police.

[Derivation: Section 18-1, 1973 Revised Code of Ordinances as amended 1/11/88]

**SECTION 4-102**      POLICE DEPARTMENT

The Police Department shall be composed of the Chief of Police and all regular police officers, reserve police officers, police officers, school crossing guards, special dispatchers and other employees under the direct supervision of the Chief of Police.

**SECTION 4-103**      CHIEF OF POLICE; DUTIES AND POWERS

1.      The Chief of Police is the chief law enforcement officer of the City and the head of the Police Department. The Chief of Police shall have all the powers vested in him by statute and this Code.
2.      The City Manager, may appoint regular, reserve, and special police officers and school crossing guards, with the advice and consent of the City Council.
3.      The Chief of Police shall cause to receive, post, deliver and execute all notifications and precepts issued by the Mayor, Council, City Clerk, and make due return thereof.

[Derivation: Section 18-2, 1973 Revised Code of Ordinances as amended 1/11/88]

**SECTION 4-104**      (Reserved)

**SECTION 4-105**      CHIEF OF POLICE, ABSENCE OR DISABILITY

During the absence or disability of the Chief of Police, the Patrol Sergeant shall have and exercise all the power and authority, and perform all the duties pertaining to the office of Chief of Police.

[Derivation: Section 18-6, 1973 Revised Code of Ordinances; Ord. No.: 07-04, eff. 5/21/2007; Ord. No. 12-07, eff. 8/23/2012]

**SECTION 4-106**      POLICE OFFICERS

1. Regular and special police officers shall be under the direction of the Chief of Police and shall perform such police duty as he may require of them by day or by night.
2. All police officers shall, to the utmost of their power, preserve the public peace and prevent all riots, disorders and unlawful practices within the City.
3. All police officers shall have and exercise all powers given to and shall perform all duties imposed upon constables within the limits of the City, except service of civil process, and all powers given to and all duties imposed upon police officers by the State statutes, the Charter and the City Ordinances.
4. No police officer shall hold any other public office or take any active part in politics. Any violation hereof shall be considered cause for removal.
5. All police officers shall be bound by the regulations, policies and code of ethics established by the City Council.

**SECTIONS 4-107**      POLICE DEPARTMENT REGULATIONS

The City Council shall adopt, by Order, regulations governing the practices and procedures of the City of Hallowell Police Department and its employees that are consistent with the requirements of applicable statutes, including 25 M.R.S.A. § 2803-B and standards established thereunder.

[Derivation: Section 18-21, 1973 Revised Code of Ordinances as adopted]

**SECTIONS 4-108 - 4-110**      (Reserved)

**SECTION 4-111**      PROSECUTION OF VIOLATIONS

The Chief of Police is authorized to represent the City in District Court in the prosecution of alleged violations of those ordinances which the Police Department is empowered to enforce, if duly certified in accordance with 25 M.R.S.A. §2803 (3A), or successor statute. The Chief of Police may designate any police officer under his command, if so certified, to perform this prosecutorial function.

[Derivation: Section 18-11, 1973 Revised Code of Ordinances as amended 1/11/88]

**SUBCHAPTER II - FIRE PROTECTION AND PREVENTION**

**DIVISION A - FIRE DEPARTMENT**

**SECTIONS 4-201 - 4-203** (Reserved)

**SECTION 4-204** CHIEF TO CONTROL MEMBERS

The fire chief shall have the sole control and command over the members of the department, and in the absence of the fire chief, the assistant fire chief available shall have the powers and perform the duties that belong to and are required of the fire chief.

[Derivation: Section 9-16, 1973 Revised Code of Ordinances]

**SECTION 4-205** CHIEF'S AUTHORITY TO EMPLOY EXTRA MEMBERS

Whenever the magnitude of a fire shall make it necessary, the fire chief, or in his absence assistant chief, is authorized to employ volunteer firemen for the occasion.

[Derivation: Section 9-17, 1973 Revised Code of Ordinances]

**SECTION 4-206** CHIEF'S RESPONSIBILITY FOR EQUIPMENT

The fire chief shall be responsible for the proper maintenance of the equipment and buildings of the fire department.

[Derivation: Section 9-18, 1973 Revised Code of Ordinances]

**SECTION 4-207** CHIEF TO INVESTIGATE FIRES

It shall be the duty of the fire chief to immediately investigate the cause, circumstances, and origin of each and every fire in the City, and especially to examine whether it was the result of carelessness or design.

[Derivation: Section 9-19, 1973 Revised Code of Ordinances]

**SECTION 4-208** CHIEF'S AUTHORITY TO EXAMINE PREMISES: ORDER TO REMEDY CONDITIONS, PENALTY

1. The fire chief shall perform the duties of fire inspector under the state statutes, and shall have the powers thereof. He may, with the Code Enforcement Officer and municipal officers, at all reasonable hours, for the purpose of examination, enter into and upon all buildings and premises within his jurisdiction, 25 M.R.S.A. § 2360.

2. Whenever he shall find in any building or upon any premises combustible material or inflammable conditions dangerous to the safety of such building or premises, he shall order the same to be removed or remedied, and such order shall be forthwith complied with by the owner or occupant of such building or premises.
3. The fire chief shall make, or cause to be made, an immediate investigation as to the presence of combustible material or the existence of flammable conditions in any building or upon any premises under his jurisdiction upon complaint of any person having an interest in said building or premises or property adjacent thereto.
4. Any owner or occupant failing to comply with his orders shall be punished in accord with Section 18, each day shall constitute a separate offense.
5. If the said owner or occupant shall deem himself aggrieved by such order when made by inspector of buildings or fire chief, he may within forty-eight (48) hours appeal to the City Council and the City Council refer same to the Board of Appeals if deemed necessary.

[Derivation: Section 9-20, 1973 Revised Code of Ordinances]

**SECTION 4-209**      **AUTHORITY TO ASSIST OTHER CITIES, CONTRACTS**

The fire chief is authorized to send his personnel and equipment to aid other cities and towns in extinguishing fires.

The City Manager with advice from the fire chief shall endeavor to secure contracts with adjoining towns providing for mutual exchange of aid, compensation therefor, and payment in case of damage to a City vehicle or injury or death to personnel of the department.

[Derivation: Section 9-1, 1973 Revised Code of Ordinances]

**DIVISION B - MISCELLANEOUS OFFENSES**

**SECTIONS 4-251 - 4-255**      (Reserved)

**SECTION 4-256**      **VACANT LOTS, CUTTING AND REMOVING GRASS, PENALTY**

The failure to cut and remove grass, weeds, bushes and underbrush from any vacant lot within the compact or built-up section of the City so as to bring about a condition dangerous in causing or promoting fires, is hereby declared to be illegal, and failure of the owner or person in possession of such lot to remove the same within fifteen (15) days of written notification by the fire chief shall be punishable in accordance with Section 1-109 of this code.

[Derivation: Section 9-2, 1973 Revised Code of Ordinances]

**SECTION 4-257**      OPEN BURNING PROHIBITED, EXCEPTIONS

Open burning of garbage, leaves or refuse material of any kind within the boundaries of the City is hereby prohibited, subject to the penalty provisions of Section 1-109 of this code.

Open burning may be permitted for the following purposes provided a permit is obtained from the City Forest Fire Warden as provided under Regulations of the Maine Department of Environmental Protection Implementation Plan, Nov. 2, 1972:

1.      Open burning for the control or prevention of any disease, virus or similar hazard to public health;
2.      Open burning for agricultural purposes such as land clearing, blueberry control, or burning for similar prescribed agricultural purposes;
3.      Open burning for the disposal of any material generated by the demolition of any building or the clearing of any land for the erection, modification or construction of any highway, railroad, power or communication line or pipeline, or commercial or industrial or recreational building or development; and
4.      Open burning for training, research and recreational purposes except that fires for recreational purposes on a person's own or occupied property do not require a permit. Said fires must be a minimum of 10 feet from any structure.

[Derivation: Section 9-6, 1973 Revised Code of Ordinances, Amended 9/17/73]

**SECTION 4-258**      FIRE LIMITS

No outside fires are permitted within the area described as follows:

1.      Bounded easterly by the Kennebec River.
2.      Bounded northerly by the Hallowell-Augusta boundary.
3.      Bounded westerly by a line running 200 feet westerly of and parallel to Water Street from the Hallowell-Augusta boundary of the Maine Central Railroad; thence southerly along said boundary to its intersection with Chestnut Street. Also includes area bounded by Winthrop Street on the North, Franklin Street Ext. on the West, Central Street on the South, and Maine Central Railroad on the East.
4.      Bounded southerly by a line 200 feet southerly of and parallel to Chestnut and Temple Streets between the Maine Central Railroad right-of-way and the Kennebec River.

[Derivation: Section 6-10, 1973 Revised Code of Ordinances as amended]

**SECTION 4-259** Repealed.

[Derivation: Ord. No. 07-05, effective July 9, 2007; Ord. No. 07-14, effective December 10, 2007; Ord. No. 08-06, effective July 7, 2008; Ord. No. 13-07, effective September 19, 2013]

**SECTIONS 4-260 THROUGH 4-270** (Reserved)

**SECTION 4-271** FALSE ALARM, INTERFERENCE WITH SYSTEM AND POLICY FOR APPARATUS CHARGES FOR FALSE ALARMS/MALFUNCTIONS

No person shall willfully or mischievously give or cause to be given a false alarm of fire, or shall injure or in any way interfere with the fire alarm apparatus.

**TYPES OF CALLS TO BE CHARGED:**

1. System Malfunction due to LACK of maintenance by calling facility.
2. Two (2) or more False Alarms from a building or complex.
3. "Good Intent" from the public: no charges shall be made for these visual or auditory requests.

**MANPOWER**

Any charged calls shall pay \$15.00 per hour or fractional part thereof for each responding fire fighter.

**APPARATUS**

Hourly rates for the following shall be considered appropriate: Engine #1 = \$175.00; Engine #2 = \$150.00; Squad #1 = \$25.00. A charge shall be made for all responding units, except that the Maximum Charge for any call where apparatus responds shall not exceed \$500.00 per hour.

**CHARGES START**

When the Hallowell Fire Department has been called for a False Alarm two times in a year, the City of Hallowell shall charge the building owner for the costs associated with the response. Final determination of these charges is at the discretion of the Fire Chief.

[Derivation: Section 9-3, 1973 Revised Code of Ordinances; Ord. No. 09-04, effective 4/23/2009]

**SECTION 4-272**      PRIVATE ALARMS, INDIVIDUAL'S OBLIGATION TO INSTALL AND MAINTAIN

The expense of installing and maintaining wires running from the fire alarm boxes situated in and on private property to the central fire station or to any other fire station shall be borne by the person installing such fire alarm boxes on private property or using them.

[Derivation: Section 9-4, 1973 Revised Code of Ordinances]

**SECTION 4-273**      UNAUTHORIZED USE OF FIRE HYDRANTS

No person except employees of the Hallowell Water District or regular members of the fire department shall open any fire hydrant.

[Derivation: Section 9-5, 1973 Revised Code of Ordinances]

**DIVISION C – FIREWORKS**

**SECTION 4-281**      TITLE AND AUTHORITY

This ordinance shall be known as the “City of Hallowell Fireworks Ordinance.” It is adopted pursuant to the enabling provisions of the Maine Constitution, the provisions of 30-A M.R.S.A. § 3001, and the provisions of 8 M.R.S.A. § 223-A

**SECTION 4-282**      DEFINITIONS IN ACCORDANCE WITH 8 M.R.S.A. § 221-A, SUBSECTION 1-A

1.      Consumer Fireworks. “Consumer Fireworks” has the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a third-party testing laboratory as conforming with United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. “Consumer Fireworks” does not include the following products:
  - A.      Missile-type rockets, as defined by the State Fire Marshal by rule;
  - B.      Helicopters and aerial spinners, as defined by the state Fire Marshal by rule; and
  - C.      Sky rockets and bottle rockets. For purposes of this paragraph, “sky rockets and bottle rockets” means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.



2. Fireworks. "Fireworks" means any:
  - A. Combustible or explosive composition or substance;
  - B. Combination of explosive compositions or substances;
  - C. Other article that was prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, including blank cartridges or toy cannons in which explosives are used, the type of balloon that requires fire underneath to propel it, firecrackers, torpedoes, skyrockets, roman candles, bombs, rockets, wheels, colored fires, fountains, mines, serpents and other fireworks of like construction;
  - D. Fireworks containing any explosive or flammable compound; or
  - E. Tablets or other device containing any explosive substance or flammable compounds.

The term "Fireworks" does not include Consumer Fireworks or toy pistols, toy canes, toy guns or other devices in which paper caps or plastic caps containing 25/100 grains or less of explosive compound are used if they are constructed so that the hand cannot come in contact with the cap when in place for the explosion, toy pistol paper caps or plastic caps that contain less than 20/100 grains of explosive mixture, sparklers that do not contain magnesium chlorates or perchlorates or signal, antique or replica cannons if no projectile is fired.

**SECTION 4-283**      AREAS RESTRICTED TO USE

1. The use of Consumer Fireworks is restricted in the downtown area in accordance with current City fire ordinances.
2. The use of Consumer Fireworks is restricted in all areas of the City east of Middle Street to the Kennebec River.
  - A. Second Street inclusive from Lincoln Street to the Augusta City boundary and all areas east of Second Street to the Kennebec River.

**SECTION 4-284**      USE PROHIBITED

1. No person or group of persons shall use, display, fire or cause to be exploded Fireworks, except in a fully permitted fireworks display.
2. No person shall use, display or cause to be exploded Consumer Fireworks, except in compliance with all federal, state and local laws, ordinances, rules and regulations. The use of Consumer Fireworks requires a fire permit in accordance with Title 12

Chapter 807 - Forest Fire Control, Subchapter IV - Regulation of Open Burning, Article II Out-of-Door Fires, Sections 9321-9324 and Title 25, Chapter 317 - Preventative Measures and Restrictions, sec. 2436-A. The permit may be obtained from the Hallowell Fire Chief, Town Fire Warden or their designee(s). A permit must be obtained 24 hours prior to discharge or use of the Consumer Fireworks. This permit at minimum shall include the name and address of the applicant, date of application, date of discharge, hours of discharge, location of discharge, and written permission of landowner if location is not on land owned by applicant, plot plan showing area of discharge and signature of applicant. The Fire Chief, Town Fire warden or their designee(s) shall issue a permit if it is found that the use will not create a fire danger, a danger to the persons at the location of the discharge, or a danger to the general public. A copy of the approved permit shall be forwarded to the Hallowell Police Department and the dispatch center.

**SECTION 4-285**      FIREWORKS DISPLAY

A Fireworks display requires a permit from the Maine Commissioner of Public Safety or his or her designee under the provisions of 8 M.R.S.A. §§ 221 – 237, and particularly section 227-A. The Fire Chief, or his or her designee, shall inspect the proposed display site at the time of the inspection conducted by a representative of the Maine Public Safety Department under 8 M.R.S.A. § 227-A(2). A Fireworks display shall comply with all federal, state and local laws, ordinances, rules and regulations.

**SECTION 4-286**      CONDITIONS TO USE OR DISPLAY OF CONSUMER FIREWORKS

1. The City assumes no liability for injuries that result from the use or display of Fireworks or Consumer Fireworks regardless of the status of a permit.
2. Consumer Fireworks cannot be used or displayed within 300 feet of any combustible structure or within 50 feet of overhead power lines.
3. Spectators may be no closer than 100 feet from the discharge point of Consumer Fireworks.
4. Permits issued for the use or display of Consumer Fireworks shall specifically identify and restrict the date, time, duration, location and direction (if restricted) of the fireworks discharge or display.
5. Any permit issued for the use or display of Consumer Fireworks may be denied or revoked by the Fire Chief or his or her designee where cause exists that environmental or any other condition should preclude such issuance.
6. It shall be unlawful for any person or firm to use or display Consumer Fireworks without providing for the cleanup and removal of all debris.
7. Any person using or displaying Fireworks or Consumer Fireworks must not consume alcohol, be under the influence of alcohol or be otherwise impaired while discharging

the fireworks.

8. Means to extinguish any spot fires resulting from the use or display of Fireworks or Consumer Fireworks must be available. This includes fire extinguishers and garden hoses. Access to 9-1-1 must also be available during the use or display of Fireworks or Consumer Fireworks should an emergency arise.
9. A permit for Consumer Fireworks will not be issued if the forest fire danger is greater than a Class "3". A permit is issued for one day; alternative (rain) dates may be listed on the permit.

**SECTION 4-287**      CIVIL PENALTIES

Whoever violates any of the provisions of the foregoing Sections shall be subject to a civil penalty of not less than one hundred dollars (\$100) per occurrence and not more than five hundred dollars (\$500) per occurrence, plus attorney's fees and costs.

[Derivation: Ord. No. 12-02, effective 2/23/2012]

**SUBCHAPTER III - TRAFFIC CONTROL**

**DIVISION A - GENERAL**

**SECTION 4-301      TRAFFIC INFRACTIONS**

Any violation of the provisions of this Subchapter IS A TRAFFIC INFRACTION WITHIN THE MEANING OF 29-A M.R.S.A. § 101(85). Any person who violates a provision of this Subchapter shall be subject to the civil penalties provided under 29-A M.R.S.A. § 103 and § 2604, or otherwise provided by statute or Section 1-109 of this Code.

**SECTION 4-302      DEFINITIONS**

Unless otherwise provided in this Subchapter, terms used in this Subchapter shall have the same meanings and definitions used under Title 29-A of the Maine Revised Statutes.

**DIVISION B - OPERATIONS**

**SECTION 4-311      DESIGNATION OF TRAFFIC CONTROL DEVICES, SIGNS AND CROSSWALKS**

Traffic control devices and pedestrian crosswalks as referenced under Chapter 19 of Title 29-A of the Maine Revised Statutes are designated by the City Council as follows:

1.      Schedule of Stop Signs. Stop signs or flashing red lights shall be erected and maintained in accordance with the following schedule:
  - A.      Stop Signs East/West:
    - (1)      Park St. – 2/ One on Water/Park and Second/Park
    - (2)      Western Ave. – 2/ Water/Western Ave. and Second/Western Ave.
    - (3)      Stoddard Lane – 2/ Water/Stoddard Lane and Second/Stoddard Lane
    - (4)      North St. – 2/ Water/North St. and Second/North St.
    - (5)      Wilder St. – 1/ Wilder/Water St.
    - (6)      Winthrop St. – 1/ Winthrop/Water St.
    - (7)      Central St. – 1/ Central/High St.

- (8) Union St. – 5/ Union/Water St. 1; Second/Union St. 2; Middle/Union 2 Stop Signs
- (9) Academy St. – 1/ Academy/Mayflower
- (10) Temple St. – 1/ Temple/Water St.
- (11) Gows Lane – 2/ Gows/Water St. and Gows/Second St.
- (12) Elm St. – 1/ Elm/Water St.
- (13) Greenville St. – 1/ Greenville/Water St.
- (14) Maple St. – 1/ Maple/Water St.
- (15) Page St. – 1/ Second/Page St.
- (16) Vine St. – 1/ Second/Vine St.
- (17) Lincoln St. – 3/ 1 at Second/Lincoln St. and 2/ Middle/Lincoln St.
- (18) Chestnut St. – 3/ 1 at Chestnut/Second St. and 2 at Chestnut/Middle St.
- (19) Grove St. – 2/ Grove/Second and Grove/Middle St.
- (20) Litchfield St. – 1/ Litchfield/Middle St.
- (21) Bombahook Est. – 1/ Bombahook/Town Farm Rd.
- (22) Vaughan Rd. – 1/ Vaughan Rd./Smith Rd.
- (23) Academy St. – 2/ Academy St./Second St.
- (25) Balsam Dr. – 1/ Balsam Drive / Winthrop Street.

[Derivation: Ordinance No. 05-08; Effective: November 18, 2005]

[Derivation: Section 22-24, 1973 Revised Code of Ordinances as amended by Ord. No. 99-3, Eff. 7/2/99 and Ord. No. 00-12, Eff. 8/7/00]

B. Stop Signs North/South:

- (1) Second St. – 6/ 2 Second St./Winthrop St.; 2 Second St./Central St.; and 2 Second St./Academy St.
- (2) Franklin St. – 2/ Franklin/Union St. and Franklin/Central St.

- (3) Summer St. – 3/ Summer/Grove - 2; and Summer/Litchfield Rd. - 1
- (4) Middle St. – 8/ Middle St./Lincoln - 2; Middle/Winthrop St. - 2; Middle St./Central St. - 2 and Middle/Academy St. - 2
- (5) Spring St. – 2/ Spring/Winthrop St. and Spring/Central St.
- (6) Warren St. – 6/ 1 Warren/Winthrop St; 2 Warren/Central St.; 2 Warren/Union St. and 1 Warren/Academy St.
- (7) Pleasant St. – 1/ Pleasant/Winthrop St.
- (8) Ledges – 1/ Ledges/Central St.
- (9) High St. – 3/ High/Winthrop St. - 1; and High/Central St. - 2
- (10) Blake Ave. – 1/ Blake Ave./Central St.
- (11) Hillcrest St. – 2/ Hillcrest/Central St. and Hillcrest/Mayflower Rd.
- (12) Mayflower Lane – 1/ Mayflower Lane/Mayflower Rd.
- (13) Orchard Lane – 1/ Orchard Lane/Central St.
- (14) Greenville St. – 1/ Greenville/Maple St.
- (15) Blaine Road. – 1/ Blaine Rd. /Maple St.
- (16) Whitten Rd. – 1/ Whitten Rd./Winthrop St.
- (17) Town Farm Rd. – 2/ Town Farm Rd./Winthrop St. and Town Farm Rd./Central St.
- (18) Beacon Rd. – 1/ Beacon Rd./Granite Hill
- (19) Nye Road – 1/ Nye Rd./Granite Hill
- (20) Foye Rd. – 1/ Foye Rd./Granite Hill
- (21) Vaughan Rd. - 2/ Vaughan Rd./Outlet Rd. and Vaughan Rd./Litchfield Rd.
- (22) R/W Rd. – 1/ R/W Rd./Outlet Rd.
- (23) Smith Road – 1/ Smith Rd./Litchfield Rd.

2. Schedules of Yield Signs; Right of Way Signs. Yield signs shall be placed at the following locations:
- A. Densmore Court/Wilder St.
  - B. Temple St./Second St.
  - C. Summer St./Chestnut St.
  - D. Bridge St./Second St.
  - E. Outer Central St./Shady Lane
  - F. 2 Yield Signs - Outlet Rd/Shady Lane

[Derivation: Section 22-26, 1973 Revised Code of Ordinances as amended; Ord. No. 15-04, eff. 07/23/2015]

3. One-way Streets. One-way streets shall be designated with signs in accordance with the following schedule:
- A. Perley Lane shall be a one-way street running from west to east.
  - B. Academy Street (From Water St. until Second St.) shall be a one-way street running east to west.

[Derivation: Section 22-4, 1973 Revised Code of Ordinances as amended]

4. Traffic lights. Traffic lights shall be located at the following intersections:
- A. Maple Street/Water Street
  - B. Outer Central Street/Town Farm Road

[Derivation: Section 22-22, 1973 Revised Code of Ordinances as amended]

5. Pedestrian Crosswalks. Crosswalks shall be provided at the following locations:
- A. Corner of Second St./North St.
  - B. Water St./Across to Bolley's
  - C. Corner of Page St./Second St.
  - D. Corner of Vine St./Second St.

- E. Corner of Lincoln St./Second St.
- F. 2 at the Corner of Lincoln/Middle St.
- G. 3 at the Corner of Middle St./Winthrop St.
- H. 4 at the Corner of Second St/Winthrop St.
- I. Corner of Winthrop/Water St.
- J. Corner of Dummers Lane/Water St.
- K. 2 at the Corner of Central St/Water St.
- L. 4 at the Corner of Central St./Second St.
- M. 3 at the Corner of Central St./Middle St.
- N. 2 at the Corner of Union St./Water St.
- O. 2 at the Corner of Union St./Second St.
- P. 2 at the Corner of Union St./Middle St.
- Q. Corner of Academy St./Water St.
- R. Academy St./Cotton Mill Parking Lot
- S. Corner of Academy St./Middle St.
- T. Across Water St. By Fido's
- U. Corner of Grove St./Middle St.
- V. Corner of Chestnut/Middle St.
- W. Corner of Second Street and Western Avenue.
- X. Corner of Second Street and Park Street.
- Y. Corner of Second Street and Stoddard Lane.

[Derivation: Section 22-59, 1973 Revised Code of Ordinances as amended by Ord. No. 00-11, eff. 7/14/00]

- Z. Balsam Drive from curb ramp to Hackmatack Lane pedestrian lane.



[Derivation: Ordinance No.: 05-08; Effective: November 18, 2005]

6. Prohibited turns. Prohibited turns shall be designated with signs in accordance with the following schedule:
  - A. No right turn: Second Street to Bridge Street
  - B. No left turn: Bridge Street to south on Second Street

[Derivation: Section 22-5, 1973 Revised Code of Ordinances as amended; Ord. No. 15-04; eff. 07/23/2015]

**SECTION 4-312**      REGULATION OF SPEED LIMITS ON CERTAIN CITY STREETS, PARKS, AND PARKING AREAS

Except as expressly superseded by State statute, it shall be unlawful for any vehicle to exceed the speed limits established for each area of public property listed as follows:

- A. The speed limit in all City parking lots, including entry ramps and drives is fifteen (15) miles per hour.

[Derivation: Ord. No. 00-14, eff. 10/20/00]

**SECTIONS 4-313 THROUGH 4-315** (Reserved)

**SECTION 4-316**      HEAVY TRUCKS PROHIBITED ON WINTHROP STREET, PENALTY

1. All through trucks in excess of sixteen (16) tons gross weight, gross weight rating, gross combination weight rating, or registered gross weight, all trailer trucks, all mobile or prebuilt houses, and all loads in excess of eight and one-half (8½) feet in width are hereby prohibited from Winthrop Street westerly from Middle Street to the Whitten Road, Academy Street, Central Street and Page Street.
2. This section shall not apply to trucks making local deliveries within the City limits or trucks of local origin.
3. Civil Penalties: A violation of this Section shall be a civil violation subject to a civil penalty specified in subsection 3.A., 3.B., and 3.C. below. In addition to any civil penalty, the City may seek restitution for reasonable attorney fees and costs. Prosecution shall be in the name of the City of Hallowell.
  - A. Over 16 tons to less than 25 tons: \$100.00.
  - B. 25 tons to 40 tons: \$500.00.
  - C. Over 40 tons: \$1000.00.

[Derivation: Section 22-6, 1973 Revised Code of Ordinances as amended]

[Derivation: Ordinance No.: 04-01, Effective Date: February 19, 2004]

**SECTION 4-317**      OPERATION OF MOTOR VEHICLES ON CITY AND WATER DISTRICT PROPERTY OTHER THAN PUBLIC WAYS

It shall be unlawful for any person or persons to operate any motor vehicle as hereinafter defined upon any property owned or leased by the City of Hallowell or by the Hallowell Water District except upon public ways or upon designated roads, trails and parking areas or upon special use areas designated by the City Council.

1. Motor vehicle shall mean and include any vehicle operated on wheels, tracks or other form and driven or powered by other than muscular power, and shall include but not be limited to cars, trucks, motorcycles, scooters, recreational vehicles, off the road vehicles, all terrain vehicles, snowmobiles, and the like.
2. In designated areas referred to above including roads, trails, parking areas and special use areas it shall be unlawful to operate a motor vehicle:
  - A. in a reckless manner;
  - B. while intoxicated as defined in 29 M.R.S.A. § 1312;
  - C. in a manner so as to endanger any person or property;
  - D. at an unsafe rate of speed, speeds in excess of 20 MPH shall be prima facie unsafe;
  - E. in the hours of darkness without head lights capable of illuminating objects and terrain 500 feet ahead of the vehicle;
  - F. in violation of any posted regulations governing the area; and
  - G. in violation of the instructions of any City official in charge of said area.
3. Each person operating a motor vehicle on property owned or leased by the City who is involved in an accident shall, within 24 hours therefrom, file with the City Police Department a report thereof in such detail as the Department shall prescribe.
4. Any person found guilty of violating the provisions of this Ordinance shall be punished by a fine as provided by Section 1-109.

[Derivation: Section 22-8, 1973 Revised Code of Ordinances as amended]

**SECTION 4-318**      RESTRICTING VEHICLE WEIGHT ON POSTED WAYS

1. **Purpose and Authority:** The purpose of this Section is to prevent damage to city ways and bridges in the City of Hallowell which may be caused by vehicles of excessive weight, to lessen safety hazards and the risk of injury to the traveling public, to extend the life expectancy of city ways and bridges, and to reduce public

expense of their maintenance and repair. This Section is adopted pursuant to 30-A M.R.S.A. s/s 3009 and 29-A M.R.S.A. s/s 2395 and 2388.

2. **Definitions:** the definitions contained in Title 29-A M.R.S.A. shall govern the construction of words contained in this Section. Any words not defined therein shall be given their common and ordinary meaning.
3. **Restrictions and Notices:** The City Council may, either permanently or seasonally, impose such restrictions on the gross registered weight of vehicles as may, in its judgment, be necessary to protect the traveling public and prevent abuse of the highways, and designate the city ways and bridges to which the restrictions shall apply.

Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of the restriction during any applicable period on any way or bridge so posted unless that person or vehicle is exempt as provided herein, or holds a valid permit issued pursuant to subsection 6.

The notice shall contain, at a minimum, the following information: the name of the way or bridge, the gross registered weight limit, the time period during which the restriction applies, the date on which the notice was posted, and the signature of the City Council President, or if designated by majority vote of the City Council, the signature of the Street Commissioner, or Highway Department Foreman. The notice shall be conspicuously posted at each end of the restricted portion of the way or bridge in a location clearly visible from the traveled way,

Whenever a restriction expires or is lifted, the notices shall be removed wherever posted. Whenever a restriction is revised or extended, existing notices shall be removed and replaced with new notices. No person may remove, obscure or otherwise tamper with any notice so posted except as provided herein.

4. **Streets / Roads to be Posted:** The following streets and roads will be posted seasonally: Academy Street, Balsam Drive, Blaine Road, Central Street (from Middle Street to Dead End), Greenville Street, High Street, Outlet Road, Second Street (from Winthrop Street to the intersection of Middle Street / Litchfield Road, Shady Lane, Smith Road, Union Street (from Middle Street to Dead End), Town Farm Road and Vaughan Road.
5. **Exemptions:** Vehicles that are exempt from the Maine Department of Transportation's (MDOT) "Rules and Regulations Restricting Heavy Loads on Closed Ways" dated December 31, 1996 and amended on March 4, 1998 are exempt from this Ordinance.

Due to economic necessity, vehicles making local deliveries to businesses located on the following streets are exempt: Temple Street, Central Street from Water Street to Middle Street, Union Street from Water Street to Second Street.

6. **Permits:** The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the City Council for a permit to operate on a posted way or bridge notwithstanding the restriction. The City Council may issue a permit only upon all of the following findings:
- (a) no other route is reasonably available to the applicant;
  - (b) it is a matter of economic necessity and not a mere convenience that the applicant use the way or bridge; and
  - (c) the applicant has tendered cash, a bond or other suitable security running to the City of Hallowell in an amount sufficient, in their judgement, to repair any damage to the way or bridge which may reasonably result from the applicant's use of same.

Even if the City Council makes the foregoing findings, it need not issue the permit if it determines the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage to a way or bridge maintained by the City. It may also limit the number of permit issued or outstanding as may, in its judgement, be necessary to preserve and protect the ways and bridges.

In determining whether to issue a permit, the City Council shall consider the following factors:

- (a) the gross registered weight of the vehicle;
- (b) the current and anticipated condition of the way or bridge;
- (c) the number and frequency of vehicle trips proposed;
- (d) the cost and availability of materials and equipment for repairs;
- (e) the extent of use by other exempt vehicles; and
- (f) such other circumstances as may, in their judgment, are relevant.

The City Council may issue permits subject to reasonable conditions, including but not limited to restrictions on the actual load weight and the number or frequency of vehicle trips, which shall be clearly noted on the permit. It is unlawful to violate the conditions of an issued permit.

7. **Administration and Enforcement:** This Section shall be administered by the City Council and may be enforced by the City Council or its duly authorized designees: law enforcement officers, code enforcement officer, or street / road commissioner.

8. **Civil Penalties:** Any violation of this Section shall be a civil violation subject to a civil penalty of not less than \$250.00 nor more than \$1,000.00. Each unlawful passage of a vehicle over a posted City way or bridge is a separate violation. In addition to any civil penalty, the city may seek restitution for the cost of repairs to any damaged way or bridge and reasonable attorney fees and costs. Prosecution shall be in the name of the City of Hallowell.

[Derivation: Ordinance No.: 02-08, Effective: December 19, 2002]

**DIVISION C - STOPPING AND STANDING**

**SECTION 4-331**      **STOPPING NOT TO OBSTRUCT CROSSING, DRIVER TO OBEY OFFICER**

1. No vehicle shall stop in such a way as to obstruct any street or crossing except for the purpose of taking on or letting off a passenger, or for loading or unloading freight, for a period of up to one (1) minute, or except in case of accident, or when directed to do so by a police officer.
2. No person shall fail to stop or place his vehicle as directed by a police officer on duty.

[Derivation: Section 22-20, 1973 Revised Code of Ordinances as amended]

**SECTION 4-332**      **STOPPING AT INTERSECTION, HYDRANTS**

No vehicle shall stop or stand within the intersection of any streets or within fifteen (15) feet of a street corner, or within seven (7) feet of any hydrant, wherever located, provided, however, that the foregoing provisions of this section shall not apply to the United States Mail, emergency and public utility vehicles on duty.

[Derivation: Section 22-21, 1973 Revised Code of Ordinances as amended]

**SECTION 4-333**      **PARKING TO OBSTRUCT TRAFFIC, BLOCK DRIVEWAYS: REMOVAL AUTHORIZED**

The parking of a motor vehicle in such a manner as to obstruct traffic or block a driveway or sidewalk is prohibited. Such cars may be removed in accordance with the provisions of this article.

[Derivation: Section 22-22, 1973 Revised Code of Ordinances as amended]

**SECTION 4-334**      **OBSTRUCTING TRAFFIC, FAILURE TO OBTAIN SNOW TIRES, CHAINS**

Between the dates of December 1 and March 1 annually, it shall be unlawful and a violation

of the provisions of this section for any person to cause an obstruction to traffic by reason of inability to move a vehicle being operated by him because of snow or ice accumulation in a street when such vehicle has not been equipped with either snow tread or all-season tires or tire chains.

[Derivation: Section 22-1, 1973 Revised Code of Ordinances as amended]

**SECTION 4-335      STOPPING NEAR CURB REQUIRED**

Unless in accordance with the City regulations, or in an emergency, or to allow another vehicle or pedestrian to cross its way, no vehicle shall stop in any public street except close to the curb and no more than twelve (12) inches, provided, however, that this section shall not apply to United States Mail, emergency or public utility vehicles on duty.

[Derivation: Section 22-23, 1973 Revised Code of Ordinances as amended]

**DIVISION D - PEDESTRIANS**

**SECTION 4-341      REQUIRED USE OF SIDEWALKS**

Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

[Derivation: Section 22-56, 1973 Revised Code of Ordinances as amended]

**SECTION 4-342      WALKING ON HIGHWAY IN ABSENCE OF SIDEWALKS**

Where sidewalks are not provided, any pedestrian walking along and upon the highway shall when practicable walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.

[Derivation: Section 22-57, 1973 Revised Code of Ordinances as amended]

**SECTION 4-343      RIGHT-OF-WAY**

All pedestrians using the crosswalks in the City which are painted and posted by legal highway signs shall have the right-of-way over oncoming traffic. The driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

[Derivation: Section 22-58, 1973 Revised Code of Ordinances as amended]

**SECTION 4-344**      **MANNER OF CROSSING ROADWAY**

No pedestrian shall cross a roadway by any other route than at right angles to the curb or by the shortest route to the opposite curb.

[Derivation: Section 22-61, 1973 Revised Code of Ordinances]

**DIVISION E – BICYCLISTS**

**SECTION 4-351**      **PROHIBITED USE OF SIDEWALKS**

1. It shall be unlawful for any person or persons to ride a bicycle or any other two- or three-wheeled vehicle regardless of the means of propulsion, on the sidewalks bordering Water Street, from its intersection with Winthrop Street to its intersection with Temple Street.
2. A violation of this Section may be punishable by a civil penalty of not less than \$50.00, and as provided under Section 1-109. If the violator is under eighteen years of age, such punishment by fines as above shall be charged against the parent, parents, or guardians.
3. An exception to the requirements of this ordinance is granted to any disabled individual using a mobility device that is two- or three-wheeled.

[Derivation: Ord. No. 14-04, effective July 17, 2014]

**SUBCHAPTER IV - PARKING**

**SECTION 4-401**      PARKING IN EXCESS OF TWENTY-FOUR HOURS; NOTICE TO MOVE; REMOVAL

It shall be unlawful to leave a vehicle in a designated parking space or lot for a period in excess of twenty-four (24) hours. If a vehicle is parked in violation, a notice shall be placed on the windshield of such vehicle ordering its removal within twenty-four (24) hours. If after the expiration of such notice the vehicle is still in violation, such vehicle may be removed in accordance with the provisions of this article.

[Derivation: Section 22-24, 1973 Revised Code of Ordinances; Ord. No. 18-07, effective 06/21/2018]

**SECTION 4-402**      NIGHT TIME PARKING NOT TO HINDER SNOW REMOVAL

No person shall park or permit a vehicle to remain parked, in any street of the City between 12:00 Midnight and 6:00 A.M. from November 15th thru April 1st.

[Derivation: Section 22-25, 1973 Revised Code of Ordinances, as amended 10/11/88]

**SECTION 4-403**      PARKING CLOSE TO FIRES

1. No person shall park a vehicle, with or without occupants, other than a fire department or police department vehicle or ambulance, on a public highway within one hundred (100) yards of a fire in which fire department personnel are engaged.
2. If a vehicle parks more than one hundred (100) yards from the fire and within one-quarter (1/4) mile thereof, it shall park on the right-hand side of the highway and parallel with and within twelve (12) inches of the curb or edge of the highway.

[Derivation: Section 22-26, 1973 Revised Code of Ordinances]

**SECTION 4-404**      PARKING FACING FLOW OF TRAFFIC PROHIBITED

Motor vehicles shall be prohibited from parking facing the flow of traffic on the wrong side of the public way within City limits.

[Derivation: Section 22-27, 1973 Revised Code of Ordinances; Ord. No. 08-10, eff. 11/20/2008]

**SECTION 4-405**      NO PARKING AREAS

It shall be unlawful for any person to park a vehicle in a designated no parking area.

The no parking areas in the City are as follows:



1. On the west side of Water Street between a point four hundred & fifty (450) feet north of the railroad overpass and a point four hundred & fifty (450) feet south of said overpass.
2. On the east side of Water Street between Wilder Street and the railroad overpass and a point three hundred (300) feet south of said overpass.
3. On the west side of Water Street from its intersection with Winthrop Street northerly to the north boundary of the premises designated as 85 Water Street.
4. On Central, Union and Academy Streets between Second Street and the railroad.
- 4A. On the south side of Union Street between Water Street and Second Street.

[Derivation: Ord. No. 01-11, eff. 7/19/01; Ord. No. 08-10, eff. 11/20/2008; Ord. No. 17-09, eff. 11/23/2017]

5. On any street or highway within fifty (50) feet of the nearest railroad crossing.
6. On the railroad overpass bridges on Second Street and on Bridge Street.

[Derivation: Ord. No. 15-04, eff. 07/23/2015]

7. On the Maine Turnpike overpass on Winthrop Street.
8. On any street within fifteen (15) feet of its intersection with another street.
9. No parking on either side of Page Street, Winthrop Street, Central Street or Academy Street on crest of hill obstructing view of on coming traffic.
10. No parking on the east side of the Whitten Road.
11. On both sides of Academy Street between Water Street and Second Street.
12. On the east side of Water Street from the north boundary line of the premises owned by the Masonic Temple to the south boundary line of the premises designated as 398 Water Street encompassing a distance of six hundred & forth-one (641+/-) feet.
13. On the north side of Perley Lane.
14. Next to pedestrian bubbles on Second Street. (Pedestrian bubbles are the area of land in the right of way that jut out from the sidewalk to the traveled way).
15. On the east side of Second Street from Gows Lane north to Temple Street.

[Derivation: Section 22-28 (1-15), 1973 Revised Code of Ordinances as amended 1/4/88]

16. On any portion of Park Street between Second Street and Central Maine Power Pole No. 22.1; and on the southerly side of Park Street between Water Street and Second Street.

[Derivation: Section 22-28 (16), 1973 Revised Code of Ordinances as amended 6/11/90, and further amended by Ordinance No. 98-3 effective August 20, 1998]

17. No parking on the north side of Central Street from interstate 95 overpass bridge to the Town Farm Road.

[Derivation: Section 22-28 (16), 1973 Revised Code of Ordinances as amended 2/10/92]

18. No parking on the west side of the Smith Road, from Litchfield Road to Vaughan Road.

19. No parking on the north side of West Street from Water Street to Second Street, except along the front lot line of 3 West Street. (Changing Western Avenue to West Street.)

[Derivation: Ordinance No.: 08-01, Effective January 17, 2008]

20. No parking south of Perley's Lane to Academy Street on the west side of Second Street.

[Derivation: Section 22-28 (17), 1973 Revised Code of Ordinances as amended 6/7/92 and Ordinance No. 00-1 effective 1/20/2000; and Ordinance No. 02-01 effective 3/23/02]

21. No parking on the west side of Summer Street from Chestnut Street to Grove Street.

[Derivation: Ordinance No.: 03-23, Effective December 18, 2003]

22. No parking on the south side of Wharf Street from Water Street to Front Street.

[Derivation: Ordinance No.: 05-02, Effective April 22, 2005]

23. No parking on the west side of Water Street from Greenville Street southerly to the Farmingdale Town Boundary Line.

[Derivation: Ord. No. 12-09, eff. 10/9/2012 (emergency)]

24. No parking on the north side of Stoddard Lane from Water Street to Second Street.

[Derivation: Ord. No. 13-04, eff. 5/23/2013]

25. On the west side of Second Street from the north boundary line of the premises designated as 95 Second Street to the intersection of Lincoln Street and Second

Street.

26. On the east side of Second Street from the north boundary line of the premises designated as 90-92 Second Street to the railroad overpass.

[Derivation: Ord. No. 13-11, eff. 11/12/2013]

27. No parking on both sides of Litchfield Road from Second Street to Middle Street.

[Derivation: Ord. No. 14-07, eff. 11/20/2014; Ord. No. 17-08, eff. 10/20/2017]

28. On both sides of Second Street from Litchfield Road to Grove Street.

29. On Litchfield Road from Middle Street to the Maine Turnpike overpass.

30. On both sides of Middle Street from Litchfield Road to Grove Street.

[Derivation: Ord. No. 17-08, eff. 10/20/2017]

#### **SECTION 4-406      PARKING RESTRICTIONS**

1. No person shall park a vehicle for a period longer than two (2) hours in the following areas during working hours 8:00 a.m. to 5:00 p.m. unless otherwise noted:

- A. On Water Street between Gows Lane on the south to Winthrop Street on the north, between the hours of 9:00 a.m. and 5:00 p.m. except on Sundays and holidays.

- B. On Winthrop Street from Water Street west to Second Street.

- C. On the east side of Second Street from Winthrop Street to the northerly property line of City Hall, between the hours of 9:00 a.m. and 5:00 p.m.

- D. Repealed.

- E. Repealed.

- F. On both sides of Second Street from Winthrop Street to Union Street.

[Derivation: Ord. No. 02-03, effective 3/23/02; Ord No. 17-06, effective 9/21/17]

2. No person shall park a vehicle for a period longer than fifteen (15) minutes in the following areas during working hours 8:00 a.m. to 5:00 p.m. unless otherwise noted:

- A. Repealed.

[Derivation: Ord. No. 08-10, effective 11/20/08; Ord. No. 14-03, eff. July 17, 2014]

- B. On the west side of Second Street in front of the U. S. Post Office.
- C. On the north side of Winthrop Street from Second Street to the railroad crossing.
- D. On the west side of Water Street between Central Street and Union Street from the corner of Union Street running north a distance that allows for four designated parking spaces, between the hours of 7:00 am and 8:00 pm.

[Derivation: Ord. No. 12-12, eff. 10/19/2012; Ord. No. 14-07. Eff. 11/20/2014]

- E. On the east side of Second Street in front of the property designated as 94 Second Street, excluding the handicap parking space in front of said property.

[Derivation: Ord. No. 13-11, eff. 11/12/2013]

- 3. No person shall park a vehicle for a period longer than thirty (30) minutes in the following areas:

- A. On the west side of Second Street in front of the property of 127 Second Street from the southerly boundary a distance of sixty-five (65) feet to within fifteen (15) feet of the intersection of Academy Street and Second Street.

- 4. Repealed.

- 5. Repealed.

- 6. Subject to the reservation of one parking space for 94 Second Street, no person except City Hall employees shall park a vehicle in the Second Street Parking Lot north of City Hall, Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m.

[Derivation: Section 22-29 (1-3,5), 1973 Revised Code of Ordinances; Ord. No. 10-02, effective 3/18/10; Ord No. 17-06, effective 9/21/17]

- 7. Except as otherwise provided herein, no person, other than City employees and persons designated by the City Manager, shall park a vehicle or trailer of any kind upon property owned by the City. This Subsection shall not apply to persons who lawfully occupy tax acquired property or who are lawfully parked on public ways.

[Derivation: Section 22-29, 1973 Revised Code of Ordinances as amended 2/12/96]

**SECTION 4-407**      PARKING OF UNREGISTERED AND UNINSPECTED VEHICLES AND MOTOR CYCLES

No person shall allow an unregistered and/or uninspected motor vehicle or motor cycle or any part thereof of said vehicle or cycle to be parked upon public property for a period of longer than seventy-two (72) hours. Exceptions may be made upon securing a written permit from the Chief of Police. Said permit shall grant on a one time basis only, an extension of the seventy-two (72) hour period for an additional seventy-two (72) hours. A separate permit

must be obtained for each vehicle, cycle, or part of same and shall cost \$3.00.

**SECTION 4-408**      REMOVAL OF VIOLATING VEHICLES

1. Any vehicle of any kind or description parked upon a public street of the City at a place, in a manner, or for a length of time prohibited by an ordinance of the City, or so as to impede the City's snow removal operations or traffic in the public street, is hereby declared to be an obstruction in such street and a menace to the safe and proper regulation of traffic.
2. Any vehicle for which the Police Department has issued four (4) parking tickets during a period of 365 consecutive days may, upon issuance of a fifth parking ticket, be declared a habitual violator.
3. Any vehicle parked in such manner as described in this section may be removed by and under the direction of, or at the request of the Chief of Police, the senior police officer in charge of any shift, the City Manager or highway foreman to a garage or storage place within a ten (10) mile limit of the municipal boundary of the City and impounded therein.
4. Any person named in subsection 3 may use such force as may be necessary to enter such vehicle and cause the same to be placed in a condition to be moved and may employ any reputable person, engaged in the business of towing and storing vehicles, for such purpose.
5. Notwithstanding any language herein contained, the removal and storage of a vehicle pursuant to this section, and the payment of the charges specified in this division, shall in no way relieve or prevent prosecution for the violation of any provisions of the ordinances of the City.

[Derivation: Section 22-43, 1973 Revised Code of Ordinances; Ord. No.: 03-02, effective 02/21/2003; Ord. No. 18-07; effective 06/21/2018]

**SECTION 4-409**      NOTIFICATION OF IMPOUNDMENT: RECOVER PROCEDURE

The Police Department shall make every effort to notify as promptly as possible the owner of any vehicle of its removal from the streets of the City, and as soon as possible a written notice that such vehicle has been impounded shall be sent to the owner at his last known address as shown by the records of the Secretary of State. If the owner is unknown, the Chief of Police shall cause to be published in the local newspaper printed in the City notice of such impounding, giving the registration number, the motor number and the name, type and year of such vehicle.

Before the owner of an impounded vehicle may remove it from the possession of the person towing or storing it, he shall:

1. Furnish satisfactory evidence of his identify and all of his ownership of such vehicle to the desk officer at the Police Department and pay the established charges for advertising, towing and storage and the fine to the Police Department.

2. Be furnished a two-part receipt upon payment of such charges, part one: a receipt for such payment, and part two: a release to be presented to the person having towed and stored such vehicle. The owner shall sign part two upon receipt of such vehicle.

[Derivation: Section 22-44, 1973 Revised Code of Ordinances]

**SECTION 4-410** (Reserved)

**SECTION 4-411** HANDICAPPED PARKING AREA

It shall be unlawful to park a vehicle in any parking space designated as reserved for the handicapped, by symbol or otherwise as provided by 30-A M.R.S.A. §3009(1)(D), unless the vehicle has affixed thereon license plates identifying the registered owner as a handicapped person.

[Derivation: Section 22-28A, 1973 Revised Code of Ordinances as amended 1/11/88]

**SECTION 4-412** DESIGNATED PARKING SPACES RESERVED FOR THE HANDICAPPED

The following parking spaces are designated for exclusive use of handicapped persons pursuant to 30-A M.R.S.A. Section 3009:

1. One parking space near the corner of Central Street and Second Street on the east side.
2. One parking space on the east side of Second Street by the Handicapped ramp at City Hall.
3. One parking space on the east side of the entrance to the Municipal Parking Lot off Union Street.
4. One parking space in the Central Street parking lot on the east end.
5. One parking space on the west side of Water Street, southerly of the intersection of Water Street and Academy Street.
6. One parking space on the east side of Water Street, southerly of the fire hydrant located across Water Street from Academy Street.
7. One parking space at 9 Union Street on the north side.

[Derivation: Section 22-28A, 1973 Revised Code of Ordinances as amended 1/11/88; Ord. No. 97-9, effective 11/20/97; Amended Ord. No. 01-11, eff. 7/9/01; Ord. No. 01-13, eff. 10/19/01]

**SECTION 4-413 THROUGH 4-450** (Reserved)

**SECTION 4-451**      EVIDENCE OF UNLAWFUL PARKING

Wherever in this Code it is provided that it shall be unlawful for a person to park a vehicle, the fact that a vehicle is unlawfully parked shall be prima facie evidence of the unlawful parking of such vehicle by the person in whose name such vehicle is registered.

[Derivation: Section 22-41, 1973 Revised Code of Ordinances]

**SECTION 4-452**      WAIVER OF COURT ACTION, FEE SCHEDULE

Any person charged with a violation of any provision of this Subchapter relating to unlawful parking may waive all court action by payment of a civil penalty as provided in Section 4-453 to the Police Department within seven (7) days of the violation.

The Chief of Police shall design and require use of a standard form parking ticket that provides notice to the person in violation, of the following:

1.      The time, date, and place of violation.
2.      The registration number and description of the vehicle.
3.      The nature of the parking violation referencing the Revised Code of Ordinance of the City of Hallowell (1997), Chapter 4, Subchapter IV.
4.      The opportunity to waive all court action by payment of the civil penalty within seven (7) days of the violation.
5.      The entire schedule of civil penalties for parking violations as provided in Section 4-453.
6.      The number of prior violations of record, and the opportunity to review that record.
7.      The amount of the civil penalty for the current violation.
8.      The place where the civil penalty may be paid.

The parking ticket may be an envelope in which the amount of the civil penalty may be enclosed, addressed to the Police Department.

[Derivation: Section 22-42, 1973 Revised Code of Ordinances as amended 4/11/94]

**SECTION 4-453**      CIVIL PENALTY

The civil penalty for violation of this Subchapter, relating to unlawful parking, shall be as follows:

1.      \$ 15.00 for the first violation.

2. \$ 25.00 for the second violation.
3. \$ 50.00 for the third violation.
4. \$ 75.00 for the fourth violation and each violation thereafter, provided however, that any person who has not committed a violation during a period of 365 consecutive days shall be deemed to have no prior violations.
5. \$ 200.00 for the violation of parking in a Handicapped Parking Area in accordance with 30-A M.R.S.A. Section 3009 (1) (D) and Revised Code of Ordinances. City of Hallowell, (1997) Section 4-411.

[Derivation: Section 22-7, 1973 Revised Code of Ordinances as amended 4/11/94]

[Derivation: Ordinance No.: 03-07, Effective: April 11, 2003; Ord. No. 08-05, effective July 17, 2008; Ord. No. 15-01; effective 1/22/2015]

#### **SECTION 4-454      DOWNTOWN SNOW REMOVAL OPERATIONS**

1. Downtown Snow Removal Operations consists of removing snow banks from sidewalks, parking areas along streets and municipal parking lots located at City Hall, Central Street and Perley's Lane.
2. The Downtown Snow Removal Operations Area is defined as follows: Second Street from the north side of Temple Street to Lincoln Street. Water Street from the north side of Temple Street to the Railroad Overpass. Academy Street, Union Street, Central Street and Winthrop Street from the Railroad tracks to Water Street. Dummer's Lane between Second Street and Water Street and Perley's Lane.
3. Downtown Snow Removal Operations is scheduled by the City Manager and Highway Foreman.
4. Public Works Department personnel and equipment, contracted dump trucks, loaders, grader and dozer, and personnel from the Pre-Release Center is used to remove snow from the defined Downtown area.
5. Downtown Snow Removal Operations is scheduled at night from 9 PM to 6 AM for Second Street from north-side of Temple Street to Lincoln Street, Academy Street from Railroad Tracks to Water Street, Union Street from Railroad Tracks to Water Street, Central Street from Railroad Tracks to Water Street, Winthrop Street from Railroad Tracks to Water Street, and Dummer's Lane. Any vehicle parked on the streets or sidewalks identified in this subsection that is impeding the snow removal operations, as determined by the Highway Foreman and the Police Officer on shift, will be removed by contacting the Augusta Police Department Dispatch Center and requesting the impeding vehicle be towed. A parking ticket will be issued to the vehicle to be towed. The towing of vehicles from streets and sidewalks identified in this subsection is authorized to begin at 9 PM and will cease at 6 AM.



6. Downtown Snow Removal Operations is scheduled at night from 11 PM to 6 AM for Water Street from the north side of Temple Street to the Railroad Overpass, City Hall municipal parking lot and the Central Street municipal parking lot. Any vehicle parked on Water Street or the sidewalks of Water Street and the municipal parking lots identified in this subsection that is impeding the snow removal operations, as determined by the Highway Foreman and the Police Officer on shift, will be removed by contacting the Augusta Police Department Dispatch Center and requesting the impeding vehicle be towed. A parking ticket will be issued to the vehicle to be towed. The towing of vehicles from Water Street, sidewalks on Water Street and municipal parking lots identified in this subsection is authorized to begin at 11 PM and will cease at 6 AM.
7. Downtown Snow Removal Operations is scheduled for the morning following the night snow removal operations, from 6 AM to Noon, for the municipal parking lot off Perley's Lane, Perley's Lane sidewalk and Perley's Lane. Any vehicle parked in the municipal parking lot, Perley's Lane sidewalk, or Perley's Lane identified in this Subsection that is impeding the snow removal operations, as determined by the Highway Foreman and Police Officer on shift, will be removed by contacting the Augusta Police Department Dispatch Center and requesting the impeding vehicle be towed. A parking ticket will be issued to the vehicle to be towed. The towing of vehicles from the parking lot, sidewalk and street identified in this subsection is authorized to begin at 6 AM and will cease at Noon.
8. Notification of Downtown Snow Removal Operations will occur as follows:
  - A. Twenty-four (24) to Thirty-six (36) hours prior to the start of the Downtown Snow Removal operation, each Downtown Snow Removal Operation street block will have four (4) signs posted on each side of the street identifying the date and time of the snow removal operation. The municipal parking lots will be posted with a minimum of four (4) signs to a maximum of ten (10) signs with the date and time of the snow removal operation.
  - B. At least one (1) TV station is to be notified of the snow removal operation parking ban, Whether the ban is announced on the TV station is the decision of the TV station.

[Derivation: Ordinance No.: 03-04, Effective March 21, 2003]

**SUBCHAPTER V - BUILDINGS AND STRUCTURES**

**SECTION 4-501      BUILDING AND ENERGY CODE**

The Building Code of the City of Hallowell, pursuant to 10 M.R.S.A. §9724(1-A), consists of the Maine Uniform Building and Energy Code (MUBEC). The text of the adopted code includes the pertinent elements of the 2015 International Building Code (IBC), 2015 International Residential Code (IRC), 2015 International Existing Building Code (IEBC), the 2009 International Energy Conservation Code (IECC), each with the same exceptions and modifications as adopted on January 23, 2018 by the Building Codes and Standards Board within the State of Maine Department of Public Safety.

The complete text of the adopted code is on file at City Hall for public use, inspection and examination.

[Derivation: Section 6-1, 1973 Revised Code of Ordinances as amended 2/12/96; Ord. No. 06-03, Eff. June 22, 2006; Ord. No. 12-03, Eff. 2/23/2012; Ord. No. 18-06, eff. 06/21/2018]

**SECTION 4-502      ADMINISTRATION, ENFORCEMENT AND APPEALS**

1.     General. The City of Hallowell Code Enforcement Officer is hereby authorized and directed to enforce the provisions of these codes. The Code Enforcement Officer shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of the provisions. Such interpretations, policies, and procedures shall be in compliance with the intent and purpose of the codes. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in the codes.
2.     Violation Penalties. The civil penalties for violating any and each provision of said three Codes shall be as provided for in 30-A M.R.S.A. 4452 and as hereafter amended.
3.     Permit Fees. The fees for permits required by said three Codes shall be as provided for in Chapter 9, Section 9-183 and as hereafter amended.
4.     Appeal. Any person aggrieved by a decision of the Code Enforcement Officer shall have the right to appeal the decision of the Code Enforcement Officer to the Superior Court pursuant to Rule 80(8) of the Maine Rules of Civil Procedure.

[Derivation: Ordinance No. 97-6, Effective October 24, 1997; Ordinance No. 06-03, Effective June 22, 2006]

**SECTION 4-503      CONFLICTING AND INCONSISTENT PROVISIONS**

1.     To the extent any provisions of the Codes that make up the City of Hallowell Building Code as set forth in Section 4-501 are inconsistent within and between said Codes

and/or with any provision of the laws of the State of Maine or the United States, the rules and regulations adopted by a State or Federal Agency; the State and Federal law and the State and Federal Rules and Regulations shall prevail if they preempt municipal authority and for all other inconsistencies and conflicts, the most restrictive of the conflicting or inconsistent provisions shall prevail. To the extent any provision of the said Codes that make up the City of Hallowell Building Code set forth in Section 4-501 are inconsistent or conflict with the City of Hallowell Water District Rules and Regulations, the Water District's Rules and Regulations shall prevail. To the extent any provision of said Codes that make up the City of Hallowell Building Code set forth in Section 4-501 are inconsistent or conflict with any other provisions of the Revised Code of Ordinances, City of Hallowell (1997) and as amended, the most restrictive of the conflicting or inconsistent provision shall prevail.

2. To the extent that provisions of the City of Hallowell Building Code set forth in Section 4-501 conflict with the following provisions of law, those provisions of the City of Hallowell Building Code set forth in Section 4-501 are not applicable and may not be enforced.
  - A. Fire safety codes and standards. Fire safety codes and standards adopted pursuant to Title 25, sections 2452 and 2465;
  - B. Electrical standards. Electrical standards adopted pursuant to Title 32, section 1153-A;
  - C. Plumbing code. The plumbing code adopted pursuant to Title 32, section 3403-B;
  - D. Oil and solid fuel burning equipment standards. Oil and solid fuel burning equipment standards adopted pursuant to Title 32, section 18123 Subsection 2;
  - E. Propane and natural gas equipment standards. Propane and natural gas equipment standards adopted pursuant to Title 32, section 18123 Subsection 2;
  - F. Boiler and pressure vessel standards. Boiler and pressure vessel standards adopted pursuant to Title 32, section 15104-A; and
  - G. Elevator standards. Elevator standards adopted pursuant to Title 32, section 15228.

[Derivation: Ordinance No. 97-6, Effective October 24, 1997; Ordinance No. 06-03, Effective June 22, 2006; Ord. No. 12-03, Eff. 2/23/2012]

**SECTION 4-504** (Reserved)

**SECTION 4-505**      RIGHT OF ENTRY

The Code Enforcement Officer and all other inspectors required under this Code, in the discharge of their official duties, and upon prior notice and proper identification, shall have authority to enter any building, structure or premises at any reasonable hour.

[Derivation: Section 6-5, 1973 Revised Code of Ordinances]

**SECTION 4-506**      APPLICATION FOR PERMIT

The application for the permit required under Section 111.1 of the building code shall be in writing, shall be made to the Code Enforcement Officer in such form as he shall prescribe and shall include a description of the proposed work together with appropriate plans or drawings drawn to scale. Plans or scale drawings may be omitted as direction of the Code Enforcement Officer. After issuance of the permit, a copy of the application shall be filed with the Board of Assessors.

The application shall be filed with the Code Enforcement Officer not less than thirty (30) calendar days before the proposed start of construction, except on emergency at discretion of Code Enforcement Officer, but in no case may construction be scheduled to start or in fact be started before the permit is issued.

For new and relocated buildings and structures the application shall include a plot plan, drawn to a scale not smaller than 20 feet to the inch, showing property and street lines, location of other buildings where pertinent, finished grades, driveways, parking space, water and sewer connections, or water supply, septic tank and disposal field, as applicable.

Each application shall be accompanied by a statement from the Hallowell Water District approving the water and sewer connections, or where the proposed construction is located outside the Hallowell Water District Service Area a statement from the plumbing inspector that the proposed sewage disposal system is in accordance with State Requirements.

All plans required under this section shall bear the stamp or seal of a registered architect in accordance with 32 M.R.S.A. § 208 or the stamp or seal of a registered engineer in accordance with 32 M.R.S.A. § 1355. Excluded from this requirement are the following:

1. Any project having an estimated cost of \$1,500 or less;
2. Any building or enlargement or alteration thereof intended for occupancy by the person making the drawings or any person, association or corporation regularly employing him;
3. Any building or enlargement or alteration thereof which is to be used for farm purposes;
4. Any single family residence of any size which is to be used by such person as his home; and

5. Any remodeling or alteration of existing buildings not involving structural changes.

[Derivation: Section 6-6, 1973 Revised Code of Ordinances as amended 4/13/87]

**SECTION 4-507**     PERMIT

1. Any building permit shall be void unless work thereunder is commenced within one year of issuance.
2. Every building permit shall be displayed in a conspicuous place on the premises, clearly visible from the principal traveled street and shall not be removed until the work covered by the permit has been approved.
3. A building permit shall be conditioned upon compliance with all representations, plans, drawings, sketches, and similar materials that were part of applications submitted to, and approved by, the Code Enforcement Officer or the Planning Board, and all conditions imposed pursuant to this Chapter and Chapter 9.

[Derivation: Section 6-7, 1973 Revised Code of Ordinances]

**SECTION 4-508**     (Reserved)

**SECTION 4-509**     DWELLINGS

1. Minimum floor area. No dwelling shall be constructed having an area of less than 600 square feet of living space on the ground floor. "Living Space" shall mean actual enclosed space suitable for year-round occupancy and shall not include porches, patios and similar areas whether or not enclosed. Exception: Single-family dwellings defined as "Tiny Houses" in Appendix V of 2015 International Residential Code as adopted on January 23, 2018 by the Building Codes and Standards Board within the State of Maine.
2. Exterior finish. All exterior walls of a dwelling shall be finished with a covering of clapboards, wood siding, wood or asbestos shingles, masonry, brick or stone or other approved material. Such covering shall be completed not later than 90 days after the outside studding is in place. Tared paper, tarred felt or similar material shall not be used unless completely hidden from view by the finished exterior wall covering.
3. Electrical installation. Each dwelling shall have an electrical service entrance of not less than 100 ampere capacity. All electrical entrance work shall be done by a licensed electrician. No electric wiring shall be covered or concealed until inspected and permission to conceal has been given by the Code Enforcement Officer or assistant Code Enforcement Officer. All electrical work shall be installed in accordance with the National Electrical Code.

4. Plumbing. All plumbing, and the sewerage disposal system, if required, shall be in strict conformity with state statute and rules promulgated by the Maine Department of Human Services.
5. Sewage disposal. Each dwelling shall be connected to the public sewer system if within 300 feet of the nearest sewer line. If not so situated, and not so connected, a private sewer system, approved by the State, shall be provided. All existing dwellings within 300 feet of an existing sewer line shall connect to said sewer line when separate septic system becomes defunct.
6. Water supply. Each dwelling shall be connected to the public water system within 300 feet of the nearest water main. If not so situated, and not so connected, a private water supply system, approved by the State, shall be provided.
7. Sanitary fixtures. Each dwelling shall be provided with not less than one toilet, one bathtub or shower, one lavatory and one kitchen sink, all of approved type, with hot and cold water piped to appropriate fixtures and in accordance with the State Plumbing Code.

[Derivation: Section 6-9, 1973 Revised Code of Ordinances as amended; Ord. No. 18-06, effective 06/21/2018]

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**SUBCHAPTER VI - PUBLIC NUISANCES AND MISCELLANEOUS OFFENSES**

**SECTIONS 4-601 - 4-605** (Reserved)

**SECTION 4-606** DEAD AND DISEASED TREES

It is hereby declared to be against the public interest for any person owning or occupying land within the City to do the following:

1. Maintain on such land any dead or diseased tree.
2. Failure to remove diseased, dead or dying trees or parts thereof growing on such land.

The municipal officers of the City are hereby authorized to enter upon any land within the City for the purpose of detecting diseased trees and carrying out control measures.

If any diseased, dead or dying tree is found within the City or if parts of trees are found then both the owner and the occupant of the land, shall be requested to remove and destroy such diseased, dead or dying trees or wood.

In the event that the requested action listed above is not taken within thirty (30) days after notice, the municipal officers are hereby authorized to enter, remove and destroy the diseased, dead or dying trees or wood.

In case where failure to act immediately would result in extreme danger to other trees, the municipal officers are authorized to remove and destroy the diseased, dead or dying trees or wood immediately.

The wood shall be destroyed by burning.

This section shall not apply to dead trees that are not diseased and are not visible from public ways or public property.

[Derivation: Section 15-1, 1973 Revised Code of Ordinances as amended 1/9/88]

**SECTION 4-607** (Reserved)

**SECTION 4-608** DANGEROUS EXCAVATIONS UNLAWFUL; NOTICE TO ABATE; PENALTY

The existence of any lot or parcel of land within the City or any open or uncovered well, cistern, cellar, quarry, dangerous hole or excavation injurious or prejudicial to the public safety, comfort, health and welfare, shall be unlawful and any person owning or having possession, charge or control of said lot or parcel of land shall abate such condition within ten (10) days after having been given written notice to do so by the Chief of Police. Each



day that such condition remains after the expiration of said notice shall be a separate offense and fined by Section 1-109 of this Code.

[Derivation: Section 15-8, 1973 Revised Code of Ordinances]

**SECTION 4-609**      DISCHARGE, CARRYING OF FIREARMS REGULATED

No person shall discharge any firearms within any part of the City that is east of the easterly right of way of the Maine Turnpike without permission from the Chief of Police except in self-defense, in execution of the laws or for the destruction of some dangerous animal.

It shall be unlawful for any person other than a police officer or person acting in self-defense, to carry any loaded firearm within one hundred and fifty (150) yards of any residence or any commercial building situated within any part of the City that is east of the easterly right of way of the Maine Turnpike.

It shall be unlawful for any person, other than a police officer or person acting in self-defense, to discharge a firearm on property owned or leased by the City without the prior written approval of the Chief of Police for purposes which are beneficial to the City or the general public or which are ceremonial in nature.

[Derivation: Section 15-10, 1973 Revised Code of Ordinances as amended 2/8/93 and as amended 11/12/96]

**SECTION 4-610**      USE OF FIREARMS RESTRICTED IN VICINITY OF RECREATION AREA, PENALTY

The discharge of firearms is prohibited at all times from the first day of June to the last day of September in the area westerly of the Town Farm Road to the Hallowell-Manchester City Line, bounded northerly by Winthrop Street and southerly by Central Street.

Exception may be made if a permit is issued by the Chief of Police or the Police Sergeant.

Any person violating this section shall be punished as provided in Section 1-109 of this Code.

[Derivation: Section 15-15, 1973 Revised Code of Ordinances]

**SECTION 4-611**      SHOOTING OF BOWS, PROJECTILE INSTRUMENTS REGULATED

A. No person shall shoot a bow and arrow or any other projectile within any part of the City that is east of the easterly right of way of the Maine Turnpike, except within the following areas:

1. Northerly by the corporate boundary of the City, Easterly by the northerly line extension of the centerline of Pleasant Street and by said centerline of Pleasant Street, Southerly by the centerline of Winthrop Street, and Westerly

by the easterly right-of-way line of Maine Turnpike;

2. Northerly by the centerline of Central Street, Easterly by the centerline of High Street, the centerline of Academy Street and the centerline of Middle Street, Southerly by the centerline of Litchfield Road, and Westerly by the easterly right-of-way of Maine Turnpike;
3. Lot 1 on City of Hallowell Tax Map 13; and
4. Lot 23 on City of Hallowell Tax Map 4, without first acquiring permission to do so from the Chief of Police.

- B. All persons who shall shoot a bow and arrow or any other projectile within any part of the City must comply with all applicable State Laws.

[Derivation: Section 15-11, 1973 Revised Code of Ordinances as amended 11/12/96; Ordinance No. 06-08, effective August 17, 2006; Ord. No. 18-08, effective June 21, 2018]

**SECTION 4-612**      THROWING SUBSTANCES AT DWELLINGS

No person shall throw any dirt, stones, bricks, snowballs or any other substance against any dwelling house or other private or public building, with intention to injure the same, or to disturb the inmates thereof, nor shall any person be present, aiding and abetting the same.

[Derivation: Section 15-13, 1973 Revised Code of Ordinances]

**SECTION 4-613**      PERMISSION REQUIRED PRIOR TO PLAYING BALL IN STREETS,  
ENCLOSURES OF PUBLIC BUILDINGS

No person shall play at the game of ball or throw any missiles in any public street or enclosure of any public building without first acquiring permission to do so from the Chief of Police.

[Derivation: Section 15-12, 1973 Revised Code of Ordinances]

**SECTION 4-614**      PROWLING, PEEPING PROHIBITED

No person shall harass or disturb the occupants of any dwelling house by maliciously or mischievously prowling around such building or peeping into the same.

[Derivation: Section 15-14, 1973 Revised Code of Ordinances]

**SECTION 4-615**     **DISORDERLY HOUSES**

1.     Definitions

- A.     “Disorderly house” shall mean any dwelling to which the police have responded eight or more times in any thirty-day period, involving the conduct of the owner, tenant(s), or tenants’ co-habitees, guest or invitees, which would unreasonably disturb the community, the neighborhood or an individual, including, but not limited to: loud music; boisterous parties; sounds emanating from within the structure which are audible outside the dwelling; loud noise or fights involving tenants of the dwelling or their invitees; tenants or invitees of tenants being under the influence of drugs or intoxicating liquor; the arrest and conviction of tenants or their invitees for activities which constitute either a crime or civil infraction under either state or local law; and other similar activities.
- B.     “Dwelling” is defined as any single- or multifamily residence or part thereof, including garages, outbuildings, exterior grounds and separate apartments. This section applies to all such conduct occurring at or within 300 feet of the dwelling.

2.     Notice of disorderly house

- A.     Whenever a dwelling has been visited by the police four times, but fewer than eight times, in any thirty-day period, in relation to incidents which meet the above definition, the Police Department, or any other agent designated by the City Manager, may notify the owner of the circumstances involving the police responses.
- B.     Whenever a dwelling has been identified as a disorderly house by the City, the City shall provide written notification of the events which form the basis for the designation to the owner.
- C.     The notice shall require the owner or the owner’s designated agent to meet with representatives of the City within five business days, or such time as is agreed upon by both parties. The intent of such meeting is to discuss the issues surrounding the circumstances involving the police responses to the disorderly house. At the meeting, the parties shall make a good-faith effort to reach a written agreement which will require the owner to make reasonable efforts to resolve the problems which have required police intervention.

3.     Violations

- A.     The following shall be considered violations of this section:
  - (1)     Failure to attend the meeting with the City.

- (2) Failure to make a good-faith effort to reach an agreement.
  - (3) Failure to comply with the agreement.
- B. The first violation of this section will result in a fine of \$100 being imposed against the owner. The second and all subsequent violations will result in a maximum fine of \$500. If the City is required to bring an action in court to enforce this section, it may seek injunctive relief and will be entitled to its reasonable attorney's fees.

[Derivation: Ord. No. 18-04, effective 05/04/2018]

**SECTION 4-616      UNNECESSARY NOISE**

1. Findings and Purpose

The City Council finds that controlling excessive noise as provided herein is necessary to promote the health, welfare, and safety of the citizens of the City. It is the purpose of this Ordinance to prevent any person from making, continuing, or causing noise that unreasonably interferes with the comfort, health, or safety of others within the City.

2. Prohibition

- A. It shall be unlawful for any person in a public place to intentionally or recklessly cause annoyance to others by intentionally making loud and unreasonable noises after having been ordered by a law enforcement officer to cease the noise or similar such noises within the last six months.
- B. It shall be unlawful for any person in a private place to make loud and unreasonable noise after having been ordered by a law enforcement officer to cease the noise or similar such noise within the past six months that can be heard by another person who is in a public place or in another private place.
- C. For the purposes of this section, the term "noise" shall include, but is not limited to:
  - (1) sound created by radios or other electronic or mechanical devices capable of amplifying or projecting ambient noise, including such devices operated within motor vehicles.
  - (2) sound created in connection with loading and unloading commercial vehicles between the hours of 9:00 p.m. and 7:00<sup>1</sup> a.m.
  - (3) sound created from construction activities between the hours of 9:00 p.m. and 7:00<sup>1</sup> a.m.

- (4) sound created from timber harvesting activities between the hours of 9:00 p.m. and 7:00<sup>1</sup> a.m.
- (5) sound created by recreational vehicles, including all-terrain vehicles, snowmobiles, motorbikes, watercraft, and other such vehicles between the hours of 9:00 p.m. and 7:00<sup>1</sup> a.m.
- (6) sound created by a dynamic braking device or any mechanical exhaust device designed to aid in the braking or deceleration of any vehicle, which results in the excessive, loud, unusual or explosive noise from such vehicle between the hours of 9:00 p.m. and 7:00<sup>1</sup> a.m. in the following locations:
  - (a) Winthrop Street between Water Street and the Maine Turnpike.

It shall be an affirmative defense that the use of such device(s) was in an emergency situation to avoid imminent danger to the safety of a person or property as determined by the police officer.
- (7) sound created by a motor vehicle operated on any public or private way which results in excessive, loud or unusual noise as the result of the tires of said vehicle spinning on dry pavement, loud engine noise, or as the result of cutting out or modifying the exhaust system from its original design.
- (8) sound created by a loud report such as from fireworks or from a gunshot or explosive, between the hours of 9:00 p.m. and 7:00<sup>1</sup> a.m. unless otherwise exempted by State law or the provisions in the fireworks ordinance.

Note 1: Between April 1st and November 1st the period of prohibition shall end at 6:30 am.

3. Specifications

The prohibitions in subsection 2 shall be subject to the sound levels established in section 9-627 subsection 1 paragraphs A and B.

4. Exceptions

The following are exempt from the provisions of Subsection 2:

- A. Federal, state, and local governmental activities, whether conducted by the governmental agency or by a private contractor acting on the government agency's behalf, including, but not limited to, activities of police, fire, rescue, schools, and public works;

- B. Activities of utility agencies, including, but not limited to, vehicles and activities for the provision of water, electricity, telephone service, and sewer service;
  - C. Public assemblies, parades, performances or athletic events for which a permit is required and has been issued by the City of Hallowell. Any such noise upon the issuance of such permit shall cease at the time as indicated on the permit;
  - D. Live outdoor music performances at bars and restaurants on the Friday prior to the Saturday of Old Hallowell Day, until 1:00 a.m. on the Saturday morning of Old Hallowell Day, and on the Saturday of Old Hallowell Day, until 1:00 a.m. on the following Sunday morning, provided that noise levels do not exceed 80 dBA;
  - E. City Council-sanctioned outdoor music performances, provided that noise levels do not exceed 80 dBA; and
  - F. Other City Council-sanctioned public events.
5. Violations & Penalties
- A. Any member of the Hallowell Police Department is authorized to enforce this Section upon complaint or upon the officer's own observation of a violation in progress.
  - B. A person who is a registered owner of a vehicle at the time that vehicle is involved in a violation of this section commits a civil violation. The owner of a business which is involved in a violation of this section commits a civil violation.
  - C. Any person who violates this Section shall, upon conviction, be fined a civil penalty of not less than \$50 and not more than \$250 for each separate violation. If the City is the prevailing party to an enforcement action, it shall be entitled to attorney's fees and associated costs unless extraordinary circumstances make such an award unjust.
6. Definitions
- As used in this Section, unless the context otherwise indicates, the following terms have the following meanings:
- A. "Public place" means a place to which the public at large or a substantial group has access, including but not limited to:
    - (1) Public ways; public way means any public highway or sidewalk, private way laid out under authority of statute, way dedicated to public use, way upon which the public has a right of access or has access as

invitees or licensees, or way under the control of park commissioners or a body having like powers;

- (2) Schools and government-owned custodial facilities; and
- (3) The lobbies, hallways, lavatories, toilets and basement portions of apartment houses, motels, public buildings and transportation terminals.

B. "Private place" means any place that is not a public place.

[Derivation: Section 15-5, 1973 Revised Code of Ordinances; Ord. No. 18-11, eff. 7/19/2018]

**SECTION 4-617**      PERMIT REQUIRED TO OPERATE SOUND TRUCK, MUNICIPAL OFFICERS TO ISSUE

It shall be unlawful to operate a sound truck in the City limits without first obtaining a permit. Such permit shall be issued by the Mayor or City Manager, with the approval of the City Council.

[Derivation: Section 15-7, 1973 Revised Code of Ordinances]

**SECTION 4-618**      (Reserved)

**SECTION 4-619**      AFFIXING BILLS, ADVERTISEMENTS TO POLES, TREES

No person shall place bills or other advertising matter on any pole or tree within the right of way of any street in the City.

[Derivation: Section 15-4, 1973 Revised Code of Ordinances]

**SECTION 4-620**      HYDRO BLASTING

The City Council finds that hydro blasting adjacent to or near a public way or sidewalk constitutes a hazard to pedestrians and motorists because of flying grit and debris and constitutes a hazard to public health because of the volumes of dust created. In order to protect the public health and safety no hydro blasting shall be permitted without first obtaining a permit therefor hydro blasting is prohibited.

1. No person, owner, occupant or contractor shall hydro blast any structure in the City without first obtaining a building permit therefor.
2. No hydro blasting shall be permitted within one hundred (100) feet of a public way or sidewalk except behind a protective cover over the structure or part thereof being hydro blasted. Protective covers shall be of non-flammable material and of sufficient strength and texture to prevent the escape of debris, dust and other particles onto or over public ways and sidewalks.

3. The City Manager shall have the authority to temporarily block off all or part of a public way or sidewalk in instances where a building is so close to a public way or sidewalk that there is insufficient room to erect a protective covering around a building without encroaching upon a public way or sidewalk.

[Derivation: Section 6-11, 1973 Revised Code of Ordinances as amended 9/12/77]

**SECTION 4-621**      PROHIBITION OF CERTAIN SEXUALLY ORIENTED ACTIVITIES

1. No person may administer or apply any method of rubbing, kneading, tapping, vibration, compression, percussion, application of friction, massage, or manipulation of the external parts of the human body with the hands or other parts of such person or with the aid of any instrument or device, if such person, who performs such activity or service for consideration or gratuity or with the expectation of receiving consideration or any gratuity, and:
  - A. performs such activity or service to an individual whose genitals are exposed or to the genitals or anus of an individual; or
  - B. performs such activity while such person's genitals, pubic hair, buttocks, perineum, or areola is exposed; or
  - C. performs such activity or service at, from, or through an "adult business establishment" as defined at Section 9-151(3) of this Code.
2. Any person who performs such activity or service described in Subsection 1 of this Section, and any person who owns or operates any establishment, facility, or vehicle at or in which such activity or service is performed, shall be guilty of a civil violation and be liable for the civil penalties proscribed in Section 1-109. The minimum civil penalty for the second adjudicated violation of this Subsection and for each violation of this Subsection thereafter by the same person shall be \$200 and the maximum civil penalty shall be \$1,000.

[Derivation: Chapter 15, 1973 Revised Code of Ordinances as amended 12/11/95; amended Ord. No. 97-5, Eff. 6/11/97]

**SECTION 4-622**      OCCASIONAL SALES ON RESIDENTIAL PROPERTY

No person may offer goods for sale to the public on property used for residential purposes in the manner of a "yard sale," "lawn sale," "garage sale" or any other similar type of sale where all goods for sale are displayed on the premises, except as follows:

1. Such sales must not occur more often than three (3) times in any calendar year, and each such sale must be between sunrise and sunset during a period of not longer than three (3) consecutive calendar days; and



2. No such sales may occur within thirty (30) consecutive days of each other; and
3. No goods or tangible property may be placed or displayed on any part of a City street or right of way; and
4. All such sales of goods must qualify as “casual sales” as defined under 36 M.R.S.A. §1752(1-D) of the Maine Sales and Use Tax Law.
5. All goods displayed and items used in the conduct of such a sale must be removed from the outside of any structure on the residential property within 24 hours after the conclusion of the sale.

Failure to comply with the provisions of this Section shall be a civil violation. The City Code Enforcement Officer or any law enforcement officer, upon finding a violation of this Section, shall personally notify the person conducting the sale or the owner of the property of the provisions of this Section and shall order such person to cease all sales and other operations and remove all goods from public view. Each violation of this Section is subject to a civil penalty of \$250.00 and injunctive relief. A separate violation is committed on each day during, or on, which a violation occurs or continues.

[Derivation: Ord. No. 02-06, Eff. 7/29/02]

**SUBCHAPTER VII**

(Reserved)

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**SUBCHAPTER VIII - ANIMAL CONTROL**

**DIVISION A - GENERAL**

**SECTION 4-801**      **NUISANCE TO KEEP LIVESTOCK, DOMESTIC OR WILD ANIMALS IN COMPACT AREA, NOTICE TO ABATE, PENALTY**

No livestock or domestic or wild animals shall be kept within the compact or built-up area of the City in such a manner as to constitute a public nuisance.

On complaint, the Chief of Police or health officer may give notice to any person so keeping livestock, domestic or wild animals to abate the nuisance, and upon his failure to comply therewith and upon conviction, such person shall be fined in accordance with Section 1-109 of this Code.

[Derivation: Section 4-1, 1973 Revised Code of Ordinances]

**SECTIONS 4-802 - 4-812**      (Reserved)

**DIVISION B - DOGS**

**SECTION 4-821**      **CHIEF OF POLICE TO APPOINT DOG OFFICERS**

The Chief of Police, with the approval of the City Manager, shall appoint one or more dog officers and such officers may be regular police officers.

[Derivation: Section 4-13, 1973 Revised Code of Ordinances]

**SECTION 4-822**      **DOGS REQUIRED TO BE LICENSED**

No dog shall be kept within the City limits of Hallowell unless such dog shall have been licensed by its owner in accordance with 7 M.R.S.A. § 3451 as amended.

"Owner" shall be intended to mean any person, firm or corporation owning, keeping or harboring a dog.

[Derivation: Section 4-14, 1973 Revised Code of Ordinances]

**SECTION 4-823**      **AUTHORITY TO TAKE UNLICENSED DOGS TO VETERINARIAN, SHELTER, DISPOSITION**

Any dog not licensed in accordance with Section 4-822 and found within the City shall be taken by a police officer or constable to a licensed veterinarian, humane society or shelter and kept there for a maximum period of fourteen (14) days.

The owner of such dog may, within such period, claim the dog upon payment of two dollars (\$2.00) a day for the time such dog was retained plus a fee of five dollars (\$5.00).

If a dog is not claimed, the veterinarian or shelter at the end of the fourteen (14) day period may give away, sell or otherwise humanely dispose of such dog.

[Derivation: Section 4-15, 1973 Revised Code of Ordinances]

**SECTION 4-824**      DOGS NOT TO CREATE NUISANCE, IMPOUNDMENT, DISPOSITION

Any licensed dog found upon any public way within the City, which after written notice from the Police Department to its owner or keeper chases motor vehicles, does damage to persons or property, or constitutes a public nuisance shall be taken by a police officer or constable to a licensed veterinarian, humane society or shelter, there retained and disposed of as provided for in Section 4-823.

[Derivation: Section 4-16, 1973 Revised Code of Ordinances]

**SECTION 4-825**      NOISE, DISTURBANCE PROHIBITED, COMPLAINT, NOTICE TO ABATE

No owner or person having custody of any dog kept within the City limits shall allow such dog to unnecessarily annoy or disturb any person by continued or repeated barking or making other loud or unusual noises.

Upon written complaint, signed and sworn to, the Chief of Police shall investigate and may give notice to the owner or keeper of such dog that such annoyance or disturbance must cease.

Thereafter upon continuance of such annoyance or disturbance, such owner or keeper shall be subject to the penalty provisions of Section 1-109 of this Code, and such dog shall be taken by a police officer or constable to a licensed veterinarian, humane society or shelter and there retained and disposed of as provided for in Section 4-823.

[Derivation: Section 4-17, 1973 Revised Code of Ordinances]

**SECTION 4-826**      (Reserved)

**SUBCHAPTER IX – ADDRESSING SYSTEM TO DETERMINE PHYSICAL LOCATION AND ENHANCE EMERGENCY RESPONSE**

**SECTION 4-901**      PURPOSE

The purpose of this Subchapter is to enhance the easy and rapid relocation of properties by law enforcement, fire, rescue, and emergency medical services personnel in the City of Hallowell.

**SECTION 4-902**      AUTHORITY

This Subchapter is adopted pursuant to and consistent with the Municipal Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Constitution of the State of Maine and Title 30-A M.R.S.A. Section 3001.

**SECTION 4-903**      ADMINISTRATION

This Subchapter shall be administered by the City Council, which is authorized to and shall assign by order road names and numbers to all properties, both on existing and proposed roads, in accordance with the criteria in Sections 5-304 and 5-305. The Mayor may select and appoint an Addressing Committee, of not more than 8 persons, to assist the City Council in the administration of this Subchapter. The City Manager shall be responsible for maintaining the following official records of this Subchapter:

1.      A town map for official use showing road names and numbers.
2.      An alphabetical list of all property owners as identified by current assessment records, by last name, showing the assigned numbers.
3.      An alphabetical list of all roads with property owners listed in order of their assigned numbers.

**SECTION 4-904**      NAMING SYSTEM

1.      All roads that serve two or more properties shall be named. A road that serves only one property may be named, provided that such “property” contains at least one multi-family dwelling and is within an existing or proposed subdivision, and provided that the multi-family dwelling does not front and / or relate to another existing or proposed road. A “road” refers to any highway, road, street, avenue, lane, private way, or similar paved, gravel, or dirt thoroughfare. “Property” refers to any property on which a more or less permanent structure has been erected or could be placed. A road name assigned by the city shall not constitute or imply acceptance of the road as a public way.

2. The following criteria shall govern the naming system:
  - A. No two roads shall be given the same name (e.g. no Pine Road and Pine Lane).
  - B. No two roads should have similar-sounding names (e.g. no Beech Street and Peach Street)
  - C. Each road shall have the same name throughout its entire length.
3. In accordance with Section 4-907.2, the City Council will assign a road name to a street in a new subdivision only after the street has been constructed.
4. Any road may be named when there is no, or only one, structure when it is deemed necessary by the City Council to enhance response of emergency responders.

[Derivation: Ordinance No.: 05-07, Effective November 18, 2005]

**SECTION 4-905**      NUMBERING SYSTEM

1. Numbers shall be assigned every fifty (50) feet along both sides of the road, with even numbers appearing on the left side of the road and odd numbers appearing on the right side of the road, ascending from the number origin.
2. The following criteria shall govern the numbering system:
  - A. All number origins on minor streets shall begin at the end that is nearest by road to a collector street or major street (as defined in Section 6-233). In the event that both ends of a road intersect a collector street or major street, (including state highway), numbering shall run east to west, or north to south, as applicable.
  - B. The number assigned to each structure shall be that of the numbered interval falling closest to the front door or the driveway of said structure if the front door cannot be seen from the main road.
  - C. Every structure with more than one principal use or occupancy shall have a separate number for each use or occupancy, For example, duplexes will have two separate numbers.
  - D. Apartments will have one property number followed by an apartment number, (such as 235 Maple Street, Apt 2).

**SECTION 4-906**      COMPLIANCE

All owners of structures shall, by the date stated in Section 4-908, display and maintain in a conspicuous place on said structure, the assigned numbers in the following manner:

1.     Number on the Structure. Where the structure is within fifty (50) feet of the edge of the road right-of-way, the assigned number shall be displayed on the front of the structure in the vicinity of the front door or entry.
2.     Number at the Street Line. Where the structure is over fifty (50) feet from the edge of the road right-of-way, the assigned number shall be displayed on a post, fence, wall, the mail box, or on some structure at the property line adjacent to the walk or access drive to the numbered structure.
3.     Size and Color of Number. Numbers shall be a minimum of four (4) inches high and be of a contrasting color to its background.
4.     Every person whose duty is to display the assigned number shall remove any different number which might be mistaken for, or confused with, the number assigned in conformance with this Subchapter.
5.     Interior Location. All residents and other occupants are requested to post their assigned number and road name adjacent to their telephone for emergency reference.

**SECTION 4-907**      NEW DEVELOPMENTS AND SUBDIVISIONS

All new construction and subdivisions shall be named and numbered in accordance with the provisions of this Subchapter and as follows:

1.     New Construction. Whenever any residence or other structure is constructed or developed, it shall be the duty of the new owner to procure an assigned number from the Town Manager or Code Enforcement Officer. This shall be done at the time of issuance of the building permit.
2.     New Subdivisions. Any prospective subdivider shall show a proposed road name and lot numbering system on the pre-application submission to the Planning Board. Approval by the Planning Board, after approval by the City Council, shall constitute the assignment of road names and numbers to the lots in the subdivision. On the final plan showing proposed roads, the applicant shall mark on the plan, lines or dots, in the center of the streets every fifty (50) feet so as to aid in the assignment of numbers to structures subsequently constructed.



**SECTION 4-908**      EFFECTIVE DATE

The date of effective use of the naming and numbering system established by the City Council shall be on or after January 1, 1999. The City Manager shall notify by mail each property owner and the Post Office of their new address at least sixty (60) days prior to the effective date of their use. It shall be the duty of each property owner to post new property numbers, in accordance with this ordinance, on the stated date of effective use. On new structures, numbering will be installed prior to final inspection or when the structure is first used or occupied, whichever comes first.

**SECTION 4-909**      ENFORCEMENT      (Reserved)

[Derivation: Ordinance No. 98-2, effective July 23, 1998]

**EMERGENCY MANAGEMENT ORDINANCE**

**SECTION 4-910**      **PURPOSE**

It is the intent and purpose of this Ordinance to establish an Emergency Management Agency in compliance and in conformity with the provisions of Title 37-B, MRSA, Section 781 et seq., to ensure the complete and efficient utilization of the City's facilities and resources to combat disaster as defined herein.

**SECTION 4-911**      **DEFINITIONS**

The following definitions shall apply in the interpretation of this ordinance:

1.     Emergency Management Agency. "Emergency Management Agency" means the agency created under this ordinance for the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, in order to minimize and repair injury and damage resulting from disasters or catastrophes caused by enemy or terrorist attacks, sabotage, riots or other hostile action, or by fire, flood, earthquake or other natural or man-made causes. These functions include, without limitation, firefighting, police, medical and health, emergency welfare, rescue, engineering, public warning and communications services; evacuation of persons from stricken areas; allocation of critical materials in short supply; emergency transportation; other activities related to civilian protection and other activities necessary to the preparation for the carrying out of these functions.
2.     Emergency Management Agency Forces. "Emergency Management Agency Forces" shall mean the employees, equipment and facilities of all city departments, boards, institutions and commissions; and in addition, it shall include all volunteer persons, equipment and facilities contributed by or obtained from volunteer persons or agencies.
3.     Director. "Director" means the director of the City of Hallowell's Emergency Management Agency, appointed as prescribed in this ordinance.
4.     Disaster. "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause including, but not limited to, fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, critical material shortage, infestation, explosion or riot.

**SECTION 4-912**      **ORGANIZATION**

The City Manager shall be responsible for the agency's organization, administration and operation. The City Manager may employ such permanent or temporary employees as he deems necessary and prescribe their duties.

The City Council shall review the existing operational organization to ascertain the agency's ability to cope with its responsibilities and shall approve the City's Emergency Operations Plan.

**SECTION 4-913**      APPOINTMENT OF DIRECTOR; DUTIES AND RESPONSIBILITIES

The Mayor shall appoint an Emergency Management Director, who shall coordinate the activities of all City departments, organizations and agencies for civil emergency preparedness within the town and maintain a liaison with other emergency management agencies, public safety agencies, and have such additional duties as prescribed by the City Manager.

**SECTION 4-914**      RULES AND REGULATIONS

The Emergency Management Director shall prepare, under the direction of the City Manager, such policies as may be deemed necessary for the administration and operational requirements of the agency, which policies must be approved by the City Council prior to becoming effective.

**SECTION 4-915**      EMERGENCY PROCLAMATION

The City Manager shall have the power and authority, after consultation with the Mayor, to issue a proclamation that an emergency exists whenever a disaster or civil emergency exists or appears imminent. The proclamation may declare that an emergency exists in any or all sections of the city. If the City Manager is temporarily absent from the city or otherwise unavailable, the Mayor may serve and perform the duties of the City Manager for a period not to exceed 7 calendar days as outlined in ARTICLE III, Section 5 of the City Charter. If neither the City Manager nor the person designated to act in the City Manager's absence is available, then the following persons shall have the power and authority to issue a proclamation that an emergency exists, in the following order of succession: the Emergency Management Director, the Police Chief, the Fire Chief, and the Public Works Director. A copy of such proclamation shall be filed within twenty-four (24) hours in the office of the city clerk.

Notwithstanding the above, when consultation with the Mayor would result in a substantial delay in an effective response in alleviating or preventing an emergency or disaster, the City Manager, or his successor as outlined above, is authorized to take whatever actions are necessary to prevent the loss of life and property in the city. The City Manager and the Emergency Management Director shall be responsible for submitting a full report to the City Council of all actions taken as a result of the declared emergency as soon as the City Council can be convened.

**SECTION 4-916**      TERMINATION OF EMERGENCY

When the City Manager or his successor as outlined above is satisfied that a disaster or civil emergency no longer exists, he shall terminate the emergency proclamation by another

proclamation affecting the sections of the City covered by the original proclamation, or any part thereof. Said termination of emergency shall be filed in the office of the city clerk.

No state of emergency may continue for longer than five (5) days unless renewed by the City Council.

**SECTION 4-917**      CITY MANAGER'S DUTIES AND EMERGENCY POWERS

During any period when an emergency proclamation is in effect, the City Manager may promulgate such regulations as he deems necessary to protect life and property and to preserve critical resources within the purposes of this ordinance. Such regulations may include, but are not limited to, the following:

1. Regulations prohibiting or restricting the movement of vehicles in areas within or without the city;
2. Regulations facilitating or restricting the movement of persons within the city;
3. Regulations pertaining to the movement of persons from hazardous areas within the city;
4. Such other regulations necessary to preserve public peace, health and safety.

Nothing in this section shall be construed to limit the authority or responsibility of any department to proceed under powers and authority granted to them by state statute, city ordinance or the charter of the City of Hallowell.

The City Manager or his designee may order the evacuation of persons from hazardous areas within the city.

The City Manager or his designee shall be authorized to request aid or assistance from the state or any political subdivision of the state and may render assistance to other political subdivision under the provisions of Title 37-B, M.R.S.A.

The City Manager may obtain vital supplies, equipment and other items found lacking and needed for the protection of health, life and property during an emergency without following normal purchasing or formal bid procedures.

The provisions of this section will terminate at the end of the declared emergency.

**SECTION 4-918**      EMERGENCY OPERATIONS PLAN

The Emergency Management Director shall prepare an all hazard Emergency Operations Plan (EOP) for the city, which shall be submitted to the City Council for approval. The EOP shall incorporate the principals of the National Incident Management System (NIMS) and the Incident Command System (ICS).

It shall be the responsibility of all municipal departments and agencies to perform the functions assigned and to maintain their portions of the plan in a current state of readiness. The city plan shall be reviewed periodically by the City Manager in conjunction with all the city department heads and the Emergency Management Director.

**SECTION 4-919**      IMMUNITY FROM LIABILITY

All Emergency Management Agency Forces, while engaged in Emergency Management Agency activities, shall be immune from liability, as set forth in Title 37-B, Section 822 M.R.S.A.

**SECTION 4-920**      COMPENSATION FOR INJURIES

All Emergency Management Agency Forces shall be deemed to be employees of the state when engaged in training or on duty and shall have all of the rights of state employees under the Workmen's Compensation Act, as set forth in Title 37-B, Section 823 M.R.S.A.

**SECTION 4-921**      VIOLATION OF REGULATIONS

It shall be unlawful for any person to violate any provisions of this ordinance or of the regulations or plans issued pursuant to the authority contained herein, or to obstruct, hinder or delay any Emergency Management Agency Forces as herein defined in the enforcement of the provisions of this ordinance or any regulation or plan issued hereunder.

**SECTION 4-922**      PENALTY

Any person, firm or corporation violating any provision of this ordinance or any rule or regulation promulgated hereunder, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00) and the costs of prosecution.

**SECTION 4-923**      SEVERABILITY

Should any provisions of this ordinance be declared invalid for any reason, such declaration shall not affect the validity of other provisions of this ordinance as a whole, it being the legislative intent that the provisions of this ordinance shall be severable and remain valid notwithstanding such declaration.

**SECTION 4-924**      CONFLICTING ORDINANCES, ORDERS, RULES AND REGULATIONS  
SUSPENDED

At all times when an emergency proclamation is in effect, the orders, rules and regulations made and promulgated pursuant to this ordinance shall supersede all existing ordinances, orders, rules and regulations, insofar as the latter may be inconsistent herewith.

[Derivation: Ord. No. 07-10; effective 10/19/2007]

**CHAPTER 5**

**HEALTH AND SANITATION**

**SUBCHAPTER I - IN GENERAL**

**SECTIONS 5-101 THROUGH 5-102** (Reserved)

**SECTION 5-103**      CHIEF OF POLICE, HEALTH OFFICER TO ENFORCE

It shall be the duty of the Chief of Police or the health officer to cause the enforcement of the provisions of this Code relating to health and to prosecute any and all persons violating such provisions.

[Derivation: Section 11-3, 1973 Revised Code of Ordinances]

**SECTION 5-104**      (Reserved)

**SECTION 5-105**      HEALTH OFFICER TO BE APPOINTED; NOTICE OF APPOINTMENT

In accordance with the charter, the City Manager shall appoint a health officer, with the advice and consent of the Mayor and City Council.

The City Clerk shall notify the State Department of Human Services of the same, address and term of appointment of the person appointed health officer.

[Derivation: Section 11-5, 1973 Revised Code of Ordinances]

**SECTION 5-106**      (Reserved)

**SECTION 5-107**      (Reserved)

**SECTION 5-108**      (Reserved)

**SECTION 5-109**      HEALTH OFFICER'S DUTIES GENERALLY

The health officer shall perform those duties ascribed to him by state statute and by this Code.

[Derivation: Section 11-9, 1973 Revised Code of Ordinances]

**SECTION 5-110**      (Reserved)

**SECTION 5-111**      HEALTH OFFICER'S DUTIES ON COMPLAINTS

The Health officer shall:

1.      Receive and examine into the nature of complaints and make inspections of nuisances dangerous to life and health, and order the suppression of the same. Among such conditions, but without being limited to such, he shall suppress dangerous health conditions arising out of sewers and drains, including private sewerage systems, plumbing and toilet facilities, dumps, the containing and disposal of garbage, refuse and rubbish, and presence of rodents.
2.      Act on complaints and make inspections for health conditions in eating establishments and places of public gathering, such inspection to be at least three (3) times a year.
3.      Cooperate with the state department in the inspection of milk under the state statutes.
4.      Inspect promptly all premises for which a victualer's license is applied for and certify to the City Clerk that state and City health laws are complied with or promptly advise the City Clerk of his refusal to so certify.
5.      Make and keep a record of all inspections and proceedings of his office.

[Derivation: Section 11-11, 1973 Revised Code of Ordinances]

**SECTION 5-112**      HEALTH OFFICER'S AUTHORITY TO ORDER CLEANING OF PRIVATE PREMISES; CLEANING BY CITY

When any source of filth or other cause of sickness is found on private property, in accordance with the state statutes, the owner or occupant thereof shall, within twenty-four (24) hours after notice from the health officer, at his own expense, remove or discontinue it; and if he neglects or unreasonably delays to do so, he forfeits an amount subject to 1-109 of this code; and the officer shall cause the nuisance to be removed or discontinued; and all expenses shall thereof shall be repaid to the City by such occupant or owner, or by the person who caused or permitted it.

[Derivation: Section 11-12, 1973 Revised Code of Ordinances]

**SECTIONS 5-113 through 5-116**      (Reserved)

**SECTION 5-117**      ACCUMULATION OF OFFENSIVE REFUSE

The collection of refuse matter in or around the immediate vicinity of and dwelling or place of business, such as swill, waste meat, fish and shells, bones, decaying vegetables, dead carcasses, excrement or any kind of offal that may decompose or generate bacteria or unhealthy gasses shall be considered a nuisance and shall be disposed of in such manner

as to not be offensive, which excludes burning.

[Derivation: Section 11-17, 1973 Revised Code of Ordinances]

**SECTION 5-118**      EXPECTORATING RESTRICTED

No person shall expectorate on any public sidewalk, street or crosswalk or upon the floor of any building.

[Derivation: Section 11-18, 1973 Revised Code of Ordinances]

**SECTION 5-119**      CANINE FECES ON OR NEAR PUBLIC PROPERTY OR NEAR DWELLINGS PROHIBITED

1. No person who owns, possesses or controls a dog shall fail to remove and appropriately dispose of any feces left by that person's dog:
  - A. On any street, sidewalk, or other publicly owned property; or
  - B. Within twenty five feet of any publicly owned property or private dwelling, except on property owned or occupied by that person as a dwelling.
2. No person who owns, possesses or controls a dog shall appear with that dog on any street, sidewalk or publicly owned place without carrying a tool, implement, or other device for the purpose of picking up and containing feces left by that dog.
3. A violation of this Section shall be punishable by a civil penalty of not less than \$50.00, and as provided under Section 1-109.
4. This Section may be enforced by the Health Officer, Code Enforcement Officer, Animal Control Officer or any Police Officer.
5. This Section shall not be applicable to a handicapped person, who is physically unable to comply with the requirements of this Section.

[Derivation: Section 11-18, 1973 Revised Code of Ordinances as adopted 10/7/96]

[Derivation: Ord. No. 09-03, effective 4/23/2009]



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**SUBCHAPTER II**

(Reserved)

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**SUBCHAPTER III - DWELLINGS & STRUCTURES**

**DIVISION A - IN GENERAL**

**SECTION 5-301      DEFINITIONS**

The following definitions shall apply unless the context clearly indicates another meaning or unless otherwise expressly stated for a specific application:

Dwelling shall mean a building occupied either wholly or in part for residence purposes. It may include one (1) or more dwelling units.

Dwelling unit shall mean one (1) or more rooms arranged for the use of one (1) or more individuals living together as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities.

Habitable room shall mean a room or enclosed floor space arranged for living, eating or sleeping purposes not including bath or toilet rooms, laundries, pantries, foyers or communicating corridors.

Rooming unit shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

[Derivation: Section 11-54, 1973 Revised Code of Ordinances]

**SECTION 5-302      DWELLING OWNER'S DUTIES IN GENERAL**

1. Every dwelling and all parts thereof shall be kept by owner or lessee in good repair and structurally sound so that such dwelling is in a condition fit for human habitation.
2. The following requirements shall be complied with:
  - A. The roof shall be maintained so as not to leak, and all water shall be so drained and conveyed therefrom so as not to cause repeatedly wet floors, walls, or ceilings, or nuisances to adjacent buildings, or to overflow on abutting property.
  - B. All foundations, basements, cellars, steps, floors, stairwells, doors, porches, windows, skylights, air shafts, mantels, chimneys, electric wiring and fixtures, plumbing, sewer systems, toilets, sinks, interior and exterior walls and ceilings, and similar parts and equipment shall be kept in good, sound, safe and useable condition.
  - C. Whenever a dwelling is vacated and before reoccupancy, it shall be the duty of the owner or agent to assure that such dwelling is in a clean, sanitary and habitable condition and free from infestation by vermin or rodents.

[Derivation: Section 11-55, 1973 Revised Code of Ordinances]

**SECTION 5-303**      OCCUPANT'S DUTIES IN GENERAL

It shall be the duty of the occupant of each premise or portion thereof over which he has control to maintain the same as follows:

1. Each dwelling or rooming unit and parts appurtenant thereto shall be maintained in a clean, safe and sanitary condition.
2. The occupant shall be responsible for the cleanliness and sanitation of all plumbing fixtures used by his household. No occupant shall deposit material in any fixture which might result in stoppage of or the drainage of the fixture. Stoppages deemed to be due to improper use or neglect shall be corrected by the occupant but nothing in this subsection shall be construed to exempt the owner or his agent from making plumbing repairs when they become necessary or when ordered to do so by the health officer or his agent.
3. All halls, passageways, and stairways shall be kept free from encumbrances or obstructions of all kinds.

[Derivation: Section 11-56, 1973 Revised Code of Ordinances]

**SECTION 5-304**      DWELLINGS TO COMPLY WITH STANDARDS

Every dwelling and every part thereof shall conform to the minimum standards set out in this article. These standards are not to be construed as those for standard housing if some other section of any City ordinance of the sanitation code of Hallowell, or if existing state law, requires a higher standard.

[Derivation: Section 11-57, 1973 Revised Code of Ordinances]

**SECTION 5-305**      NOTICE TO CORRECT DEFICIENCIES

When any structure or unit is found to be classified as substandard within the meaning of this article upon inspection by the health officer or Code Enforcement Officer or their agents, the owner, owner's agent, or occupant, or both shall be given a written notice by the health officer which shall set forth the deficiencies and a reasonable time limit for the correction of such deficiencies.

[Derivation: Section 11-58, 1973 Revised Code of Ordinances]

**SECTION 5-306**      PROHIBITED USES OF DWELLINGS IN GENERAL; SEPARATION OF UNITS REQUIRED

1.      No portion of a structure used as a dwelling may be used or open into a point shop, paint store, vulcanizing shop, dry cleaning establishment, public garage or any place where paint, varnishes, lacquers, thinners, gasoline or petroleum products are used or stored except as provided under the building code.
2.      Common walls or ceiling separating such usage from dwelling units shall have no vents or openings whereby fumes or vapors may pass into the dwelling unit.

[Derivation: Section 11-59, 1973 Revised Code of Ordinances]

**SECTION 5-307**      AUTHORITY TO DECLARE AREAS UNFIT FOR OCCUPANCY; CONDITIONS PROMPTING ORDER TO VACATE

Any building, structure, tent, vehicle, apartment, room, premises or portion thereof, used for living or sleeping purposes may be declared unfit for human occupancy by the health officer, Code Enforcement Officer or their agent and may be required to be vacated and kept vacant as long as any of the following conditions or circumstances exist therein or thereon:

1.      Unsanitary conditions which are or may become detrimental to health.
2.      The interior or exterior walls, foundation, doors, windows, floors, stairs, roof or any other portion of any building structure, tent, vehicle, apartment, room, premises or portion thereof, are so deteriorated, broken, damaged, or in such state of disrepair as to cause conditions detrimental to life, health and safety.
3.      Lack of toilet facilities whereby nuisances and health hazards are created.
4.      The plumbing, plumbing fixtures, cesspools or other waste disposal facilities are in such condition as to create a nuisance or a health hazard.
5.      Serious or dangerous overcrowding of persons in sleeping rooms or space whereby a hazard to health is created.
6.      Rodent or vermin infestation within the building which may result in contamination of food or other health hazards.
7.      No adequate water supply is available or the available supply is subject to such contamination as may cause a health hazard.
8.      An infectious or communicable disease exists therein and as a result thereof reasonable, isolation and disinfection procedures cannot be followed due to a lack of sanitary facilities or overcrowding.

[Derivation: Section 11-60, 1973 Revised Code of Ordinances]

**SECTION 5-308**      NOTICE REQUIRED PRIOR TO DECLARING UNFIT

Before any building, structure, tent, vehicle, apartment, room, premises or portion thereof, may be declared unfit for human occupancy, the health officer, Code Enforcement Officer or their agent, shall issue a notice in writing setting forth the reasons for such declaration to the occupants, or the owner, or persons having control of or any of them, requiring the building, structure, apartment, tent, room, premises or portion thereof, to be put into proper condition for habitation, or if he sees fit, requiring the occupants to quit the premises within such time as the health officer or Code Enforcement Officer may deem reasonable. A reasonable time shall be construed to mean not less than five (5) days nor more than thirty (30) days.

[Derivation: Section 11-61, 1973 Revised Code of Ordinances]

**SECTION 5-309**      NOTICE TO CORRECT, VACATE; POSTING NOTICE PROHIBITING OCCUPANCY; REMOVAL

1. In instances where the health officer or Code Enforcement Officer determines that extreme danger or menace to the occupants or public health exists, the health officer or Code Enforcement Officer may order immediate correction to be made, or if the circumstances warrant, may order immediate evacuation of the occupants.
2. If the persons so notified, or any of them, neglect or refuse to comply with the terms of the order, the health officer or Code Enforcement Officer shall then declare the premises unfit for human habitation by issuing to the occupants and the owner, a written notice to vacate the premises within such time as the health officer, Code Enforcement Officer, or their agent may deem reasonable and a notice prohibiting continued occupancy or reoccupancy shall be conspicuously posted on the premises or portion thereof.
3. It shall be unlawful for any person to remove or deface said posted notice or sign.

[Derivation: Section 11-62, 1973 Revised Code of Ordinances]

**SECTION 5-310**      REOCCUPANCY SUBSEQUENT TO NOTICE TO VACATE

No person owning, occupying or having control of any posted building, structure, tent, vehicle, apartment, room, premises or portion thereof, which has been ordered vacated by the health officer or Code Enforcement Officer shall occupy, reoccupy, rent or permit to be rented or occupied, any such premises without the written consent of the health officer, Code Enforcement Officer or their agent, certifying that the required corrections have been made.

[Derivation: Section 11-63, 1973 Revised Code of Ordinances]

**SECTION 5-311**      ORDERS TO BE SUBMITTED TO GRANTEE PRIOR TO TRANSFER, PENALTY

1. It shall be unlawful for the owner of any building, structure, tent, vehicle, apartment, room, premises or portion thereof, against which any lawful order has been issued by the health officer or Code Enforcement Officer to sell, transfer or otherwise dispose thereof to another unless he shall first furnish to the grantee prior to transfer thereof a true copy of any order issued by the health officer, Code Enforcement Officer or their agent, and at the same time notify the health officer, Code Enforcement Officer, in writing, of the intent to transfer, either by delivering such notice to the health officer or Code Enforcement Officer and receiving a receipt therefor, or by certified or registered mail, return receipt requested, giving the name and address of the person to whom the transfer is proposed.
2. In the event of any violation of the terms of this section, the grantor shall be subject to provisions of 1-109 of this code.

[Derivation: Section 11-64, 1973 Revised Code of Ordinances]

**SECTION 5-312**      CONNECTION WITH PUBLIC SEWER SYSTEM REQUIRED, EXCEPTION

All buildings with kitchen or toilet facilities shall be connected with the public sewer system if within three hundred (300) feet of the nearest sewer or if not so connected an approved septic tank system in good working order shall be provided.

[Derivation: Section 11-65, 1973 Revised Code of Ordinances]

**SECTION 5-313**      REGULATION OF SEPTIC TANKS

A septic tank system authorized by Section 5-312 of this article shall conform strictly to the Maine Subsurface Disposal System Regulations.

[Derivation: Section 11-66, 1973 Revised Code of Ordinances]

**SECTIONS 5-314 THROUGH 5-330** (Reserved)

**DIVISION B - RODENT CONTROL AND VERMIN CONTROL**

**SECTION 5-331**      DEFINITIONS

For the purpose of this division the following definitions shall apply:

1. Building shall mean any structure, whether public or private, whether vacant or occupied, that is adapted or used for dwelling occupancy, for the transaction of business for the rendering of professional service, for amusement, for the display or



sale or storage of goods, wares, merchandise, articles or equipment, for the performances of work or labor, for office buildings, public buildings, stores, theaters, markets, restaurants, warehouses, grain processing, abattoirs, workshops, garages or structures where domestic or other animals or fowl are kept, for sheds, barns, outbuildings or other structures or premises used as accessories to any such use.

2. Occupant shall mean the individual, partnership or corporation that has the use of or occupancy of any building, or a portion thereof, whether or not the actual owner or tenant.
3. Opening shall mean and refer to any opening in the foundation, sidewalls, ground or first floor, basements and roofs including chimneys, eaves, grills, windows, vents, vent pipes, ventilators, sidewalk grates, elevators and space around any pipe, wire or other installations connected with buildings through which rodents may enter.
4. Owner shall mean the actual owner of the buildings, whether individual, partnership or corporation or the agent of the building or other person having custody of the building or to whom the rent is paid.
5. Rodent-eradication shall mean the elimination or extermination of rodents within buildings by any or all of accepted measures such as poisoning, fumigation or trapping so that the buildings are completely free of rodents and there is no evidence of rodent infestation.
6. Rodent-harborage shall mean any condition which provides shelter or protection for rodents, thus favoring their multiplying and continued existence.
7. Rodent-proof or rodent-proofing shall apply to a form of construction which will prevent the ingress or egress of rats to or from a given space or building or gaining access of food, water or harborage. It consists of the closing and keeping closed, by the use of material impervious to rodents, every opening in foundations, basements, cellars, exterior and interior walls, ground or first floors, roofs, sidewalk gratings, sidewalk openings, and other places that may be reached and entered by rodents by climbing, burrowing or gnawing.
8. Vermin shall include noxious little animals or insects such as larvas, flies, bedbugs, roaches, fleas, lice and mites.

[Derivation: Section 11-77, 1973 Revised Code of Ordinances]

**SECTION 5-332      APPLICABILITY**

It shall be unlawful to erect, repair, alter or extend any building or structure unless such construction, repair or alteration shall render the building or structure rodent-proof in accordance with the definitions contained herein; provided that only such construction, repair or alteration as affects the rat-proof condition of any building or structure shall be considered as subject to the provisions of this division.

[Derivation: Section 11-78, 1973 Revised Code of Ordinances]

**SECTION 5-533**      PERMITTING INFESTED CONDITION AFTER NOTICE

It shall be unlawful for the owner or occupant of any premises within the City to maintain such premises in a vermin or rodent infested condition after he has notice of that condition from the health officer, Code Enforcement Officer, or their agent.

[Derivation: Section 11-79, 1973 Revised Code of Ordinances]

**SECTION 5-334**      CONDITIONS PRECEDENT TO ISSUANCE OF LICENSES TO FOOD HANDLERS

No license shall be issued for the storing, processing, preparing, manufacturing, selling or offering for sale of any food, foodstuff or food products until the health officer or his duly authorized agent, certifies that the building or structure where such operation is to be conducted is of rodent-proof construction or has been rendered rodent-proof.

[Derivation: Section 11-80, 1973 Revised Code of Ordinances]

**SECTION 5-335**      NOTICE TO ERADICATE, SERVICE

When any building, structure, or premises is found to be rodent or vermin infested, the health officer or his duly authorized representative shall issue a notice in writing to the owner or occupant, setting forth the conditions of such premises and a reasonable time limit to correct the conditions found. Such notice may require the use of necessary measures for rodent eradication deemed essential by the health officer. Notices may be served by an employee of the health department, by the police department or by certified or registered mail addressed to the person to be notified.

[Derivation: Section 11-81, 1973 Revised Code of Ordinances]

**SECTION 5-336**      AUTHORITY TO DECLARE INFESTED PREMISES UNFIT FOR OCCUPANCY

If the health officer shall find any building, structure or premises so heavily infested with vermin or rodents as to result in an actual or potential hazard to the health of the occupants or to the public health, he shall have the authority to declare the premises unfit for any occupancy or use until the vermin or rodents are eradicated.

[Derivation: Section 11-82, 1973 Revised Code of Ordinances]

**SECTION 5-337**      UNLAWFUL TO REMOVE RODENT-PROOFING, DEVICES, EXCEPTION

It shall be unlawful for the occupant, owner, contractor, public utility employee, plumber or any other person to remove, damage or destroy any part of a building or its appurtenances

intended to protect such premises against ingress of rodents or in any other way create a condition by which ingress for rodents is made possible provided that this section shall not apply where the interference with the rodent-proofing is made necessary in connection with lawful construction or repair and the rodent-proofing is promptly restored.

[Derivation: Section 11-83, 1973 Revised Code of Ordinances]

**SUBCHAPTER IV – SOLID WASTE DISPOSAL**

[Derivation: Ordinance No.: 03-19, Effective Date: November 20, 2003]

**SECTION 5-401**      DEFINITIONS

1. "Garbage," means all animal and vegetable waste and all decayable matter including waste resulting from the handling, sale, storage, preparation, cooking and consumption of food and food products. For the purpose of this Chapter, garbage shall not mean or include organic matter contained in properly maintained compost piles or covered subsurface packaged garbage decomposing units so long as no health hazard or other nuisance is created, shall not include leaves, pine needles, grass clippings, tree trimmings or similar plant materials used for fill or mulching purposes, and shall not include agricultural wastes produced by a farm or farm operation conforming with best management practices as defined in 17 M.R.S.A. §2805.
2. "Junk," means all rubbish and trash, including discarded, worn out or junked household appliances, furniture, plumbing and heating supplies; scrap and junked lumber, wood products and building materials; old or scrap metal of any kind, paper products, bedding, bricks, glass, plastic, rags, rope, batteries and other scrapped or junked manufactured items or materials, but excluding garbage. The fact that junk or any constituent thereof may have value or other use or may be sold or exchanged does not exclude it from this definition.
3. "Solid Waste Landfill," means an area used for the disposal of garbage, junk, or other solid waste, on or in land, except as provided by statute. Terms used in this definition, not defined herein, shall have the same definitions as provided in 38 M.R.S.A. §1303-C.
4. "Commercial Waste Hauler" means any person engaged in the collection, storage or transportation of solid waste and/or recyclable materials for a fee or other compensation operating within the City of Hallowell. This term does not include a person who hauls and lawfully disposes of only construction debris or clean fill.
5. "Dumpster" means an outdoor container, larger than 75 cubic feet, used for storage of solid waste or recyclable materials while awaiting collection and removal to a disposal site.
6. "Person" means any individual, firm, corporation, partnership, association or any other legal entity, or agents or contractors of any of the foregoing.
7. "Recyclable Materials" mean discarded materials that are identified by category in Section 5-407 of this Subchapter.
8. "Resident" means any person residing in or having a place of business in the City of Hallowell during all or any part of the year.

9. "Solid Waste" means useless, unwanted or discarded solid material with insufficient liquid content to be free-flowing, including, but not limited to, rubbish, garbage, refuse-derived fuel, scrap materials, junk, refuse, inert fill material and landscape refuse, but not including hazardous waste, biomedical waste, septic tank sludge or agricultural wastes. The fact that a solid waste or constituent of the waste may have value or other use as recyclable, or may be sold or exchanged, does not exclude it from this definition.
10. "Universal Waste" means waste that may contain hazardous amounts of toxic materials, such as mercury, lead and PCBs. Universal waste includes, but is not limited to, cathode ray tubes (computer monitors, televisions), fluorescent light bulbs, mercury-containing thermostats, non-leaking PCB lighting ballasts, mercury thermometers and certain batteries.
11. "White Goods" means large, metal appliances such as refrigerators, stoves, washing machines, clothes dryers, freezers, dishwashers, air conditioners and water heaters.
12. "Automobile Graveyard" means a yard, field, or other outdoor area used to store 3 or more unregistered or uninspected motor vehicles, as defined in 29-A M.R.S.A., section 101, subsection 42, or parts of the vehicles. "Automobile Graveyard" includes an area used for automobile dismantling, salvage and recycling operations.
13. "Automobile Recycling Business" means the business premises of a dealer or a salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage business as long as 80% of the business premises specified in the site plan in section 3755-A, subsection 1, paragraph C is used for automobile recycling operations.
14. "Junkyard" means a yard, field or other outside area used to store, dismantle or otherwise handle:
  - A. Discarded, worn-out or junked plumbing, heating supplies, electronic or industrial equipment, household appliances or furniture;
  - B. Discarded, scrap and junked lumber; and
  - C. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material.

**SECTION 5-402      PROHIBITION**

1. Storage. It shall be unlawful to store any garbage or junk outside of a closed structure within 300 feet of any dwelling, retail or service establishment, or public road within the City, unless such garbage or junk is stored in closed rigid containers that provide protection against animals, insects, wind and precipitation, except that:
  - A. Garbage may be stored in sealed plastic bags outside a closed structure or container for a period not to exceed forty-eight (48) hours, provided that such

garbage will be removed from the premises within said period.

- B. Any item of junk that does not fit within a standard container may be stored outside a closed structure or container for a period not to exceed seven (7) days;
  - C. Junk stored within a licensed junkyard or salvage facility may be stored within 300 feet of any structure used solely for the purpose of storing, processing, salvaging, or selling such junk, to the extent permitted by law.
  - D. Junk which is to be salvaged or repaired may be stored for a period not to exceed forty-five (45) days within 300 feet of a repair establishment.
- 2. Disposal. It shall be unlawful to operate or maintain a solid waste landfill within 300 feet of any dwelling, commercial or institutional structure, public road or water body within the City.
  - 3. Permits. No person may establish, operate, or maintain a junkyard, automobile recycling business or automobile graveyard within the City without first obtaining a nontransferable permit from the City Council pursuant to 30-A M.R.S.A. §§3751-3760 as amended.
  - 4. Illegal Waste Disposal. Solid waste and recyclable materials generated or picked up in the City shall be collected, stored, transported and disposed of in compliance with this Subchapter and all applicable state and federal laws.

**SECTION 5-403      ENFORCEMENT; REMEDIES**

- 1. Enforcement. The Code Enforcement Officer shall enforce the provisions of this Chapter as provided in 30-A M.R.S.A. §4452.
- 2. Penalties and Other Remedies. Any person, including but not limited to a landowner, the landowner's agent, or a contractor who violates the provisions of this Article is liable for the civil penalties and remedies set forth in 30-A M.R.S.A. §4452. The minimum penalty for a specific violation is One Hundred Dollars (\$100) and the maximum penalty for a specific violation is Twenty Five Hundred Dollars (\$2500). A specific violation occurs on each day a violation continues to exist after written notice of violation has been sent to the land owner. Civil penalties may be assessed on a per day basis.
- 3. Reimbursement of Costs. In addition to liability for penalties, any person violating any section of this Subchapter shall be liable to reimburse the City for all costs resulting from violation, including without limitation costs of collection and proper disposal of waste, clean-up and remediation of any contamination, and all costs of enforcement including reasonable attorney fees and court costs.
- 4. License Revocation. Any licensed commercial waste hauler that violates any section

of this Subchapter is subject to license revocation for a period determined by the City Council of up to two years. The City Council may revoke a license after notifying the hauler of the violation and providing the hauler with an opportunity for a hearing on the matter. The City Council may refuse to allow the renewal of a license that has been previously revoked except upon a demonstration that the hauler has taken measures to the City Council's satisfaction to assure that violations have been properly remedied and will not recur.

5. Inspection. In order to determine compliance with the requirements of this Subchapter, the Hallowell Police Department and other representatives of the City designated by the City Manager may inspect vehicles, equipment and other facilities of any commercial waste hauler operating in the City.

**SECTION 5-404**      AUTHORITY; PROVISIONS SUPPLEMENTARY TO STATUTE

This Chapter is enacted pursuant to 30-A M.R.S.A. §3001, §3755(5) and §4452(5) and pursuant to 38 M.R.S.A. §1310-U. The provisions contained herein are intended to be supplementary to provisions of the Maine Revised Statutes relating to public nuisances (Title 17), health hazards (Title 22), fire hazards (Title 25), junkyards (Title 30-A) and solid waste (Title 38).

[Derivation: Chapter 10, 1973 Revised Code of Ordinances as repealed and replaced 10/10/95]

**SECTION 5-405**      CITY'S NORTH BAY RECYCLING FACILITY

1. **Authorized Use.** The City currently maintains a recycling facility at the City's Public Works Garage, where residents of Hallowell may dispose of certain types of solid waste and recyclable materials. The City Council or City Manager will determine from time to time what types of solid waste and recyclable materials may be delivered to this facility, the hours and days when residents may leave these types of materials and other requirements for the use of this facility. These requirements will be posted at the facility. All persons delivering or authorizing the delivery of solid waste or recyclable materials to this facility shall comply with the date, time and other requirements posted at the facility together with the other requirements set forth in this Subchapter and any other directives issued by the City attendants at the facility.
2. **Restricted to Residents.** Use of the City's recycling facility is restricted to residents of the City. Users of the facility shall provide proof of residency, which may include a driver's license, on request of a City attendant. Commercial waste haulers may not make use of the City's recycling facility except with the City Manager's prior written authorization.
3. **Certain Wastes Expressly Prohibited.** Nothing containing hazardous waste or toxic substances may be deposited at the City's recycling facility. Only types of wastes and recyclable materials that have been expressly authorized by the City Manager or City Council may be deposited at the facility. Without limiting the

generality of the foregoing, no septic waste or sludge, liquid waste, special waste, waste oil or petroleum-derived products, animal or agricultural waste, biomedical waste, construction debris, dredge spoils, fill, asbestos, pesticides or liquid waste may be deposited at the facility. The City Council may make specific exceptions to these prohibitions when specific types of waste, as designated by the Council, may be deposited and collected.

4. **Salvage.** The City Manager may contract with any person to haul and/or dispose of materials from the City's recycling facility.
5. **Fees.** The City Council may set fees and other special requirements for the deposit of designated wastes at the City's recycling facility.
6. **Cost of Removal of Unacceptable Materials.** If any waste or other materials are deposited at the City's recycling facility in violation of this Ordinance, in addition to any civil penalty or other sanction that may be assessed, all costs associated with cleanup and proper disposal of such materials and the remediation of the site shall be reimbursed to the City by the person depositing or causing or permitting the deposit of them.
7. **Operating Costs.** The costs of operating the North Bay Recycling Facility is funded through the Municipal General Fund Budget. The Solid Waste Disposal Department budget line shall not be exceeded without approval of the City Council.

**SECTION 5-406**      WASTE CONTAINERS AND DUMPSTERS

1. **Loaded Vehicles.** No person shall operate or cause or permit to be operated upon a public way any vehicle or trailer containing solid waste, unless such waste is secured or otherwise confined so as to prevent any portion of the waste from falling or leaking to the ground.
2. **Waste containers.** Solid waste that is stored outside of a building shall be kept in receptacles that are designed and maintained to fully contain all components of the waste without leaking, attracting animals or emitting noxious odors. Clean solid waste that does not leak any components of the waste onto the ground, such as washed glass, bulky waste or white goods, need not be covered.
3. **Dumpsters.** Dumpsters require a permit from the City, which may be revoked by the Code Enforcement Officer if the dumpster is not in compliance with this Ordinance. Dumpsters shall be designed, maintained and regularly emptied so that they are secure, safe, covered and leak-proof, and so that they do not leak, attract animals or emit noxious odors. Dumpsters may not be placed within, or otherwise obstruct or impair access to any public right of way. All dumpsters for the temporary storage of household and/or commercial waste shall be screened by a 6-foot high fence or 6-foot plantings which are of a type to form an effective visual barrier. With a temporary permit issued by the City, a dumpster may be temporarily placed in any safe location on private property during construction or demolition activities or as otherwise



needed for short-term use, without the need for screening. A temporary permit shall be for 60 days, with renewals of such a permit not to aggregate more than 180 days.

[Derivation: Ord. No. 07-12; effective 10/19/2007]

**SECTION 5-407      RECYCLING REQUIREMENTS FOR COMMERCIAL WASTE HAULERS**

**1.      Categories of Recyclable Materials.**

- a.      Recyclable materials shall include the following categories, subject to change by the Council as provided in 1.b.:

Wood  
HDPE #2 Plastic  
Clear glass  
Metals, including tin, steel and aluminum  
Newsprint  
Cardboard

- b.      The City Council from time to time may review and change the foregoing categories of recyclable materials. In its review, the Council will consider the recommendations of the Solid Waste Committee, input from commercial waste haulers and other information regarding markets for recyclable materials, feasibility and other factors. If the Council intends to add to the categories of recyclable materials, it shall give all commercial waste haulers licensed under this Ordinance at least 30 days prior written notice of the proposed change and shall provide an opportunity for a public hearing before the change goes into effect. Any final decision by the Council to change the categories of recyclable materials shall be by order of the Council, a copy of which will be sent in writing to each licensed hauler.

2.      **Landlord Responsibilities.** Landlords shall provide a reasonably convenient place for their tenants to store and separate recyclable materials while awaiting collection by a commercial waste hauler.

**SECTION 5-408      LICENSING REQUIREMENTS FOR COMMERCIAL WASTE HAULERS**

1.      **License Required.** Each commercial waste hauler shall obtain an annual license from the City. The license shall be valid from July 1 to June 30 of the following year. Possession of a commercial waste hauler's license does not make the hauler an agent, employee or contractor of the City. In order to obtain a license, an applicant must:

- a.      Provide a schedule of the hauler's usual fees for collection and disposal of solid waste and recyclable materials for residential and commercial customers in the City. The hauler may set different levels of fees based upon the amount of solid waste and/or recyclable materials generated or expected

to be generated by the customer and for other special services. If, during the course of the license year the hauler changes its schedule of fees, it shall provide a copy of the new schedule to the City;

- b. Agree to comply with the terms of this Ordinance;
  - c. Provide evidence of the following: (1) general public liability insurance in the minimum amount of \$1,000,000 per occurrence; (2) Auto Liability Insurance for all vehicles to be used in connection with collection and hauling of solid waste in the minimum amount of \$400,000 per occurrence; (3) Proof of Statutory Workers Compensation Insurance and Employers Liability coverage in the minimum amount \$400,000; (4) insurance certificates naming the City of Hallowell as an additional insured and providing to the City 30 days prior written notice of policy cancellation or alteration, except to add coverage, which shall require contemporaneous notice to the City; and (5) vehicle registration information for each vehicle to be used for collecting or hauling solid waste within the City. The commercial hauler shall notify the City Manager of any changes in vehicle registration occurring during the license year;
  - d. Pay any license or other fees established by the City Council;
  - e. Provide a copy of a valid, non-hazardous waste transporter license issued by the Department of Environmental Protection;
  - f. Indicate the disposal site(s) or other destination(s) to which the hauler intends to transport solid waste and recyclable materials. If, during the license year, the hauler changes any such destination, it shall report the new destination in writing to the City Manager; and
  - g. Provide a list of those customers, and their addresses, who have dumpsters.
2. **License Renewal and Reporting.** All commercial waste haulers must submit quarterly reports for the July 1<sup>st</sup>, October 1<sup>st</sup>, January 1<sup>st</sup>, and April 1<sup>st</sup> quarters. The reports are due within 2 weeks of the end of the appropriate quarter. The report shall be on a form that may be designated by the City and shall provide a reasonable estimate of the amount, by weight, of solid waste and, separately, of recyclable materials that were collected by the hauler within the City during the previous calendar year, and the location where each category of waste and recyclable materials was disposed of by the hauler. No renewal license will be issued to a commercial waste hauler that has not submitted these quarterly reporting forms.
3. **Hauler Responsibilities**
- a. The City has a contract with a licensed solid waste disposal facility to accept solid waste generated within the City. The commercial waste hauler must dispose of solid waste at this facility or at any other legally authorized

disposal or recycling facility. The commercial waste hauler is responsible for payment of any tipping or other fees or costs imposed by the disposal or recycling facility as well as other fees, costs of collection and transportation to the facility and any other costs associated with disposal or recycling of the waste.

- b. The City will provide commercial waste haulers with a copy of an information sheet describing relevant provisions of this Ordinance and related information. Each hauler will distribute one copy of the information sheet to each customer at the beginning of service for that customer and at least once annually thereafter.
  - c. During collection, transport and disposal of solid waste and recyclable materials, commercial waste haulers shall maintain separation of any recyclable materials that are separated by their customers, according to the categories established under Section 5-407, Subsection 1 of this Ordinance.
  - d. Commercial waste haulers shall not mix solid waste and recyclable materials collected within the City with that collected outside the City, unless the hauler employs a method to weigh the materials collected within Hallowell for purposes of complying with the reporting requirements of this Ordinance.
  - e. Commercial waste haulers must dispose of solid waste at waste disposal or collection facilities licensed for that purpose by the Maine DEP or otherwise legally authorized. Separated recyclable materials shall be taken to recycling facilities.
  - f. At the request of the City Manager, a commercial waste hauler shall provide information to the City sufficient to demonstrate the hauler's ability to comply with the requirements of this Ordinance.
  - g. Commercial waste haulers will ensure that they have space and capacity on their trucks to collect all recyclables set out by all of their customers in the city.
4. **Responsibilities of Customers of Commercial Waste Haulers.** Any person hiring a commercial waste hauler for collection of solid waste or recyclable materials in Hallowell shall contract only with a hauler licensed as provided by this Ordinance. Solid waste shall not be placed curbside, which means outside within 25 feet of a public street, for more than 24 hours before scheduled pick-up by a licensed hauler.

[Derivation: Ord. No. 07-11; effective 10/19/2007]

**SECTION 5-409**      SOLID WASTE ADVISORY COMMITTEE

- 1. **Committee Appointment.** With the advice and consent of the City Council, the Mayor shall appoint five citizens of the City to serve as the Solid Waste Advisory

Committee. Appointments shall be for a term of two years, with the initial appointments to be staggered for a period of one year so as to create term expirations that are reasonably balanced from year to year. The Committee shall include representatives of the City's business, education and residential communities.

2. **Committee Responsibilities.** The Solid Waste Advisory Committee shall provide assistance to the City in evaluating the effectiveness of this Subchapter in carrying out its purposes, and in studying and reporting on other measures that the City should consider in furthering those purposes, including without limitation seeking to lower costs to Hallowell citizens of solid waste collection and disposal, providing for public education concerning solid waste disposal and recycling, and providing for an efficient means of collection of household hazardous waste, universal waste, white goods and other bulky wastes, and recyclable materials.

[Derivation: Ordinance No.: 03-19, Effective: November 20, 2003]

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**SUBCHAPTER V – UNREGISTERED MOTOR VEHICLES**

**SECTION 5-501      PREAMBLE**

The City of Hallowell finds that the outside storage of three or more unregistered used motor vehicles on any lot is a public nuisance, except as expressly permitted herein.

**SECTION 5-502      DEFINITIONS**

The definitions under 29-A M.R.S.A. §101 and §851, and 30-A M.R.S.A. §3752 shall apply to undefined terms used in this Chapter.

**SECTION 5-503      PROHIBITION**

It shall be unlawful for the owner or occupant of any lot within the City to permit or cause the storage or placement of three or more unregistered used motor vehicles upon such lot, unless such vehicles are within an enclosed structure, or unless provided otherwise under Section 5-504.

**SECTION 5-504      EXEMPTIONS**

Section 5-503 shall not apply if:

1. The unregistered used motor vehicles are stored in a licensed junkyard or automobile graveyard, stored on a lot primarily used as a licensed automobile recycling business, or are stored in a manner that complies with the standards established for automobile recycling businesses under 30-A M.R.S.A. §3755-A and this Code after prior approval of the Code Enforcement Officer.
2. The unregistered used motor vehicles, not to exceed five in number, are stored on a lot primarily used as a commercial automobile repair facility, provided such vehicles are not stored for more than 30 days.
3. The lot contains one or more dwellings and no more than one unregistered vehicle is owned by each of three or more occupants of such lot and each of said occupants holds a valid and current State of Maine drivers license.
4. The unregistered used motor vehicles are stored on a lot upon which a used car dealer has an established place of business within the City or at any licensed branch or annex thereof, if the dealer and all locations are licensed pursuant to 29 M.R.S.A. §951.

**SECTION 5-505      ENFORCEMENT; REMEDIES**

1. Enforcement. The Code Enforcement Officer shall enforce the provisions of this Chapter as provided in 30-A M.R.S.A. §4452.

2. Penalties and other remedies. The penalties and other remedies for violation of the provisions of this Chapter shall be the same as those provided in Section 5-403.

**SECTION 5-506**      TRANSITION PROVISION

Notwithstanding Sections 5-501 through 5-505 above, the owner of any lot that was not in compliance with Section 5-503 prior to December 13, 1999 shall not be subject to civil penalties or other enforcement action under Section 5-505, provided that no additional unregistered used motor vehicles are placed on the lot, except as expressly permitted, and further provided that:

1. If the number of existing unlawfully stored vehicles on the lot is less than 20, all such vehicles shall be removed prior to January 1, 2001.
2. If the number of existing unlawfully stored vehicles on the lot is more than 20 but less than 40, no less than 20 such vehicles shall be removed prior to January 1, 2001, and all other unlawfully stored vehicles shall be removed prior to January 1, 2002.
3. If the number of existing unlawfully stored vehicles on the lot is more than 40, not less than 20 such vehicles shall be removed prior to January 1, 2001, not less than an additional 20 vehicles shall be removed prior to January 1, 2002, and all other unlawfully stored vehicles shall be removed prior to January 1, 2003.

**SECTION 5-507**      AUTHORITY

This Chapter is enacted pursuant to 30-A M.R.S.A. §3001, §3755(5) and §4452(5).

[Derivation: Ordinance No.: 00-5, eff. 2/17/00]

**CHAPTER 6**

**PUBLIC PROPERTY**

**SUBCHAPTER I - PUBLIC WORKS DEPARTMENT**

**SECTION 6-101**      CITY MANAGER TO ADMINISTER OPERATIONS OF PUBLIC WORKS DEPARTMENT

The City Manager shall have general supervision over and shall administer all operations of the public works department including all work performed. It shall be the duty of the City Manager to superintend the general state of the streets, sidewalks and other City property, except as otherwise provided in this Code.

[Derivation: Sections 20-1 and 20-2, 1973 Revised Code of Ordinances as amended]

**SECTIONS 6-102 - 6-105**      (Reserved)

**SECTION 6-106**      CITY MANAGER RESPONSIBLE FOR MAINTENANCE AND REPAIRS

The City Manager, assisted by a highway foreman, shall attend to the maintenance and repairs of the streets, sidewalks and other City property.

[Derivation: Section 20-6, 1973 Revised Code of Ordinances]

**SECTION 6-107**      HIGHWAY FOREMAN TO GIVE NOTIFICATION OF NUISANCES, OBSTRUCTIONS, ETC.

The highway foreman shall give notice to the City Manager or Chief of Police of any nuisance, obstruction or encroachment upon the streets, sidewalks and public places.

[Derivation: Section 20-8, 1973 Revised Code of Ordinances]

**SECTION 6-108**      ENCROACHMENTS; PROSECUTE OFFENDERS

The City Manager or the Code Enforcement Officer shall see that no encroachment is made upon any street, public landing place, square or property of the City by fences, buildings or otherwise, and whenever any encroachment shall thereafter be made thereon, and the party making the same shall neglect or refuse to remove it, the City Manager shall, with the aid of the City Solicitor, cause the person offending to be prosecuted and the nuisance abated.

[Derivation: Section 20-9, 1973 Revised Code of Ordinances]



**SECTION 6-109**      HIGHWAY FOREMAN TO CARE FOR CITY'S HIGHWAY VEHICLES,  
EQUIPMENT

The highway foreman shall take the general care of all highway vehicles and equipment owned by the City.

[Derivation: Section 20-7, 1973 Revised Code of Ordinances]

**SECTION 6-110**      CITY MANAGER AND HIGHWAY FOREMAN AUTHORIZED TO CLOSE  
STREETS FOR REPAIR, ETC.

The highway foreman or superintendent of the water district with consent of the City Manager, at any time, may authorize the closing of a street to the passage of motor vehicles to repair or reconstruct such street due to any emergency or damage. If the City Manager exercises such authority, he shall notify the fire chief of such action.

[Derivation: Section 20-11, 1973 Revised Code of Ordinances]

**SUBCHAPTER II - STREETS AND SIDEWALKS**

**DIVISION A - GENERAL**

**SECTION 6-201**      **STATE STATUTES GOVERN IN LAYING OUT, ESTABLISHING, ETC. STREETS**

The laying out, establishing, altering, discontinuing, vacating and widening of streets shall be in accordance with 23 M.R.S.A. Chapter 304.

[Derivation: Section 20-12, 1973 Revised Code of Ordinances]

**SECTION 6-202**      **RECORDS OF LAYING OUT, ALTERING REQUIRED**

A complete record of the proceedings of the Council in the acquisition or discontinuance of public ways, including any petition therefor and notice and return thereon, shall be maintained by the City Clerk.

[Derivation: Section 20-13, 1973 Revised Code of Ordinances]

**SECTION 6-203**      **DUTY TO REPLACE OR RECORD DISTURBANCES OF MONUMENTS, MARKERS**

Whenever the City, any contractor or individual, in the course of their work, disturbs a permanent monument or surveyor's marker, it shall replace the same, or if not possible, record on the City records the former location with proper tie-ins

[Derivation: Section 20-14, 1973 Revised Code of Ordinances]

**SECTION 6-204**      **CERTAIN RECORDS TO BE FILED WITH PUBLIC WORKS DEPARTMENT**

All records of all work done for the City and the originals and tracings of all maps, plans and profiles and the original field notes, shall be the property of the City and shall be filed in the office of the City Manager.

[Derivation: Section 10-15, 1973 Revised Code of Ordinances]

**SECTION 6-205**      **BUILDING AND STREET NUMBERING PROCEDURE**

1. Repealed.
2. Repealed.
3. Repealed.

4. Repealed.

5. Repealed.

[Derivation: Section 20-16, 1973 Revised Code of Ordinances]

[Derivation: Ordinance No.: 05-11 effective November 18, 2005]

**SECTION 6-206** Repealed.

[Derivation: Section 20-17, 1973 Revised Code of Ordinances; Ord. No. 18-02, effective 3/22/2018]

**SECTION 6-207** STATUTES TO REGULATE MOVING OF OVERSIZE OR HEAVY OBJECTS: PERMIT REQUIRED, FEE

No vehicle shall move objects having a length or width or height or weight greater than specified in Title 29 of the State Statutes over any way or bridge maintained by the City without applying in writing to the City Clerk.

Each application shall be approved by the City Manager and the Chief of Police and the fee for the permit shall be five dollars (\$5.00)

[Derivation: Section 20-18, 1973 Revised Code of Ordinances]

**SECTION 6-208** CONSTRUCTION AREA PERMIT REQUIRED TO PROTECT STREETS

A permit must be procured in the manner set out in Section 6-207 in cases where construction areas encompass the City. Such permit shall provide the contractor with the responsibility for damage to any street used in such area and shall require the contractor to furnish a bond to guarantee suitable repair or payment of damages, the suitability of such repairs or amount of damage to be determined by the municipal officers. The construction area permit shall carry no fee, but shall be approved by the City Manager and the Chief of Police.

[Derivation: Section 20-19, 1973 Revised Code of Ordinances; Ord. No. 15-05; eff. 07/23/2015]

**SECTION 6-209**      DEPOSIT REQUIRED TO COVER ESTIMATED COST OF POLICE SERVICES

Prior to the issuance of a permit required by Section 6-207, the applicant shall deposit with the treasurer an amount of money to be established by the Chief of Police for the payment of police services. Upon completion of the work, the person making such deposit is credited and if the actual cost exceeds the deposit, such person shall be billed in that amount.

[Derivation: Section 20-20, 1973 Revised Code of Ordinances]

**SECTION 6-210**      FEE SCHEDULE FOR POLICE ESCORTS WHEN MOVING HEAVY OBJECTS OR RE-ROUTING OF TRAFFIC, ETC. AND SPECIAL DUTY

In relation to Section 6-209, the fee for police escorts within the City shall be as follows:

The first four (4) hours or part thereof:

One (1) policeman	\$30.00 per hour
Two (2) policemen	\$60.00 per hour

Each additional hour or fraction thereof after four (4) hours:

One (1) policeman	\$10.00 per hour
Two (2) policemen	\$20.00 per hour

Special Duty: Minimum of 4 hours @ \$50.00 per officer per hour.

[Derivation: Section 20-21, Section 3-3, 1973 Revised Code of Ordinances; Ord. No.: 03-08, effective 04/17/2003; Ord. No. 18-12, effective 08/23/2018]

**SECTION 6-211**      AUTHORITY TO LICENSE MOVING OF BUILDINGS: BOND

The City Manager upon petition, as set forth in Section 6-212 shall have power to license any person to move a house, store or other building through any of the streets of the City under proper restrictions, upon the receipt of a good and sufficient bond to indemnify the City for all damages which it may suffer, such bond to be approved by the Mayor.

[Derivation: Section 20-22, 1973 Revised Code of Ordinances]

**SECTION 6-212**      PETITION STATING PRESENT AND FUTURE SITE OF BUILDINGS TO BE MOVED

No license to move any house, store or other building shall be granted except upon petition directed to the City Manager and filed with the clerk, setting forth the present location of the building to be moved and the lot on to which it is proposed to be moved.

[Derivation: Section 20-23, 1973 Revised Code of Ordinances]

**SECTION 6-213**      VIOLATION OF REGULATIONS CONCERNING MOVING OF BUILDINGS, PENALTY

Any person who shall be concerned in moving any house, store or other building through any street without first obtaining a license and giving bond, as required by this article, shall be subject to the provisions of Section 1-109 of this Code.

[Derivation: Section 20-24, 1973 Revised Code of Ordinances]

**SECTION 6-214**      PERMIT TO CUT TREES; PROOF OF FINANCIAL RESPONSIBILITY

No person excepting the City Manager or highway foreman shall cut or trim trees or parts thereof that are located within or extend over any street or sidewalk without first obtaining a written permit therefor from the City Manager and posting with him satisfactory evidence of financial responsibility to meet any claim for personal injury or property damage which might arise from said cutting or trimming.

[Derivation: Section 20-25, 1973 Revised Code of Ordinances]

**SECTION 6-215**      DEPOSITING EARTH MATERIAL RESTRICTED; DUTY TO REMOVE, PENALTY

Any person engaged in the excavating in excess of fifty (50) yards of clay, topsoil, borrow or other earth material and using dual wheel trucks to transport such material over the City streets shall remove any of such material deposited by or fallen from said vehicles onto any street within twenty-four (24) hours after written notice from the City Manager and shall be liable for failure to do so to a penalty in accordance with Sect. 1-109 of this Code.

[Derivation: Section 20-26, 1973 Revised Code of Ordinances]

**SECTION 6-216**      DEPOSITING OF GARBAGE, FILTH, DIRT OR SNOW IN STREETS, SIDEWALKS, PUBLIC PLACES

No person shall sweep, place or deposit any dirt, soot, ashes, shavings, paper, hair, manure or any vegetables or animal substance or any rubbish, offal or filth, any snow, etc. on or upon any street, sidewalk or public place in the City.

[Derivation: Section 20-27, 1973 Revised Code of Ordinances]

**SECTION 6-217**      SLEDDING REGULATED

No person shall slide down any street or sidewalk upon any sled, sleigh or other such device, except on such streets as sliding has been authorized by the municipal officers under 23 M.R.S.A. §2851.

[Derivation: Section 20-28, 1973 Revised Code of Ordinances]

**SECTION 6-218**      LEAVING ARTICLES ON STREETS, SIDEWALK PROHIBITED

No person shall leave or place any article in any street or sidewalk so as to impede travel thereon.

[Derivation: Section 20-29, 1973 Revised Code of Ordinances]

**SECTIONS 6-219 THROUGH 6-230** (Reserved)

**DIVISION B - STREET CONSTRUCTION STANDARDS**

**SECTION 6-231**      PURPOSE

This Division defines the classes of streets and establishes minimum standards for streets constructed in the City.

[Derivation: Section 20-41, 1973 Revised Code of Ordinances]

**SECTION 6-232**      COMPLIANCE WITH STANDARDS REQUIRED BEFORE ACCEPTANCE OF STREET

No new street shall be approved and accepted as a public way by the City Council until all applicable provisions of this Code has been complied with.

[Derivation: Section 20-42, 1973 Revised Code of Ordinances]

**SECTION 6-233**      DEFINITIONS

For purposes of these standards streets are classified by function as follows:

1. Major or Arterial. Major Streets serve primarily as major traffic ways for travel between and through towns, Fig. A.
2. Collector Streets, which serve as feeders to Major Streets, as collectors of traffic from Minor Streets and for circulation and access in commercial and industrial areas, Fig. B.

3. Minor or Local Streets, are streets used primarily for access to abutting residential, commercial or industrial properties, Fig. C.

[Derivation: Section 20.43, 1973 Revised Code of Ordinances]

**SECTION 6-234**      GENERAL REQUIREMENTS

1. Existing Streets may be continued or extended at the same or greater width, but never less than the original width.
2. Street jogs with center-line offsets of less than 125 feet will not be permitted.
3. Cul-du-sacs, or dead-end streets shall not be greater in length than 800 feet except where topographic or other considerations make a greater length unavoidable. They shall be provided at the closed end with a turn-around, with a property line frontage of 100 feet and a paved traveled way radius of 50 feet, the right of way radius shall be 61 feet.
4. Street Intersections shall be as nearly right angles as possible. No street intersection shall be at an angle of less than 60 degrees unless extraordinary conditions so require.
5. Permanent monuments shall be set at all street intersections and at points of curvature. Monuments shall be granite, located in the ground at final grade level. After they are set, drill holes ½ inch deep shall locate the points described above.
6. Parking areas on new streets shall be included as additional areas on right or left shoulders.

[Derivation: Section 20-44, 1973 Revised Code of Ordinances as amended]

**SECTION 6-235      MINIMUM DESIGN AND CONSTRUCTION SPECIFICATIONS**

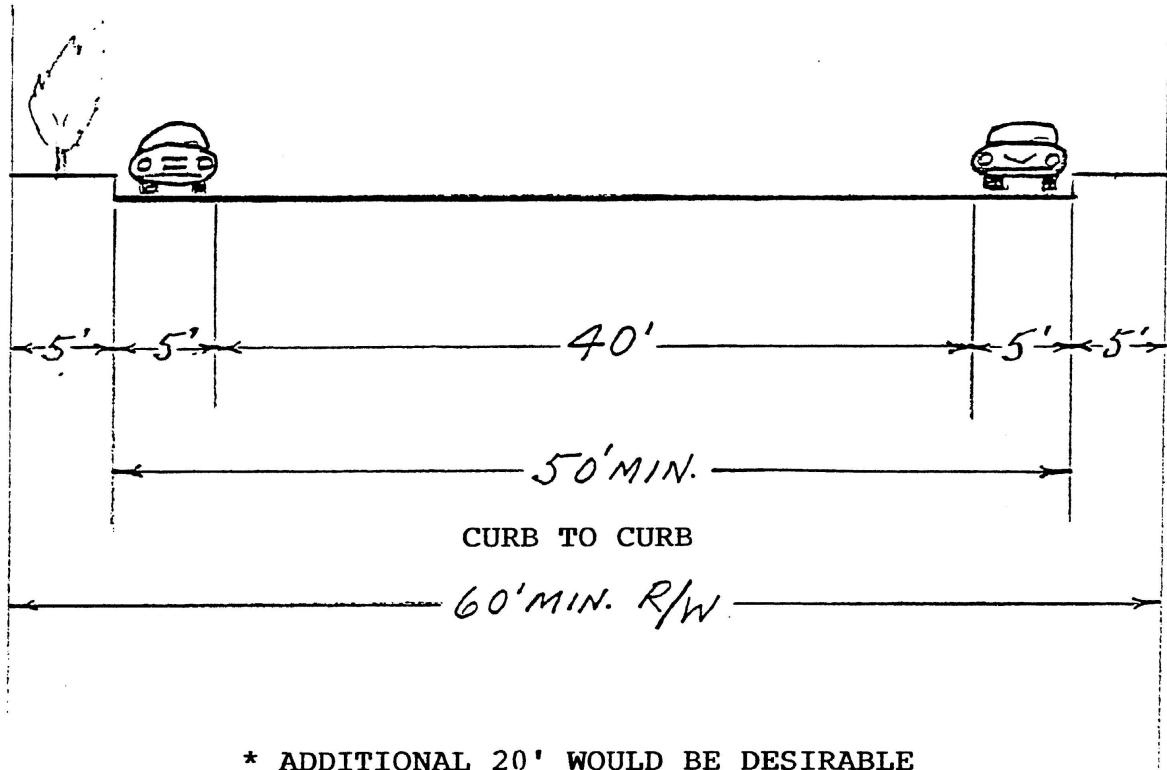
<u>Item</u>	<u>Major Street</u>	<u>Collector Street</u>	<u>Minor Street</u>
1. R/W Width	60 feet	50 feet	50 feet
2. Pavement width	50 feet	40 feet	28 feet
3. Grades, Max.	5%	6%	10%
Min.	0.5%	0.5%	0.5%
4. Shoulders	5 feet	5 feet	5 feet
5. Min center-line radii on curves	800 feet	200 feet	200 feet
6. Road base	24 in.	18 in.	18 in.
Sub-base, bank gravel	18 in.	12 in.	12 in.
Upper base			
crushed gravel	6 in.	6 in.	6 in.
7. Bituminous paving	2 ½ in.	2 ½ in.	2 in.
8. Road crown		all - ½ in./1 foot	
9. Sidewalks where required, width	5 feet	5 feet	5 feet
Base course, gravel	8 in.	8 in.	8 in.
Surface	2 in. bituminous hot-top		
10. Curb radii at intersections			
90 degree intersections		-----25 feet-----	
Less than 90 degree		-----30 feet-----	
See also figures	"A"	"B"	"C"

[Derivation: Section 20-45, 1973 Revised Code of Ordinances as amended]



**MAJOR ARTERIAL STREET**

2 TO 4 LANES  
PARKING OPTIONAL

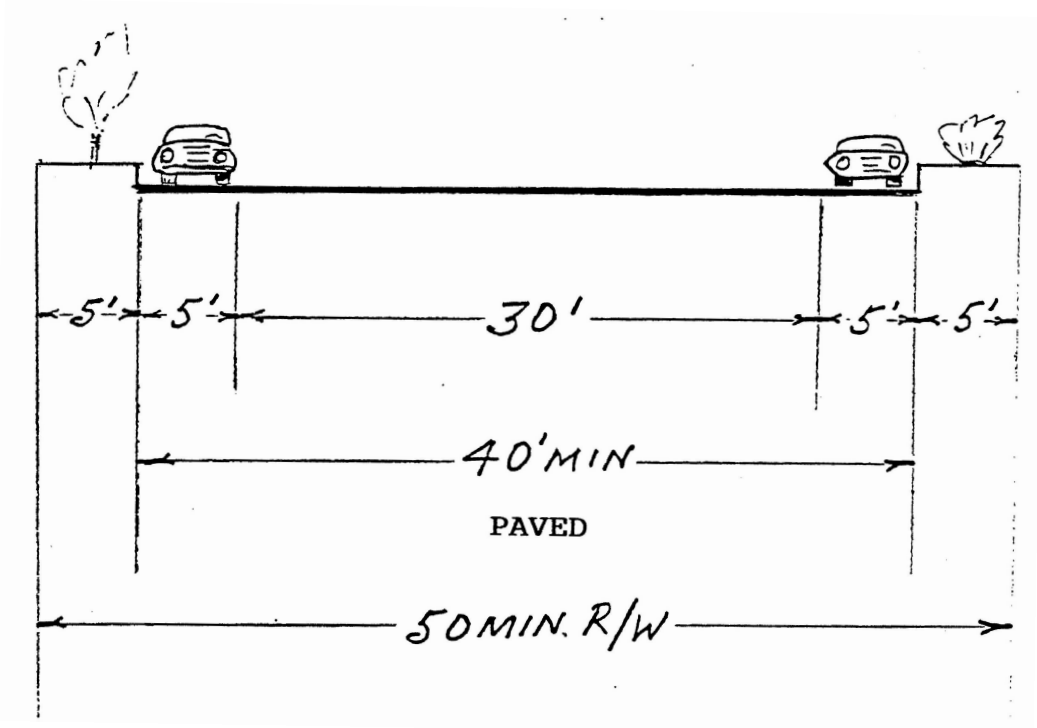


1" = 10'

Figure A

[Derivation: Section 20-45, 1973 Revised Code of Ordinances as amended]

**COLLECTOR STREET**

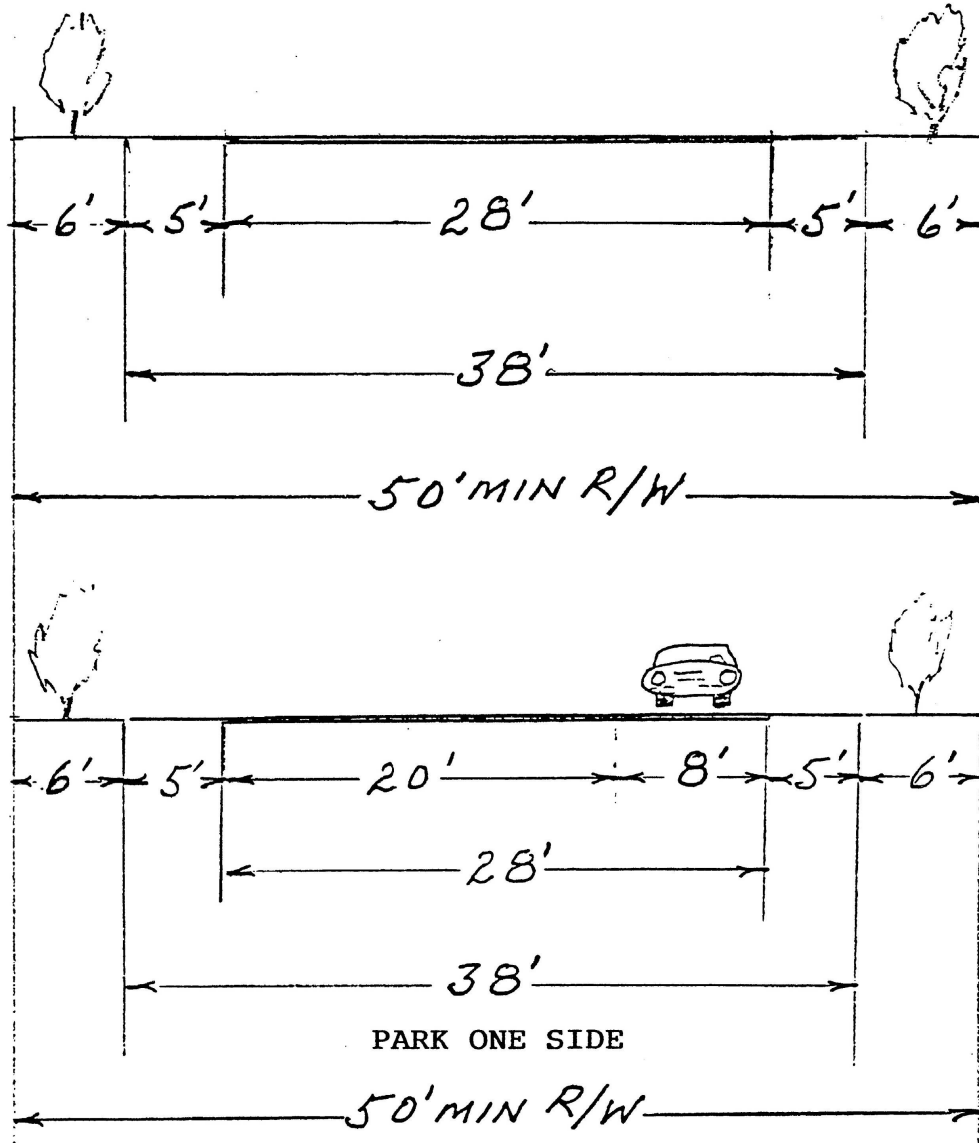


1" = 10'

Figure B

[Derivation: Section 20-45, 1973 Revised Code of Ordinances as amended]

**LOCAL STREET**



1" = 10'

Figure C

[Derivation: Section 20-45, 1973 Revised Code of Ordinances as amended]

**SECTION 6-236**      EXCEPTIONS TO CERTAIN SPECIFICATIONS

1.     Road within cluster developments. The City may accept a road within a subdivision plan approved by the planning board that contains only a cluster development of no more than 25 units, provided all structures are set back from the road a minimum of 35 feet, and subject to all standards in Section 6-234 except as follows:
  - A.     The width of the right of way shall be a minimum of 36 feet.
  - B.     The width of the paved traveled way shall be a minimum of 18 feet.
  - C.     The width of the gravel shoulders shall be a minimum of 6 feet and may be grassed over.
  - D.     Sidewalks shall not be required.
  
2.     Certain dead-end roads. The City may accept a dead-end road that does not meet the standards of Section 6-234, provided the following conditions exist or have been met:
  - A.     The road has been used for vehicular traffic by the public for at least 40 years.
  - B.     The width of the right of way shall be a minimum of 30 feet.
  - C.     The road shall be not less than 500 feet and not more than 800 feet long.
  - D.     There exist at least 5 residential dwellings with frontage on the road, which have no other access to a public way except along the road.

[Derivation: Section 20-46, 1973 Revised Code of Ordinances as amended 1-8-90]

**SECTION 6-237**      DRAINAGE      (Reserved)

**SECTION 6-238**      CURBS AND GUTTERS

1.     Street curbs and gutters shall be required on all streets within urban areas as defined by the Dept. of Transportation, and within subdivisions of a condition of approval by the Planning Board.
  
2.     Where curbs and gutters are not required, shoulders shall be stabilized and proper drainage shall be provided.

[Derivation: Section 20-47, 1973 Revised Code of Ordinances]

**SECTION 6-239**      ADMINISTRATION

The procedures provided for under this Article shall apply to all new streets hereafter built in the City.

[Derivation: Section 20-48, 1973 Revised Code of Ordinances]

**SECTION 6-240**      BUILDERS DUTY TO OBTAIN LINE, GRADE, PRIOR TO CONSTRUCTION; CITY'S LIABILITY

1.      After a street has been accepted by the City in accordance with the provisions of this Chapter, anyone proposing to build on such street shall obtain the street line and grade from the City Manager before starting construction and if not built to conform with the grade of such street, he must sign a release relieving the City from all damages due to change of line or grade.
  
2.      On unaccepted streets, street line and proposed grades may be obtained from the City Manager. Anyone failing to do so and who builds in such a way as will not conform with the approved line and grade of such street when accepted by the City will be unable to collect any damages from the City due to change of grade at time of acceptance or any time thereafter.

[Derivation: Section 20-49, 1973 Revised Code of Ordinances]

**SECTION 6-241**      APPLICANTS TO FURNISH GRANITE FOR RIGHT-OF-WAY MONUMENTS

In applying for the acceptance of a new street the applicants shall execute an agreement in writing to furnish granite markers similar to those specified by the Department of Transportation for right-of-way monuments.

[Derivation: Section 20-50, 1973 Revised Code of Ordinances]

**SECTION 6-242**      INSTALLATION OF MONUMENTS REGULATED

The furnishing and installation of the monuments required by Sections 6-234 and 6-241 shall be completed by the developer or a registered surveyor within thirty (30) days after the street is finished.

[Derivation: Section 20-51, 1973 Revised Code of Ordinances]

**SECTION 6-243**      COSTS; MONUMENTS AND SURVEY, CHECKING AND INSTALLATION

The cost of the monuments and their survey shall be paid for by the applicants and the cost of checking and installation by the City.

[Derivation: Section 20-52, 1973 Revised Code of Ordinances]

**SECTION 6-244**      CONVEYANCE BY REFERENCE TO UNAPPROVED, UNRECORDED PLAN; RECORDING REQUIRED PRIOR SEWER, SIDEWALK, STREET, CONSTRUCTION

No person shall transfer, sell, agree to sell or negotiate for the sale of any land by reference to or exhibition, of or by other use of a plot or subdivision of land into three (3) or more lots in urban areas or three (3) or more lots in rural areas until such plan has been approved by the planning board and recorded in the Kennebec County Registry of Deeds, and no application of a developer for street, sidewalk or sewer construction shall be entertained until such approval and recording has been completed.

[Derivation: Section 20-53, 1973 Revised Code of Ordinances]

**DIVISION C - EXCAVATION**

**SECTION 6-261**      PERMIT REQUIRED

No person except the City Manager/Street Commissioner shall make or cause to be made an excavation or shall dig up paving in any municipal street until the person has filed an Application/Permit (hereinafter "permit"), paid the required fee, and has received an approved permit therefor from the City Manager/Street Commissioner, except in an emergency, in which case such application/permit shall be submitted to the City Manager/Street Commissioner by 4:00 PM on the next business day after the street has been opened.

1.      Permit Issuance. The City Manager/Street Commissioner shall execute and issue Road/Street Opening Permits. In the absence of the City Manager/Street Commissioner the Highway Foreman is authorized to issue Road/Street opening permits.
2.      Permit
  - A.      All applications for Road/Street Opening Permits shall be made on a form supplied by the City of Hallowell.
  - B.      The Permit application shall be made and signed by the person, persons, firm, corporation or district for whom the work is to be done, or their authorized contractor, and the Hallowell City Manager/Street Commissioner or the Highway Foreman.
  - C.      The permit shall contain:
    - 1)      The name and address of the applicant(s).

- 2) The purpose of the opening and location of proposed new installation.
- 3) The estimated time the excavation will remain open.
- 4) A sketch, or map, showing the location and size of the cuts to be made.
- 5) An agreement that the applicant shall comply with all applicable rules, regulations and statutes of the city which pertain to street openings. Such agreements to be joint and several with multiple applicants.
- 6) An estimate of the square yards of roadway and shoulder area to be disturbed.
- 7) An estimated cost to replace the roadway surface and shoulders, based on the fee schedule in Section 6-263. This amount shall be known as the estimated permit fee.
- 8) Every permit shall include the estimated permit fee, which amount shall be subject to adjustment depending on the surface area actually disturbed and satisfactorily rehabilitated. The permit holder shall be responsible for all final restoration of the affected area to the satisfaction of the City Manager/Street Commissioner. Upon satisfactory completion of the repairs and after sufficient time has elapsed to evaluate the restoration work, the permit shall be deemed complete and the City of Hallowell will refund an amount consistent with the Fee Schedule found in Section 6-263. If satisfactory repairs are not done in a timely manner as is customary according to industry standards, and upon reasonable notice to the permit holder to do same, then the City of Hallowell may complete the final restoration and utilize the permit fee for all expenses incurred by the City of Hallowell for final road/street opening restoration. If the road/street opening restoration expenses exceed the application fee, then the City of Hallowell will bill the permit holder for all additional expenses.
- 9) The Hallowell Water District (HWD) and the Greater Augusta Utility District (GAUD) are not required to pay the application/permit fee.
- 10) After the application has been approved and signed by the City Manager/Street Commissioner, or the Highway Foreman, it becomes the Road Opening Permit.

D. Every Permit shall be identified with a number when the Permit is approved.

3. Administration.

A. Limitation.

- 1) Permits for any portion of a roadway that has been reconstructed or undergone reclamation within the five (5) years prior to the date of the permit, and three (3) years for overlays, must be referred to the Hallowell City Council for permit approval. Except in the case of an emergency for a governmental or private utility, no work shall be done on any such section of the roadway until the permit has been approved by the Hallowell City Council.
- 2) If the applicant can show that the need for an opening permit could not have been reasonably anticipated before the roadway was reconstructed or overlaid, and has made an effort to investigate alternate procedures, an emergency permit may be issued by the City Manager/Street Commissioner.
- 3) For the purpose of this section, reconstruction is defined as a road that has had the gravel base replaced and a minimum of three (3) inches of new pavement for the entire width of the roadway. Reclamation means pavement grinding, compacting and resurfacing. Overlay means at least one (1) inch of hot asphalt on entire road surface.
- 4) For any opening permit issued within the 5-year, or 3-year, period mentioned above, the City of Hallowell may make sufficient charge, over and above the normal opening charge, to offset the cost of additional paving adjacent to the opening.

B. Conditions.

All granted permits shall be subject to the following conditions:

- 1) The traveling public shall be adequately protected at all times.
  - a. The work area shall be signed and lighted as required by the City.
  - b. Traffic Officers and / or Certified Flaggers shall be paid by the permittee; even when required by the City.
  - c. All traffic controls shall be in accordance with the latest edition of the Manual on Uniform Traffic Control Devices for streets and highways, as issued by the Federal Highway Administration.



- 2) Construction methods shall be such that excessive excavation and excessive destruction of pavement shall be avoided.
  - a. Dig Safe and local utilities shall mark the area prior to cutting the pavement.
  - b. Pavement shall be cut in advance along the proposed edges of the excavation.
  - c. All trench work shall comply with OSHA regulations.
- 3) The backfill material shall be as follows:
  - a. Top 18 inches, or full depth of gravel base in more recently constructed roadways, shall be made with Maine Department of Transportation (MDOT) base gravel specification.
  - b. All other backfill shall be equivalent to material removed, except that special backfill of suitable material may be used immediately around pipe, cable, conduit, etc. or to replace material, which cannot be compacted.
- 4) Backfill material shall be uniformly distributed in layers of not more than eight (8) inches and thoroughly compacted by use of approved mechanical compactors before successive layers are placed. Water shall be added when necessary to increase the moisture content of the backfill material to obtain adequate compaction. Puddling or jetting of backfill material is not permitted.
- 5) Surplus material shall be removed from the site and the area shall be left in a clean, presentable condition.
- 6) Permanent pavement shall be replaced by a qualified paving contractor to the full depth and extent of the existing pavement removed up to a maximum depth of four (4) inches.
- 7) Compliance with the terms and conditions of this permit shall be the responsibility of the permit holder. The City of Hallowell will not assume any liability for damages arising out of or resulting from a violation of the permit terms.
- 8) The City of Hallowell reserves the right, after due notice in writing to the holder of the permit, to cause the following to occur:
  - a. To provide such application review, supervision and inspection as it may deem necessary.

- b. To re-excavate and backfill as may be necessary.
  - c. If the area is improperly and unsatisfactorily cleaned up, to clean up the area.
  - d. To charge the holder of the permit the cost of all work performed under reservations (a., b., and c. above); which charge will be in addition to the normal fee for opening the roadway and may include an additional bill to the permit holder.
- 9) After the excavation has been made and backfilled, a representative of the City of Hallowell will measure the actual yardage of disturbed area, including any areas adjacent to the installation disturbed by blasting or other similar cause. If the final permit fee, based upon actual measurements differs from the estimated fee, an adjustment will be made either as a refund under Section 6-261 (2.C-8) or a bill showing the additional amount due.

C. Policy.

- 1) The City of Hallowell shall limit the permit by setting the time within which the work must be accomplished and shall prohibit work on Saturday, Sunday or holidays, unless expressly authorized by the City Manager/Street Commissioner.
- 2) No permit, except in the case of an emergency shall be granted unless the work contemplated is to be completed before November first.
- 3) No new work shall be started in the spring before such time as the frost leaves the ground.
- 4) The applicant for a permit may appeal to the City of Hallowell's City Council to make an exception to the dates specified above. The appeal shall be accompanied by supporting data adequate to show cause why an exception should be granted.
- 5) If an opening permit is granted for work after November first, the City of Hallowell may require the permit holder to provide temporary paving and to maintain the trench until the frost is out of the ground.
- 6) The total cost to the permit holder will correspond to the damage done to the roadway facility. Permits are required for paved areas (defined as areas paved or surfaced with gravel), shoulder areas, openings between a normal ditch cut, bottom of slope in fills, and the shoulder, and under-pavement drilling using trenchless technology.

- 7) Installations proposed to be made under paved areas shall be designed to use the shortest possible distance under the pavement consistent with the particular installation involved.
- 8) When crossing a local highway, the permittee shall give due consideration to the installation of a conduit or sleeve of adequate design to minimize opening the highway. The City may require installation of a conduit or sleeve.
- 9) Private water, power and cable crossings shall be placed through a suitable pipe sleeve extending not less than twelve (12) inches out of the shoulder.
- 10) All installations under the pavement and shoulders shall have not less than twenty-four (24) inches of cover. Elsewhere the cover shall not be less than twelve (12) inches. Installations subject to freezing shall be sufficiently deep so that it will not be damaged by frost penetration.
- 11) The City may direct proposed new installations to be under sidewalks.
- 12) The City may direct the location of the proposed new installations.

[Derivation: Section 20.78, 1973 Revised Code of Ordinances]

[Derivation: Ordinance No.: 03-10, Effective May 23, 2003; Ord. No. 14-02, eff. 3/20/2014]

**SECTION 6-262**      RECORD OF PERMITS

The City Manager or such officer as the City Council may appoint shall be authorized to issue permits, shall keep a record of all permits granted by him, work done by the City employees excepted.

[Derivation: Section 20-79, 1973 Revised Code of Ordinances; Ord. No. 14-02, eff. 3/20/2014]

**SECTION 6-263**      FEE SCHEDULE

There is hereby established the following schedule of fees for granting permits for any excavation or disturbance of ground in the Right-of-Way (ROW) of any municipal street or sidewalk in the City.

1. For street/road paved surfaces and sidewalks, fifty dollars (\$50.00) per square yard.
2. For unpaved shoulders, ditches and other parts of the ROW, including trenchless technology used under the ROW, thirty dollars (\$30.00) per square yard.

3. The City of Hallowell will retain a minimum of 25% of the fee for inspection and administration. Additional inspection charges may be required for larger road openings that necessitate third-party inspections. The City will hold onto the remaining 75% of the fee for 12 months after road restoration is completed to ensure that the road repairs are adequate to withstand a freeze-thaw cycle. After this time has elapsed and once final restoration is completed, the City will reimburse to the permit holder all remaining fees.
4. The Hallowell Water District and the Greater Augusta Utility District are exempted from this fee schedule provided that any permit issued to a District is conditioned upon that District repaving the removed street surface, at its sole expense, in accordance with City standards.

[Derivation: Section 20-80, 1973 Revised Code of Ordinances as amended by Ord. No. 01-02, eff. 1/18/01]

[Derivation: Ordinance No.: 03-10, Effective May 23, 2003; Ord. No. 14-02, eff. 3/20/2014]

**SECTION 6-264**      PAYMENT OF FEES TO TREASURER; USE OF FUNDS

The applicant for a permit to excavate or dig up the paving of any street in the City shall pay to the treasurer the fees established in Section 6-263, and all such fees shall be regularly accounted for and be credited to Highway Department Account.

[Derivation: Section 20-81, 1973 Revised Code of Ordinances]

**SECTION 6-265**      FILLING REGULATED; EXPENSE

All excavation made in conformance with this article shall be, backfilled and tamped in good, permanent condition with all possible dispatch under the direction and to the satisfaction of the City Manager, in all cases the final eighteen (18) inches of fill shall be made with a good grade of road base gravel. If not, the highway foreman shall make such repairs as are necessary to meet the specifications, and the person responsible for such neglect shall be liable to the City for the expense of such repairs and in addition shall be subject to the penalty provisions of Section 1-109.

[Derivation: Section 20-82, 1973 Revised Code of Ordinances]

**SECTION 6-266**      FENCES, LIGHTS REQUIRED AT WORK AREA

When a person is permitted, in accordance with the provisions of this article, to occupy any part of a street for building purposes, such person shall erect and maintain around the part so occupied, a sufficient fence to prevent injury to persons, animals or vehicles passing the premises, and keep the same property lighted at night. Temporary sidewalks shall be provided when requested by the City Manager.

[Derivation: Section 20-83, 1973 Revised Code of Ordinances]

**SECTIONS 6-267 THROUGH 6-270 (Reserved)**

**DIVISION D - SNOW REMOVAL**

**SECTION 6-271      CITY MANAGER'S AUTHORITY TO CLOSE STREETS**

The City Manager or highway foreman at any time, may close a street to the passage of motor vehicles for the purpose of snow removal.

[Derivation: Section 20-127, 1973 Revised Code of Ordinances]

**SECTION 6-272      SNOW FENDERS ON CERTAIN BUILDINGS REQUIRED**

The owners of all buildings upon Water Street are hereby required to place snow fenders upon the roofs thereof next to the street, in such a manner as shall effectually protect persons and property from injury from snow and ice sliding from such roofs.

[Derivation: Section 6-128, 1973 Revised Code of Ordinances]

**SECTION 6-273      DEPOSITING OF SNOW INTO STREETS PROHIBITED**

Snow shall not be plowed, pushed, dumped, shoveled or otherwise moved into or deposited within the right-of-way of any road or street. Any person who violates this ordinance or who contracts with or employs another who violates this ordinance shall be subject to the penalty provisions of Section 1-109 of this code.

[Derivation: Section 20-129, 1973 Revised Code of Ordinances]

**SECTION 6-274      DEPOSITING NEAR FIRE HYDRANTS**

No person shall place or deposit any snow, ice or other obstruction within six (6) feet of any fire hydrant.

[Derivation: Section 20-130, 1973 Revised Code of Ordinances]

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**SUBCHAPTER III - PARKS AND RECREATION AREAS**

**DIVISION A - RECREATION COMMISSION**

**SECTION 6-301** (Reserved)

[Derivation: Section 16-1. 1973 Revised Code of Ordinances; Ord. No. 13-02, eff. 2/21/2013]

**SECTION 6-302** PURPOSE

The purpose of the Recreation Commission is to provide policy and administrative guidance to the City Council and City Manager on the development, use and management of parks and recreational programs and facilities for the City of Hallowell. Properties under the purview of the Commission include, but are not limited to, the Res Area, Waterfront Park and Vaughan Field. The Commission, subject to the approval of the Mayor and Council, shall have the power and authority as follows:

1. In conjunction with the Mayor, Council and City Manager, formulate and promulgate policies to provide effective management of park and recreation facilities.
2. Assist City Council and City Manager in carrying out legal responsibilities related to the operation of the park and recreation facilities.
3. Develop a set of objectives and goals for the operation of each City-owned park and recreation facility.
4. Work with City Manger to develop financial plans and budgets for park and recreation facilities and activities.
5. Assist the City Manger, other staff, and community volunteers with the planning of a variety of programs, facilities and services to meet community needs effectively.
6. Inform and educate the public as to the need for a park and recreation program, facilities and services.
7. Maintain an effective public relations program in all communications media.
8. Maintain close liaison and co-ordination with local community groups and encourage maximum community participation.
9. Encourage citizen participation to include all racial and minority groups.
10. Regularly evaluate City Recreation Programs to maintain an alignment with the Commission's objectives and desired goals.

[Derivation: Section 16-2, 1973 Revised Code of Ordinances; Ord. No. 13-02, eff. 2/21/2013]



**SECTION 6-303**      MEMBERSHIP

The Commission shall consist of seven (7) members.

1. Two commissioners shall be members of the City Council, appointed for a one year term. The City Manager shall serve as a voting member on the Commission.
2. One commissioner shall represent the Conservation Commission, and one shall represent the Tree Board. Each of these entities will recommend to the Mayor a person to be appointed to the Commission. The two remaining commissioners shall be public members and Hallowell residents.
3. Alternate members will be appointed to the Commission based on recommendations from the Conservation Commission and Tree Board to serve as voting proxy when regular members cannot attend.

[Derivation: Section 16-3, 1973 Revised Code of Ordinances; Ord. No. 13-02, eff. 2/21/2013]

**SECTION 6-304**      APPOINTMENT

1. Appointments shall be made annually by the Mayor with the approval of the City Council.
2. In case of vacancy, the Mayor and Council shall appoint a person to fill the unexpired term in the same manner as originally filled.
3. Any commissioner may be appointed to succeed himself.
4. The term of office for all regular commissioner and alternate appointments is the calendar year.

[Derivation: Section 16-4, 1973 Revised Code of Ordinances; Ord. No. 13-02, eff. 2/21/2013]

**SECTION 6-305**      ORGANIZATION

1. The members of the commission shall elect a chairman and vice-chairman from among its members, and create and appoint committees as it may determine by a majority vote. The term of all such offices and committees shall be for one year with eligibility for re-election.
2. The commission shall hold at least six regular meetings a year. Special meetings may be called by the chairman. All meetings shall be open to the public, executive sessions excluded.
3. The order of business will be in accordance with the announced agenda, and meetings shall be conducted in accordance with Roberts' Rules of Order, Revised.

[Derivation: Section 16-5, 1973 Revised Code of Ordinances; Ord. No. 13-02, eff. 2/21/2013]

**SECTION 6-306**      POWERS OF COMMISSION

The Commission shall:

1.      Appoint such committees as may be necessary or desirable to carry out the commission functions.
2.      Work with the City Manager to prepare the budget for the City's parks and recreation programs.
3.      Recommend to City Council overall program policies.
4.      Determine rules of procedure for the commission subject to City Council approval.

[Derivation: Section 16-6, 1973 Revised Code of Ordinances; Ord. No. 13-02, eff. 2/21/2013]

**SECTIONS 6-307 THROUGH 6-308** (Reserved)

**SECTION 6-309**      USE OF RES AREA BEACH AND BALLFIELD

1.      Use of the Hallowell Park and Recreation Area beach and ballfield located at the Second Reservoir west of the Town Farm Road is hereby restricted from May 15 to September 15 to those who have vehicle permits. A vehicle permit will be required and a fee established for non-resident vehicles. The fee is waived for Hallowell residents. These vehicle permits will be issued by the Hallowell City Hall staff. Only vehicles with permits are allowed to park in the area next to the beach and ballfield from 9:00 a.m. to 4:00 p.m. during this time period.
2.      Resident and non-resident members of teams who register and pay a rental fee to the City of Hallowell may use the ballfield for games and practices without a vehicle permit during this time period.
3.      Resident and non-resident persons attending private parties who register and pay a rental fee to the City of Hallowell may use the beach and ballfield without a vehicle permit during this time period.
4.      Violations of the provisions of this section shall be subject to the same procedures and fines provided for parking violations in Subchapter IV of Chapter 4 of the Code of Ordinances of the City of Hallowell.

[Derivation: Ord. No. 13-02, eff. 2/21/2013; Ord. No. 13-05, eff. 06/20/2013]

**SECTION 6-310**      CITY PARKS AND RECREATION AREAS

1.      Except as hereinafter provided, City parks and recreation areas shall be closed to use or occupancy by any person from dusk until dawn.
2.      Persons and organizations may secure written permission from the City Manager to use or occupy a City park or recreation area after closing or before opening.
3.      Boat mooring at the bulkhead in the Waterfront Park area must have a docking permit issued by the Hallowell Police Department.
4.      Any person violating the provisions of this section shall be subject to the fines provided in Section 1-109 of this Code upon conviction.

[Derivation: Ord. No. 13-02, eff. 2/21/2013]

**SECTIONS 6-311 THROUGH 6-320** (Reserved)

**DIVISION B - PUBLIC LANDS BOARD**

**SECTION 6-321**      (Reserved)

**SECTION 6-322**      PURPOSE

The purpose of the Public Lands Board shall be to oversee and manage the purchase or sale of all City-owned parks or recreational property, with approval of the City Council.

[Derivation: Section 19-2, 1973 Revised Code of Ordinances; Ord. No. 13-02, eff. 2/21/2013]

**SECTION 6-323**      MEMBERSHIP

Members of the Hallowell City Council's Property Committee shall serve as the Public Lands Board when deliberating issues described in Section 6-322.

[Derivation: Ord. No. 13-02, eff. 2/21/2013]

**SECTIONS 6-324 THROUGH 6-351** (Reserved)

**SUBCHAPTER IV - MOORING OF VESSELS IN KENNEBEC RIVER**

**SECTION 6-401**      APPOINTMENT OF HARBOR MASTER

A harbor master shall be appointed by the Mayor with the approval of the City Council.

[Derivation: Section 19-3, 1973 Revised Code of Ordinances]

**SECTION 6-402**      HARBOR MASTER'S DUTIES IN GENERAL; PENALTY FOR FAILURE TO FOLLOW ORDERS

1.      The harbor master shall have all the powers and be subject to all the duties and liabilities of harbor masters under the state statutes.
2.      He shall assign and indicate to the master or owner of boats and vessels the location which they may occupy with or for mooring or docking purposes, the kind of mooring to be used and shall change the location of said mooring from time to time when the crowded condition of the Kennebec Channel or other conditions render such change desirable; he shall assign mooring privileges in such waters in all cases where individuals who own the shore rights or have an interest in the same are complainants, and shall locate suitable mooring privileges therefor for boats and vessels, temporarily or permanently as the case may be fronting their land, if so requested, but not thereby to encroach upon the Kennebec Channel.
3.      Any person refusing to obey the orders or directions of the harbor master shall be punished as provided in Section 1-109 of this code.

[Derivation: Section 19-4, 1973 Revised Code of Ordinances]

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**SUBCHAPTER V - CEMETERIES**

**SECTION 6-501**      LAND APPROPRIATED

The tracts of land situated in the City of Hallowell, purchased by the City as by their several deeds, as per date, containing about twenty-five (25) acres more or less, were set apart and appropriated by the City for burial of the dead, to be known as Hallowell Cemetery.

[Derivation: Section 16-21, 1973 Revised Code of Ordinances]

**SECTION 6-502**      TRUSTEES

The Board of Trustees shall be three in number. The City Council shall annually in the month of January, elect three persons to act as said trustees for the term of one year. The Board of Trustees shall, annually, organize during the first week of March and at said time elect a chairman from their number. Thereafter the chairman shall call a meeting at least twice per year to act in an advisory capacity to the City Council and the City Manager on all matters relative to the cemetery. Any vacancy on the Board of Trustees, whether by resignation or otherwise, shall be filled under Article 6, Section 1 of the City Charter.

[Derivation: Section 16-22, 1973 Revised Code of Ordinances]

**SECTION 6-503**      SUPERINTENDENT

The City Manager shall appoint a qualified person as superintendent of the cemetery, who shall act under his direction and control in the care of the cemetery; it shall be his duty at all times to see that all ordinances pertaining to the cemetery are enforced. His tenure and removal shall be as provided under Article 6, Section 3 of the City Charter. The compensation of said superintendent and employees shall be under the regulation and control of the City Manager under the Personnel and Administration By-laws.

[Derivation: Section 16-23, 1973 Revised Code of Ordinances]

**SECTION 6-504**      DUTIES OF SUPERINTENDENT

1.      The superintendent shall cause the cemetery to be laid out in ranges, divided by walks, the ranges to be divided into lots, the lots into graves, and the graves numbered, and a plan of the same to be made and filed with the City Clerk. All burials in said cemetery shall conform to the ranges and divisions of the same. All grave sites shall be marked with a permanent grave number set flush with the ground. All graves shall have concrete liners which are acceptable to the superintendent. The City shall not be responsible for the costs of erecting any gravestones that have been damaged through criminal action, vandalism or the weather conditions.
  
2.      It shall be the duty of the Cemetery Superintendent to grant permission to occupy

any lot or lots by a qualified person, after authority has been obtained from the City Clerk.

3. It shall be the duty of said superintendent to take care of the cemetery, and to see that all graves are correctly arranged, made of sufficient depth and properly filled.

[Derivation: Section 16-24, 1973 Revised Code of Ordinances]

**SECTION 6-505**      EMPLOYMENT

For the general improvement and care of the cemetery, the Superintendent of the cemetery is authorized to employ such men as in his judgment the interests of the cemetery may require, subject to the approval of the City Manager; and the payroll of such employees, together with all expenses incurred by such improvement and care, shall be taken from the cemetery department account.

[Derivation: Section 16-25, 1973 Revised Code of Ordinances]

**SECTIONS 6-506 - 6-520**      (Reserved)

**SECTION 6-521**      REGULATING OCCUPATION OF LOTS

1. The City Clerk shall keep a record on which shall be entered all lots, denoted on the plan of said cemetery, with their number and section, and with columns ruled for the names of the purchasers of each lot, and the price and date of sale. No lot shall be used for any other purpose than as a place of burial for the dead.
2. The right to occupy any lot shall not be granted on behalf of any person not an actual resident of the City of Hallowell, and any lot granted shall not be used by anyone other than the purchaser for himself and his relatives and should said owner permit burial in said lot of other than his immediate family and direct descendants, he shall not be permitted to purchase another lot or lots. If any person who shall have been granted a lot in said cemetery, shall give, convey or grant the whole or any part thereof, or shall allow any person who is not entitled to purchase a lot under the terms of this section to use the same for burial purposes, then the right, interest and ownership of such person in such lot shall thereupon revert to the City of Hallowell.
3. Any person who is not an actual resident of the City of Hallowell, who now owns or occupies a lot in said cemetery, shall not be allowed to exchange the same for any other lot in said cemetery, provided, however, that the City Council may by a majority vote, when in their opinion the occasion demands such action, grant the right to purchase a lot to other persons.

[Derivation: Section 16-26, 1973 Revised Code of Ordinances]

**SECTION 6-522**      PAYMENT

Provision for payment of cemetery lots shall be made by the City Treasurer. Perpetual Care shall be required on all lots and upon receipt of payment therefor by the City Treasurer, a certificate shall be given to the purchaser indicating the section, number, size and price of the lot. All lots now under annual care shall at the time of any reopening be placed under Perpetual Care unless waved by the City Council. If in the opening of a grave, ledge, large rocks, snow, frozen ground or any other substantial material have to be removed, the cost of such removal shall be borne by the party requesting said opening. Before the opening of a grave shall commence, the party requesting said opening shall show proof satisfactory to the Superintendent of the cemetery that he has the right to request said opening. The prices for the various lots and prices for Perpetual Care shall be determined by the City Council, from the recommendations of the cemetery trustees, which prices shall be reviewed every two (2) years. The aforesaid certificate shall read as follows:

CITY OF HALLOWELL

Know all men by these presents, that the City of Hallowell in consideration of \_\_\_\_\_ DOLLARS paid by \_\_\_\_\_ hereby gives and grants to the said \_\_\_\_\_, his heirs and assigns forever, the right to occupy for the purposes of burial, lot # \_\_\_\_\_, of Section # \_\_\_\_\_ in the Hallowell Cemetery, belonging to the City, situated in Hallowell, being the lot described by that number on a plan of the cemetery on file in the office of the City Clerk. The right is granted and is to be held and enjoyed, subject to all such general regulations as have been or may be adopted by the City Council or under their authority, for the management and care of the cemetery, and the due observance of order therein, and the same shall not be assigned or transferred without the consent of the trustees and City Treasurer endorsed thereon.

In witness whereof, this instrument is subscribed by \_\_\_\_\_ in behalf of the City, this \_\_\_\_\_ day of \_\_\_\_\_ a.d., 20\_\_.

\_\_\_\_\_  
City Treasurer

[Derivation: Section 16-27, 1973 Revised Code of Ordinances]

**SECTION 6-523**      PERSONS UNABLE TO PAY

The trustees are hereby authorized to set apart a plot of land in the cemetery to be kept in good condition for the graves of parties unable to purchase lots. The City Council shall adopt such regulations as in their judgment are just and proper for the right of occupancy of any lot by such parties. In case of removal the space so vacated and the right to occupy the same shall revert to the City.

[Derivation: Section 16-28, 1973 Revised Code of Ordinances]



**SECTION 6-524**      PERPETUAL CARE

All money paid to the City Treasurer for Perpetual Care and all donations made by the holders of lots or other persons shall be placed in a "Trust Fund" and only the income from said Trust shall be expended for the improving and ornamenting the ground of said cemetery. No lot shall be sold without Perpetual Care as part of the price. Effective January 15, 2001, all fees paid to the City of Hallowell for "annual care" shall be paid into the Cemetery Trust Fund.

[Derivation: Section 16-29, 1973 Revised Code of Ordinances as amended by Ord. No. 01-1 eff. 1/15/01]

**SECTION 6-525**      CEMETERY PRICES

1.      Perpetual Care: The fee for perpetual care on each grave is \$150.00.
2.      Purchase of Graves: The fee for purchase of each grave is \$150.00.

[Derivation: Section 16-30, 1973 Revised Code of Ordinances as amended (5-7-90) and by Ord. No. 01-1 eff. 1/18/01]

**SECTION 6-526**      GRAVE OPENINGS AND CLOSINGS

1.      The fees for grave openings and closings Monday through Friday are:

Adult/Child	\$600.00
Infant	\$225.00
Cremation	\$225.00
2.      The fees for grave openings and closings on Saturdays and Sundays are:

Adult/Child	\$800.00
Infant	\$400.00
Cremation	\$400.00
3.      (Repealed)

There shall be no grave openings and/or closings on holidays.

[Derivation: Section 16-31 1973 Revised Code of Ordinances as amended (5-7-90) and by Ord. No. 01-1 eff. 1/18/01; Ord. No. 18-03, effective 04/19/2018]

**SECTION 6-527**      CEMETERY FUND

All money received from the sale of lots, all sums received from the transfer of lots in Hallowell Cemetery and any cemetery money not otherwise specified shall be accredited to the Cemetery Department Account to be appropriated for the keeping of said cemetery and lots in said cemetery, and keeping the same in good order.

[Derivation: Section 16-32, 1973 Revised Code of Ordinances]

**SECTION 6-528**      ERECTING STRUCTURES AND CULTIVATING SHRUBS

The proprietor of any lot shall have the right to erect any proper stones, monuments or sepulchral structures thereon, and also to cultivate shrubs and plants in the same. If any shrub, situated in or upon any lot shall become objectionable, or by means of its roots, branches or otherwise, become detrimental to adjacent lots and avenues, or dangerous or inconvenient to persons passing, it shall be the duty of the cemetery superintendent to enter upon the said lot and remove the said shrub or such parts thereof as are thus objectionable, detrimental, dangerous or inconvenient. No person shall have the right to plant a tree or erect a fence without first obtaining the permission of the cemetery superintendent.

[Derivation: Section 16-33, 1973 Revised Code of Ordinances]

**SECTION 6-529**      RIOTOUS AND OBJECTIONAL PERSONS

Any person who shall carry any alcoholic liquors, explosives, fireworks, or play golf, use a mini-bike, bicycle, snow mobile or allow his dog to run at-large or use any loud, threatening, abusive or indecent language within the area of the cemetery, or exhibit any show, play any game of chance, post any bills, or cause any damage to trees, shrubs or flowers therein, shall be excluded from the cemetery by the superintendent, and if such person refuses to leave the grounds, he shall be subject to Section 1-109 of this Code.

[Derivation: Section 16-34, 1973 Revised Code of Ordinances]

**SECTION 6-530**      INJURIES TO TREES, ETC.

If any person shall willfully injure any fence, ornamental tree, walk, grave, monument or tombstone, in any private or public burying ground, he shall be subject to penalty of Section 1-109 of this Code.

[Derivation: Section 16-35, 1973 Revised Code of Ordinances]

**SECTION 6-531**      TRESPASSING IN CEMETERIES PROHIBITED

There shall be no trespassing in any public or private cemeteries within the City between the hours of sunset and sunrise.

[Derivation: Section 16-36, 1973 Revised Code of Ordinances]

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**SUBCHAPTER VI - SEWERS AND DRAINS**

**SECTION 6-601**      CITY SEWERS AND DRAINS

1.      The presently existing system of sewers and as this system may from time to time be extended shall be under the supervision and direction of the Greater Augusta Utility District.
2.      The presently existing system of storm drains and as this system may from time to time be extended shall be under the supervision and direction of the City of Hallowell.

[Derivation: Section 20-64, 1973 Revised Code of Ordinances; Ord. No. 15-05, eff. 07/23/2015]

**SECTION 6-602**      ALL INSTALLATIONS OUTSIDE SANITARY DISTRICT TO BE IN ACCORDANCE WITH STATE PLUMBING CODE AND SPECIFICATIONS OF CITY MANAGER

All sewers and drains installed in the City shall be built in accordance with the specifications of the City Manager and State Plumbing Code.

[Derivation: Section 20-65, 1973 Revised Code of Ordinances]

**SECTION 6-603**      OBSTRUCTING DITCHES; CULVERTS REQUIRED; CITY MANAGER'S APPROVAL

No person shall place any obstruction in any ditch or watercourse by the side of any street or the City without providing a sufficient culvert for the passage of water. The culvert size and the installation of such culvert shall be approved by the City Manager and the cost of same shall be borne by the owner.

[Derivation: Section 20-66, 1973 Revised Code of Ordinances]

**SECTION 6-604**      DRAINAGE; SEEPAGE ON STREETS AND SIDEWALKS PROHIBITED

No person shall let out or empty upon the surface of any street or sidewalk, any cellar, sink, roof or other drains, nor shall any person allow seepage from any septic tank, filter bed or cesspool to run upon any such street or sidewalk.

[Derivation: Section 20-67, 1973 Revised Code of Ordinances]

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**SUBCHAPTER VII – TREES ON PUBLIC PROPERTY**

**SECTION 6-751**      PURPOSE

It is the purpose of this sub-chapter to promote and protect the public health, safety, and general welfare of the City of Hallowell and its citizens by providing for the care, control, preservation, planting, maintenance, and removal of trees, shrubs and other plants upon public property of the City and public rights of way, including public parks, streets, cemeteries and parking areas.

**SECTION 6-752**      TREE BOARD

1.      Establishment. A City Tree Board is hereby established pursuant to 30-A M.R.S.A., Section 3001, for the supervision of public shade trees under 30-A M.R.S.A. 3263, and for purposes provided in Section 6-753
2.      Membership. The City Tree Board shall consist of eleven members who are residents of the City of Hallowell. The Tree Board shall be appointed by the Mayor with the approval of the City Council. Members of the Board shall serve without compensation.
3.      Terms. The term of each member shall be for four (4) years, except initially there shall be appointed three members for each of the following terms of two, three and four years respectively, and two members for one year. When a vacancy occurs, the Mayor with the approval of the Council shall appoint a person to fill the unexpired term.
4.      Procedures.
  - A.      The Board shall elect a Chairperson, Vice-Chairperson and Secretary from among its members and create and fill such other offices as it may deem necessary.
  - B.      The Chairperson shall call at least one regular meeting of the Board every two months. More frequent meetings may be held as business requires.
  - C.      No business may be transacted in the absence of six members of the Board authorized to vote.
  - D.      The Board shall adopt rules for transaction of business and the secretary shall keep a record of all transactions, correspondence, findings and determinations. All records of the Board are public and may be inspected at all reasonable times. Said records shall be kept in the City Hall.
  - E.      Minutes of all of the Board's meetings shall be provided to the Chairperson of the Conservation Commission and the Parks and Recreation Commission.

- F. All Board meetings shall be open to the public, and shall be publicly announced in the local news media at least twenty-four (24) hours prior to the meeting. The Commission shall have the right to executive sessions to the extent permitted by state statute.

**SECTION 6-753**      DUTIES OF TREE BOARD

The Tree Board shall make recommendations to the City Manager with respect to the selection, acquisition, planting and location of new trees, shrubs and plants and the selection, removal and replacement of existing trees, shrubs and plants on public property. The Tree Board may make recommendations to the City Manager concerning the care and preservation of trees, shrubs and plants on public property. The City Manager may carry out any of the Board's recommendations, subject to appropriations for such purposes, through use of the Public Works Department or contractual services.

**SECTION 6-754**      TREE WARDENS

The Mayor with the advice and consent of the City Council may appoint one or more members of the Tree Board to serve as Tree Wardens for a term of one year. The Tree Wardens shall have enforcement authority as provided under 30-A M.R.S.A. §3282 with respect to the preservation and care of public trees.

**SECTION 6-755**      VIOLATIONS, PENALTIES

It shall be unlawful for any person to trim, cut, or otherwise destroy any tree or shrub located on public property of the City or within the limits of any public way, except as permitted by statute. Any person who violates this section commits a civil violation for which the City may recover civil penalty under Section 1-109 and other civil remedies provided by law.

[Derivation: Ordinance No. 98-5, effective November 19, 1998]

**CHAPTER 7**

**BUSINESS LICENSES AND PERMITS**

**SUBCHAPTER 1 - GENERAL PROVISIONS**

**SECTION 7-101**     LICENSING AUTHORITY

Unless otherwise provided under this Chapter, the City Council is the licensing authority with respect to all licenses or permits required under this Chapter.

**SECTION 7-102**     CONDITIONS OF LICENSE

1. All licenses issued under this Chapter shall be conditioned upon compliance with the provisions of this Chapter and other applicable provisions of the Code and state statutes.
2. No license shall be effective until the required fee for the license period has been paid in full.

**SECTION 7-103**     TERM OF LICENSE

Unless otherwise issued under this Chapter, the term of any license or permit shall end on April 30 of each year. If the initial term is a period of four months or less, the license fee shall be one-half the annual fee established under Section 7-105.

[Derivation: Sections 12-52 and 3-102, 1973 Revised Code of Ordinances as amended 6/11/90 and 6/8/92; Ordinance No.: 04-06, Effective: 10/22/2004]

**SECTION 7-104**     LICENSE RENEWALS

Licenses shall be renewed by appropriate application and payment of fee within 60 days prior to expiration date of license.

Any person failing to renew any annual incense required by the provisions of this Chapter within thirty (30) days after the expiration or renewal date, and continuing to operate, may in lieu of the civil penalties provided in Section 1-109 of this Code, pay a renewal license fee equal to three (3) times the annual regular fee for each year unpaid.

[Derivation: Sections 12-52 and 3-102, 1973 Revised Code of Ordinances as amended 6/11/90 and 6/8/92]

[Derivation: Ordinance No.: 04-06, Effective 10/22/2004]



**SECTION 7-105**      LICENSE FEES

1. Unless expressly provided herein the fee for each license required to be obtained under this Chapter shall be One Hundred Dollars (\$100) per year.
  - A. Except all license fees will be half rated for new licenses four months from the expiration date.
2. The fee for licenses granted under Sections 7-402 and 7-405 shall be \$125.00 per year, except for Old Hallowell Day events when the applicant shall obtain a license from the Old Hallowell Day Committee.
  - A. The fee for a Transient-Victualers License issued for Old Hallowell Day only, covering all vendors sanctioned and located by the Old Hallowell Day Committee, shall be a total of \$100.00, (which covers Sections 7-402, 7-403 & 7-411 Transient Public Property – \$50.00 AND Sections 7-324 & 7-325 Victualers – \$50.00) payable by the Old Hallowell Day Committee under a single application identifying all vendors. The Old Hallowell Day Committee shall obtain insurance binders from all vendors and give the City a combined binder covering the City for all vendors.
3. The fee for license granted under Section 7-323 Closing-out Sale shall be \$40.00.
4. Victualers License under Sections 7-324 and 7-325 shall be \$100.00 if liquor is not sold on the premises and \$200.00 if liquor is sold on the premises.
  - A. Innkeepers License required under Section 7-324 shall be \$100.00 if a Victualers License is not required (without food and/or liquor) and \$0 if a Victualers License is required (with food and/or liquor).
5. The fee for licenses granted under Division B – Cannabis-Related Goods and Services shall be \$250.00 per year. The fee shall be doubled for late or after-the-fact applications. The fee for filing a notice of termination or abandonment of a license granted under Division B – Cannabis-Related Goods and Services shall be \$50.00.
6. Certain events or activities under Subchapter V shall be assessed license fees on a daily basis as follows:
  - A. Boxing or other athletic event for which admission is charged: \$100 per day.
  - B. Circuses, Carnivals and Mass Gatherings: \$300 per day.
  - C. Mechanical Rides: \$100 per day.
7. The license fee for coin operated amusements, video games, and similar devices or machines described in Section 7-509 shall be \$75.00 per machine per year, provided that, if more than five (5) machines or devices are situated on the same premises, the

annual fee for each additional machine over five (5) shall be \$15 per machine per year.

8. If liquor is sold or served at any place of public amusement under Subchapter V, there is an additional fee of \$100 per year per liquor license.
9. The license fee for Bottle Clubs under Section 7-531 shall be \$300 per year.
10. License fee for a temporary one day license is \$20.00.

[Derivation: Sections 12-51 and 3-101, 1973 Revised Code of Ordinances as amended 6/11/90, 6/8/92 and 11/1/95; Ord. No.: 00-06; Ord. No. 03-09, Effective April 17, 2003; Ord. No. 04-06, Effective 10/22/2004; Ord. No. 06-04, Effective July 20, 2006; Ord. No. 07-07, Effective August 23, 2007; Ord. No. 18-16, eff. 11/23/2018]

#### **SECTIONS 7-106 THROUGH 7-108 (Reserved)**

#### **SECTION 7-109      APPLICABILITY**

No person shall conduct any activity described in this Chapter without first obtaining the required license. This Chapter shall not be applicable to governmental entities that have jurisdiction within the boundaries of the City.

#### **SECTION 7-110      VIOLATIONS; PENALTIES**

The breach of any covenant or condition contained in the application, license, or permit is prohibited; and shall constitute a separate civil violation on each day such violation occurs or continues to exist. Except as otherwise provided by law, the licenses granted under this Chapter, may upon violation of any condition of the license or applicable law be suspended by the City Manager, and revoked by the City Council after notice and hearing. Civil penalties and other remedies for violations of this Chapter shall be as provided in Section 1-109 and as provided by statute.

#### **SECTION 7-111      CITY OF HALLOWELL MORATORIUM ORDINANCE REGARDING RETAIL RECREATIONAL MARIJUANA**

WHEREAS, the legislative body of the City of Hallowell (the "City") makes the following findings:

- (1) The Marijuana Legalization Act (the "Act") was approved by Maine voters in November 2016 and has been codified in the Maine Revised Statutes in Title 7, chapter 417; and
- (2) The unregulated location and operation of "Retail Marijuana Establishments" and "Retail Marijuana Social Clubs," as defined in 7 M.R.S.A. chapter 417, as well as other types of retail recreational marijuana activity within the City raises legitimate and substantial questions about the impact of such activity, establishments and social clubs on the City, including questions as to compatibility with existing land uses and

developments in the municipality; potential adverse health and safety effects on the community; the possibility of illicit sale and use of marijuana and marijuana products to and by minors; and the possibility of unlawful use of marijuana and marijuana products; and

- (3) As a result of the foregoing issues, retail recreational marijuana activity, and the location and operation of Retail Marijuana Establishments and Retail Marijuana Social Clubs within the City, have potentially serious implications for the health, safety and welfare of the City and its residents; and
- (4) The City currently has no regulations governing retail recreational marijuana activities, Retail Marijuana Establishments and Retail Marijuana Social Clubs, and existing ordinances are insufficient to prevent serious public harm that could result from the unregulated development of Retail Marijuana Establishments and Retail Marijuana Social Clubs and from other types of retail recreational marijuana activity; and
- (5) An overburdening of public facilities and resources, including public safety resources, is a reasonably foreseeable result of Retail Marijuana Establishments and Retail Marijuana Social Clubs locating in the City and/or other types of retail recreational marijuana activity in the City; and
- (6) The state's regulatory structure is unknown at this time as the Maine Legislature and state agencies have not developed final legislation or regulations governing Retail Marijuana Establishments and Retail Marijuana Social Clubs, and legislation amending the Act is pending; and
- (7) In the judgment of the legislative body of the City, the foregoing findings and conclusions constitute an emergency within the meaning of 30-A M.R.S.A. § 4356 requiring immediate legislative action.

NOW THEREFORE, pursuant to 30-A MRSA § 4356, be it ordained by the City as follows:

1. Moratorium. The City does hereby declare a moratorium on all retail recreational marijuana activity, and the location, operation or licensing of any and all "Retail Marijuana Social Clubs" and "Retail Marijuana Establishments," as defined in 7 M.R.S.A. chapter 417, including but not limited to, retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities within the municipality.

No person or organization shall engage in any retail recreational marijuana activity or develop or operate a Retail Marijuana Establishment or Retail Marijuana Social Club within the City on or after the effective date of this Ordinance. During the time this moratorium ordinance is in effect, no officer, official, employee, office, administrative board or agency of the City shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit, any other type of land use approval or permit and/or any other permits or licenses related to a Retail Marijuana Establishment, Retail Marijuana Social Club or retail recreational marijuana activities.

2. Pending Proceedings. Notwithstanding 1 M.R.S.A. § 302 or any other law to the contrary, this Ordinance shall govern any proposed retail recreational marijuana activity and Retail Marijuana Establishments or Retail Marijuana Social Clubs for which an application for a building permit, certificate of occupancy, site plan or any other required approval has been submitted to the City, whether or not a pending proceeding, prior to the enactment of this Ordinance.
3. Medical Marijuana Act. This Ordinance will not limit the privileges or rights afforded by the Maine Medical Use of Marijuana Act (22 M.R.S.A. §§ 2421 – 2430-B) to qualifying patients, primary caregivers, or registered dispensaries, including cultivation facilities associated with any of those classifications.
4. Conflicts/Savings Clause. Any provisions of the City's ordinances that are inconsistent or conflicting with the provisions of this Ordinance are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Ordinance is declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.
5. Violations. If any retail recreational marijuana activity is conducted, or Retail Marijuana Establishment or Retail Marijuana Social Club is established, in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance and the City shall be entitled to all rights available to it pursuant to 30-A M.R.S.A. § 4452, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations.
6. Effective Date. This Ordinance shall become effective immediately upon its adoption and shall remain in full force and effect for a period of 180 days thereafter, unless extended pursuant to law or until a new and revised set of regulations is adopted by the City, whichever shall first occur.

BE IT FURTHER ORDAINED, that this moratorium is extended and shall remain in effect for an additional one hundred and eighty (180) days after its original expiration date of September 8, 2018, unless extended, repealed, or modified by the legislative body.

#### Emergency Declaration

The Council declares the existence of an emergency because the City has no ordinances in place that regulate Retail Marijuana Establishments and Retail Marijuana Stores and Retail Marijuana Social Clubs and because the Council needs time to study Retail Marijuana Establishments and Retail Marijuana Stores and Retail Marijuana Social Clubs and enact ordinances that balance the rights of all, and that this Ordinance shall be effective immediately.

[Derivation: Ord. No. 17-02, effective 4/10/2017; Ord. No. 17-07, effective 10/08/2017; Ord. No. 18-01, effective 3/12/2018; Ord. No. 18-12, effective 8/13/2018]

**SECTION 7-112 MORATORIUM ORDINANCE REGARDING MEDICAL MARIJUANA STOREFRONTS**

WHEREAS, the legislative body of the City of Hallowell, Maine (the “City”) makes the following findings:

- (1) The Maine Medical Use of Marijuana Act, codified at 22 M.R.S. §§ 2421 to 2430-B, (the “Act”) authorizes the possession, cultivation, and furnishing of medical marijuana to qualifying patients by caregivers, as those terms are defined in 22 M.R.S. § 2422; and
- (2) During the first regular session, the 128th Maine Legislature considered LD 1539, “An Act to Amend Maine’s Medical Marijuana Law,” which, if enacted, would amend the Act to expressly authorize the operation of retail stores by registered caregivers to sell harvested medical marijuana to qualifying patients; however, the ultimate disposition of LD 1539 is unknown at this time; and
- (3) No specific regulations governing such retail stores exist under the City’s Code of Ordinances; and
- (4) The City’s Code of Ordinances is insufficient to prevent serious public harm that could result from the unregulated siting and operation of such retail stores within the City; and
- (5) The unregulated siting and operation of such retail stores within the City raise legitimate and substantial questions about the impact of such retail stores and related uses and activities on the City, including questions as to compatibility of such retail stores with existing and permitted land uses in the City; potential adverse health and safety effects on the community; the adequacy of the City’s infrastructure to accommodate such retail stores; and the possibility of unlawful sale of medical marijuana and medical marijuana products; and
- (6) As a result of the foregoing issues, the siting and operation of such retail stores and related uses and activities within the City have potentially serious implications for the health, safety, and welfare of the City and its residents and visitors; and
- (7) An overburdening of public facilities and resources, including public safety resources, is a reasonably foreseeable result of such retail stores and related uses and activities located and operated in the City; and

- (8) The City needs time to understand the disposition of LD 1539 in relation to its own Code of Ordinances and to evaluate the effects of such retail stores and related uses and activities in order to prepare reasonable ordinance provisions governing the siting and operation of such uses; and
- (9) The City Council, with professional assistance from the City Manager, Planning Board, Code Enforcement Officer, and Police Department, intends to study the City's Code of Ordinances to determine the land use and other regulatory implications of such retail stores and related uses and activities, and to consider what locations, approvals and performance standards, if any, might be appropriate; and
- (10) It is anticipated that such a study, review, and development of recommended ordinance amendments will take at least 180 days from the date the City enacts this Moratorium Ordinance Regarding Medical Marijuana Storefronts; and
- (11) In the judgment of the legislative body of the City, the foregoing findings constitute an emergency within the meaning of 30-A M.R.S. § 4356 requiring immediate legislative action.

NOW, THEREFORE, pursuant to 30-A M.R.S. § 4356, be it ordained by the City Council as follows:

1. Moratorium. The City does hereby declare a moratorium on the siting, operation, or licensing of any Medical Marijuana Storefronts within the City.

For purposes of this Ordinance, "Medical Marijuana Storefront" is defined as a retail store or an establishment that resembles a retail storefront in terms of signage, hours of operation and accessibility to patrons, including without limitation a retail business as that term is defined in Section 9-151(94) or (94.5) of the City's Code of Ordinances, that furnishes or sells marijuana or marijuana products to qualifying patients, as that term is defined in 22 M.R.S. § 2422(9).

No person or organization shall locate or operate a Medical Marijuana Storefront within the City on or after the effective date of this Ordinance. During the time this Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the City shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit, conditional use permit, any other type of land use approval or permit, or any other permit or license related to a Medical Marijuana Storefront.

2. Date of Applicability. Notwithstanding 1 M.R.S. § 302 or any other law to the contrary, and regardless of the Effective Date, this Ordinance shall govern and apply to all proceedings and applications for a Medical Marijuana Storefront that were or are pending before the Code Enforcement Officer or the Planning Board on or any time after May 22, 2018 (the “Date of Applicability”).
3. Effective Date. This Ordinance shall become effective immediately upon its adoption (the “Effective Date”) and shall remain in full force and effect for a period of 180 days from the Date of Applicability, unless extended, repealed, or modified by the City Council pursuant to applicable law or until a new ordinance regulating Medical Marijuana Storefronts is adopted by the City, whichever shall first occur.
4. Conflicts; Savings Clause. Any provisions of the City’s ordinances that are inconsistent with or conflict with the provisions of this Ordinance are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Ordinance is declared by a court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.
5. Violations. If any Medical Marijuana Storefront is located or operated in the City, in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance and the City shall be entitled to all rights available to it pursuant to 30-A M.R.S. § 4452, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney’s fees and costs in prosecuting any such violations.

#### EMERGENCY DECLARATION

The City Council declares the existence of an emergency because the City Code of Ordinances is insufficient to prevent serious public harm that could be caused by the unregulated siting and operation of Medical Marijuana Storefronts and because the Council needs time to review the potential adverse impacts that may be caused by Medical Marijuana Storefronts, and consider amendments to its Code of Ordinances to mitigate any such impacts on the City and its residents and visitors.

In accordance with Article II, Section 9 of the City Charter, this Moratorium shall be enacted as an emergency ordinance. It shall be effective immediately upon enactment and shall remain in effect for 180 days from the date of applicability unless it is terminated or extended in accordance with this Ordinance.

[Derivation: Ord. No. 18-05, effective 6/11/2018]

**SUBCHAPTER II**

(Reserved)



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**SUBCHAPTER III - SALE OF GOODS AND SERVICES AT FIXED LOCATIONS**

**DIVISION A – GOODS AND SERVICES EXCLUSIVE OF CANNABIS-RELATED  
GOODS AND SERVICES**

**SECTION 7-320**      **MUNICIPAL OFFICERS TO APPROVE, DISAPPROVE APPLICATIONS FOR  
LIQUOR LICENSES**

In accordance with applicable state statutes, the municipal officers shall have the authority to approve or disapprove applications for state liquor licenses.

[Derivation: Section 12-1, 1973 Revised Code of Ordinances]

**SECTION 7-321**      **PAWNBROKERS; LICENSE REQUIRED, FEE; PENALTY**

1. The municipal officers may grant licenses to persons of good moral character to be pawnbrokers for one (1) year unless sooner revoked for violation of law.
2. The annual license fee for such license shall be as provided in Section 7-105 of this chapter.
3. Any person who carries on a pawnbroker business without a license shall be punished in accordance with 30-A M.R.S.A. §3961.

[Derivation: Section 12-4, 1973 Revised Code of Ordinances]

**SECTION 7-322**      **JUNKYARDS TO BE LICENSED; FEE; STATE REGULATIONS GOVERN**

The municipal officers shall have the authority to grant permits to establish, operate or maintain junkyards, automobile graveyards, and recycling facilities, subject to the provisions of Chapter 9. The annual license fee shall be as provided in Section 7-105 of this Chapter.

The provisions of 30-A M.R.S.A., §3751 et seq. and rules adopted by the Maine Department of Transportation shall apply to the regulation of junkyards, automobile graveyards, and recycling facilities.

[Derivation: Section 12-5, 1973 Revised Code of Ordinances; Ord. No.: 04-06, Eff. 10/22/2004]

**SECTION 7-323**      **LICENSE REQUIRED FOR CLOSE-OUT SALE, FEE; STATE STATUTES**

No person shall offer for sale a stock of goods, wares or merchandise under the designation of "closing-out sale," "going out-of-business sale," "discontinuance-of-business sale," "entire stock must go," "must sell to bare the walls," or other designation of like meaning unless he shall have obtained a license to conduct such a sale from the municipal officers. The provisions of 30-A M.R.S.A. §§ 3781-3784 shall apply. The fee for such license shall be as provided in Section 7-105 of this Chapter.

[Derivation: Section 12-6, 1973 Revised Code of Ordinances]

**SECTION 7-324**      INNKEEPERS AND VICTUALERS; LICENSE, BOND, FEE

1. The municipal officers, treasurer and City Clerk, called the licensing board, shall meet annually and after notice as provided in 30-A M.R.S.A. §3812, shall license under their hands as many persons of good moral character and under such restrictions and regulations as they deem necessary, to be innkeepers, victualers, tavern keepers, and operators of lodging houses at any meeting to be notified and to be held may revoke licenses so granted if in their opinion there is sufficient cause. License issued under this Section shall expire May 31 of each year.
2. No person shall receive his license as an innkeeper or victualer until he has given his bond to the treasurer with one (1) or more satisfactory sureties in the penal sum of three hundred dollars (\$300.00).
3. The annual license fee for an innkeeper's or victualer's license shall be as provided in Section 7-105 of this Chapter.

[Derivation: Section 12-7, 1973 Revised Code of Ordinances]

[Derivation: Ordinance No. 04-06, Effective 10/22/2004]

**SECTION 7-325**      PREMISES OF PREPARED FOOD AND ICE CREAM PLACES INCLUDING VENDING MACHINES TO OBTAIN VICTUALER'S LICENSE

All owners of restaurants, food catering services, ice cream and other frozen dairy products, and bakeries preparing and wholesaling food and owners of places with vending machines having food and those persons preparing pizzas and Italian sandwiches in the City shall obtain a victualer's license.

[Derivation: Section 12-8, 1973 Revised Code of Ordinances as amended 7/13/92]

**SECTIONS 7-326 - 7-340**      (Reserved)

**DIVISION B – CANNABIS-RELATED GOODS AND SERVICES**

**SECTION 7-341**      DEFINITIONS

For purposes of this Chapter, the following terms shall have the meanings set forth in Chapter 9: cannabis, cannabis product, cannabis products manufacturing facility, cannabis retail store, cannabis testing facility, indoor cannabis cultivation facility, and outdoor cannabis cultivation facility. These terms are collectively hereinafter referred to as “cannabis establishments.”

[Derivation: Ord. No. 18-16, eff. 11/23/2018]

**SECTION 7-342**      MUNICIPAL OFFICERS TO ISSUE LICENSES FOR CANNABIS ESTABLISHMENTS

The municipal officers shall have the authority to approve or disapprove applications for licenses for the operation of cannabis establishments. The annual license fee shall be as provided in Section 7-105 of this Chapter.

The provisions of all applicable local ordinances, including without limitation the provisions of Chapter 9, and the statutes and rules adopted by the State of Maine shall apply to the regulation of cannabis establishments.

[Derivation: Ord. No. 18-16, eff. 11/23/2018]

**SECTION 7-343**      CANNABIS ESTABLISHMENTS; LICENSE REQUIRED

1.    License Required. No person shall establish or operate any cannabis establishment without first having obtained a license for the cannabis establishment from the municipal officers. Each applicant for a license shall complete and file an application on a form prescribed by the City Clerk, together with a license fee as required in Section 7-105 of this Chapter; evidence of any State approvals required to operate the cannabis establishment; a statement identifying all owners, officers, members, managers, or partners of the applicant; and a description and sketch plan of the premises for which the license is sought.
  
2.    Condition Precedent. Any cannabis establishment required to be licensed by the State authority created for the purpose of regulating and controlling the licensing of adult-use cannabis establishments pursuant to Title 28-B of the Maine Revised Statutes, as amended, must secure a State license from that State authority prior to submitting an application for a license pursuant to this section. A copy of the applicant's state license application and supporting documentation as filed with the State authority, and any amendments thereto, shall be filed with the application required pursuant to subsection 1, above.
  
3.    License Issuance. The municipal officers shall license persons of good moral character to establish or operate a cannabis establishment, in accordance with the requirements set forth herein.
  - A.    In determining whether to issue or deny a license application, the municipal officers shall consider (i) whether the applicant has failed any part of a state inspection or local health inspection; (ii) whether the applicant has failed to provide sufficient evidence of compliance with applicable local and state laws and regulations; (iii) whether the applicant is of good moral character, considering the applicant's criminal record, if any, and all evidence presented; (iv) the applicant's failure to pay an outstanding fine, penalty or tax owed to

the City; and (v) the City's need for additional cannabis establishments. In the review of any license application pursuant to this section, the municipal officers may require and solicit review comments concerning the approval considerations identified herein from any public officers, departments, or agencies of the City.

- B. License applications submitted pursuant to this section shall be approved or disapproved at any meeting of the municipal officers, after public notice and hearing.
  - C. The municipal officers may attach to any license issued pursuant to this section such restrictions and conditions as they deem necessary, appropriate, and reasonably designed to promote the health, safety, and welfare of the public.
  - D. A license issued under this section shall be effective for one year from the date of approval.
4. License Renewal. Renewal applications from persons having obtained a license under this section shall be submitted to the City Clerk in accordance with Section 7 104. The municipal officers shall annually review all renewal applications for the purpose of determining the status of the applicant's prior conformance and likelihood of continued conformance with the requirements of this Division, including the requirements of Section 3.A, above, and any restrictions or conditions of the license, and shall decide to either approve or deny the renewal application after public notice and hearing. An application for the renewal of an expired license shall be treated as a new license application if a renewal application is not submitted within thirty (30) days after the expiration or renewal date and shall be subject to the license fees and/or civil penalties set forth in Section 7-104.
5. License Suspension and Revocation. The municipal officers may suspend or revoke any license granted under this section if, after notice, and hearing, the municipal officers determine that the license holder is unfit to hold a license. The suspension or revocation of a cannabis establishment license issued by the State, the failure of a license holder to acquire and maintain all necessary local and State approvals, or the violation by a license holder of any applicable local or state laws and regulations (including without limitation the provisions of Chapter 9 or applicable building or life safety code requirements) shall be prima facie evidence that the license holder is unfit to hold a license. The municipal officers shall serve written notice of a hearing on revocation on the license holder or leave said notice at the licensed premises at least three days before the time set for hearing. At the hearing, the license holder shall be given an opportunity to hear the evidence in support of the charge against the license holder and to be heard in the license holder's own defense.
5. Voluntary Termination or Abandonment of License. Any license holder terminating or abandoning a license granted under this section must file a notice of termination or

abandonment with the City Clerk. The fee for filing such notice shall be as provided in Section 7-105 of this Chapter.

6. Assignment or Transfer. No license issued under this section may be assigned or transferred to another entity. Any change in ownership or change in the officers of an owner shall require a new license. Licenses are limited to the premises for which they are issued and are not transferrable to another location. A license holder seeking to operate in a new location must first acquire a license for that location.
7. Substantial Progress. Any license issued under this section shall automatically expire if the licensee does not commence operation of the cannabis establishment within 90 days from the date of license issuance; provided, however, that the Code Enforcement Officer may grant the licensee one extension of up to 180 days if the licensee demonstrates substantial progress toward commencement of operation. An application for the renewal of an expired license under this subsection shall be treated as a new license application.

[Derivation: Ord. No. 18-16, eff. 11/23/2018]

**SECTION 7-344**      ADDITIONAL LICENSING RESTRICTIONS IN THE DOWNTOWN DISTRICT (DT)

Licenses applications for cannabis retail stores, as that term is defined in Section 9-151, that are located in the Downtown District are subject to the following additional restrictions:

1. The number of licenses issued by the municipal officers under this section shall be limited to two (2) licenses.
2. Available licenses shall be advertised by the City and such advertisement shall include a deadline for the submission of license applications for cannabis retail stores. The municipal officers shall conduct a lottery to establish the order in which applications received will be reviewed pursuant to Section 7-343. Prior to the lottery, the City Clerk shall review all applications for timeliness and completeness, provided, however, that the omission by the lottery applicant of a description and sketch plan of the premises for which the license is sought shall not cause the application to be deemed incomplete for purposes of the lottery (but a description and sketch plan of the premises must be provided by the applicant prior to issuance of a license under this section). Any untimely submitted or otherwise incomplete applications shall be excluded from the lottery. The municipal officers shall review the timely and complete applications in the order established by the lottery pursuant to the requirements of Section 7-343 until the maximum number of licenses are approved.
3. If at any time a license issued under this section expires without timely renewal, is suspended or revoked by the municipal officers, or is terminated or abandoned by the license holder, the municipal officers shall make available the license to new applicants by soliciting new license applications in accordance with subsection 2,

above. Any person who submitted an application in response to prior solicitations must submit a new timely and complete application to be included in the new lottery.

[Derivation: Ord. No. 18-16, eff. 11/23/2018]

**SECTION 7-345**      APPEALS

An appeal from any final decision of the municipal officers shall be taken by any party to the Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.

[Derivation: Ord. No. 18-16, eff. 11/23/2018]

**SECTION 7-391 through 7-399**      (Reserved)

[Derivation: Section 12-51, 1973 Revised Code of Ordinances as amended 6/8/92]

[Derivation: Ordinance No. 04-06, Effective 10/22/2004; Ord. No. 18-16, eff. 11/23/2018]

**SUBCHAPTER IV - SALE OF GOODS AND SERVICES AT NO FIXED LOCATION**

**DIVISION A - TRANSIENT SELLERS AND SALES ON PUBLIC PROPERTY,  
PRIVATE PROPERTY & FROM VEHICLES**

**SECTION 7-401      TRANSIENT SELLER OF CONSUMER MERCHANDISE LICENSE  
REQUIRED; PENALTY; FARMERS MARKET**

1. License. It shall be unlawful for a "transient seller of consumer merchandise", as defined by 32 M.R.S.A. §14701, to sell, offer or expose for sale any merchandise within the City without having first obtained a license from the City. A transient seller of consumer merchandise may obtain a license from the City by completing an application provided by the City Clerk, and submitting it with copies of the current State Motor Vehicle Registration, the State Seller's License, an insurance binder for use on public property covering the City and the required license fee as provided in Section 7-105. If a Transient Seller is selling food a Victualer's License is also required as provided by Section 7-324 and the required license fee as provided in Section 7-105.
2. Penalty. A violation of this Chapter by a transient seller of consumer merchandise shall be punishable by a civil penalty of \$300.00 for each day a violation exists or occurs.
3. Farmers Market. Transient sellers at a Farmers Market established for the sale of produce, meat or other goods grown or made as part of a farm operation shall first obtain a license from the City as provided by Subsection 1 of this Section except that the term for a Farmers Market license shall be from May 1st to November 1st and the fee shall be \$25.00. Merchandise sold at a Farmers Market shall not include food prepared at the market for consumption at the market by the public unless the seller also obtains a Victualer's License as provided by Section 7-324 and the required license fee as provided in Section 7-105. A copy of the applicant's State Motor Vehicle Registration or a copy of ownership for any vehicle, cart stand, trailer, container or other mobile unit placed by a licensee at the Farmers Market is required at time of licensing.

[Derivation: Ord. No. 00-\_\_\_\_\_; Ord. No.: 04-06, effective 10/2/2004; Ord. No.: 07-08, effective 08/23/2007; Ord. No. 16-03, effective 08/18/2016]

**SECTION 7-402      SALES ON PUBLIC PROPERTY**

No person shall sell any food, goods, or services on any public property except as expressly permitted under this Section and Sections 7-403 & 7-411. The City Council may, if in its opinion public convenience so requires, issue a license to any reputable person permitting the sale of food, food products, goods or services by that person on a part of a public way or public parking area provided that there is no interference with public travel caused thereby,



subject to the following conditions:

1. The annual license fee shall be as provided in Section 7-105 of this Chapter.
2. An applicant for license shall complete an application form provided by the City Clerk and submit it to the City Manager not later than the 25<sup>th</sup> day of the month for submission at the next regular meeting of the City Council
3. A licensee selling prepared food shall obtain a separate victualer's license under Section 7-324.
4. Licenses issued under this Section shall expire on May 31 of each year and may be renewed by a new application submitted to the City Manager.
5. The location or site of licensee's operation shall be approved by the City Manager upon the application.
6. The location of licensed vendors for operations during Old Hallowell Day weekend only shall be specified by the Old Hallowell Day Committee, subject to subsections 10 through 16, except that lighted signs are permitted.
7. No licensee may sell food or food products on a public way or parking area at a location within five hundred feet distance from any permanent establishment selling foods of a like kind.
8. A licensee seeking renewal shall have preference over other applicants with respect to the same location continuously and actually used by that licensee during the previous 12 months for a period of not less than 100 days, and no subsequent use of that location has been granted to a different licensee.
9. There shall be no more than two designated locations on Water Street between the Railroad Bridge and Gows Lane.
10. There shall be no designated locations within 50 feet distance from any Historic Site or Historic Landmark designated by law.
11. Any vehicle, cart, stand, trailer, container, or other things placed by a licensee on a public way or parking area must be readily removable at all times, and shall be immediately removed upon order of the Chief of Police, Fire Chief, or City Manager in the event of emergency or hazardous conditions.
12. A licensee may not use any lighted signs, audio systems, or similar attention seeking devices.

13. The license issued by the City must be visibly displayed by the licensee at the designated location during operation.
14. Licenses issued under this Section may not be transferred, assigned, sublet, or additional name added to or subtracted from license.
15. The licensee shall comply with all applicable City ordinances and State laws.
16. A license granted under this Section may be revoked by the City Manager for just cause after notice and hearing.
17. A copy of their State Motor Vehicle Registration or a copy of ownership for any vehicle, cart stand, trailer, container or other mobile unit placed by a licensee on public property is required at time of licensing.

[Derivation: Ord. No.: 04-06, eff. 10/22/2004; Ord. No.: 05-06, eff. 8/18/2005; Ord. No.: 06-02, eff. 5/18/2006; Ord. No.: 07-09, eff. 8/23/2007; Ord. No. 12-08, eff. 8/13/2012; Ord. No.: 16-01, eff. 03/24/2016; Ord. No. 16-03, eff. 08/18/2016]

**SECTION 7-403      SALES ON CITY SIDEWALKS**

The display or sale of goods on City sidewalks is prohibited except as follows:

1. Such sales may only be held in the Business Districts.
2. Such sales may be held only on City sidewalks in front of property owned, leased or rented by the seller.
3. All goods being sold on a sidewalk shall be of a similar kind to goods sold inside the seller's building.
4. No more than one-third of the width of the sidewalk nearest the seller's property may be used to display the goods being sold.
5. No goods shall be displayed or stored on a sidewalk during non-business hours, during a snowstorm or after a snowstorm until the City has removed the snow.

[Derivation: Section 12-12, 1973 Revised Code of Ordinances and Ord. No. 00-\_\_\_; Ord. No. 04-06, Effective: 10/22/2004]

**SECTION 7-404      (Reserved)**

[Derivation: Ordinance No. 00-\_\_\_; Ord. No. 04-06, Effective 10/22/2004]

**SECTION 7-405**      SALES ON PRIVATE PROPERTY AND FROM VEHICLES

1. Any person or other entity selling food, food products, goods or services of any kind from a mobile or temporary facility, not located on public property must complete an application and obtain a permit from the City Clerk.
2. A licensee selling prepared food shall obtain a separate Victualer's license under Section 7-324.
3. If a vehicle is to be used, a description of the same, together with registration number or other means of identification shall be stated in the application.
4. The annual license fee shall be as provided in Section 7-105 of this Chapter.
5. The license under this section shall be displayed by the license holder at all times.
6. Licenses issued under this Section shall expire May 31 of each year.

[Derivation: Section 12-10, 1973 Revised Code of Ordinances as amended 6/8/92, and Ord. No. 00-\_\_\_\_]

[Derivation: Ordinance No.: 04-06, Effective : 10/22/2004]

**SECTION 7-406**      OCCASIONAL SALES ON RESIDENTIAL PROPERTY (YARD SALE, LAWN SALE GARAGE SALE, ETC.) – SEE SECTION 4-622

[Derivation: Ordinance No.: 04-06, Effective: 10/22/2004]

**SECTIONS 7-407 through 7-410**      (Reserved)

**SECTION 7-411**      ITINERANT PHOTOGRAPHER; LICENSE REQUIRED; FEE; PENALTY

1. No person may practice as an itinerant photographer without first obtaining a license from the municipal officers. The annual license fee for such license shall be as provided in Section 7-105 of this Chapter.
2. Any person who practices as an itinerant photographer without having first obtained such a license shall be punished in accordance with 32 M.R.S.A. §2961.

[Derivation: Section 12-3, 1973 Revised Code of Ordinances as amended 6/8/92]

**DIVISION B**

(Reserved)

**DIVISION C - TAXI CAB SERVICE**

**SECTION 7-451**      **DEFINITIONS**

The following words and phrases when used in this article shall have the following meanings:

1.      Certificate means a certificate issued by the council authorizing a person to operate a taxicab business in the City.
2.      Driver's license means the permission granted by the council to drive a taxicab upon the streets of the City.
3.      Rate card means a card issued by the owner of taxicab for display in each taxicab which boldly shows the rates then in force.
4.      Taxicab means a motor vehicle regularly engaged in the business of carrying passengers for hire having a seating capacity of not less than five (5) persons and not operated on a fixed route.
5.      Taxicab operator means a person engaged in the business of employing drivers and taxicabs for transporting passengers for hire.
6.      Waiting time means the time when a taxicab is stopped at the request of the passenger, but does not include any time that the taxicab is not in motion due to any cause other than the request, act or fault of a passenger.

[Derivation: Section 23-16, 1973 Revised Code of Ordinances]

**SECTION 7-452**      **POLICE DEPARTMENT TO REPORT VIOLATIONS TO COUNCIL**

The police department is hereby given the authority and is instructed to watch and observe the conduct of operators and drivers operating under this article.

Upon discovering a violation of the provisions of this Division, the police department shall report the same to the council which will order or take appropriate action.

[Derivation: Section 23-17, 1973 Revised Code of Ordinances]

**SECTION 7-453**      OPERATOR'S CERTIFICATE REQUIRED

No person shall operate or permit a taxicab owned or controlled by him to be operated as a vehicle for hire upon the streets of the City without having first obtained a certificate from the council.

[Derivation: Section 23-18, 1973 Revised Code of Ordinances]

**SECTION 7-454**      APPLICATION FOR CERTIFICATE TO BE FILED; INFORMATION REQUIRED

An application for a taxicab certificate required by Section 7-453 shall be filed with the City Clerk upon forms provided by the City and such application shall be verified under oath and shall furnish the following information:

1.      The name and address of the applicant.
2.      Evidence of ability to secure bond or insurance.
3.      The experience of the applicant in the transportation of passengers.
4.      The number of vehicles to be operated or controlled by the applicant.
5.      Such further information as the council may require.

[Derivation: Section 23-19, 1973 Revised Code of Ordinances]

**SECTION 7-455**      ISSUANCE OF CERTIFICATE

If the council finds that an applicant is fit, willing and able to perform such public transportation, and to conform to the provisions of this division and the rules promulgated by the council, then the City Clerk shall issue a certificate stating the name and address of the applicant, the number of vehicles authorized under the certificate and the date of issuance, otherwise the application shall be denied.

[Derivation: Section 23-20, 1973 Revised Code of Ordinances]

**SECTION 7-456**      INDEMNITY BOND REQUIRED

No certificate required by Section 7-453 shall be issued or continued in operation unless there is in full force and effect an indemnity bond for each vehicle authorized in the amount of one hundred thousand dollars (\$100,000) for bodily injury to any one (1) person; in the amount of three hundred thousand dollars (\$300,000) for injuries to more than one (1) person which are sustained in the same accident and twenty-five thousand dollars (\$25,000) for property damage resulting from any one (1) accident.

Said bond shall insure to the benefit of any person who shall be injured or who shall sustain, damage to property proximately caused by the negligence of a taxi operator.

[Derivation: Section 23-21, 1973 Revised Code of Ordinances]

**SECTION 7-457**      LIABILITY INSURANCE IN LIEU OF BONDS

Said bond or bonds shall be filed in the office of the City Clerk and shall have as surety thereon a surety company authorized to do business in the State of Maine.

The council may in its discretion allow a taxi operator to file, in lieu of bonds required in Section 7-456, a liability insurance policy issued by an insurance company authorized to do business in the State of Maine. Such policy shall conform to the provisions of Section 7-456 relating to bonds.

[Derivation: Section 23-22, 1973 Revised Code of Ordinances]

**SECTION 7-458**      LICENSE FEES PREREQUISITE TO ISSUANCE TO CERTIFICATE

No certificate provided under this division shall be issued or continued in operation unless the holder thereof has paid an annual license fee of one hundred dollars (\$100.00) for the right to engage in the taxicab business and five dollar (\$5.00) each year for each vehicle operated under a certificate.

[Derivation: Section 23-23, 1973 Revised Code of Ordinances]

[Derivation: Ordinance No.: 04-06, Effective: 10/22/2004]

**SECTION 7-459**      TRANSFER OF CERTIFICATES

No operator's certificate may be sold, assigned, mortgaged or otherwise transferred without the consent of the council.

[Derivation: Section 23-24, 1973 Revised Code of Ordinances]

**SECTION 7-460**      SUSPENSION, REVOCATION OF CERTIFICATES; HEARING

A certificate issued under the provisions of this division may be revoked or suspended by the council if the holder thereof has:

1.      Violated any of the provisions of this division.
2.      Discontinued operations for more than sixty (60) days without due cause.
3.      Has violated any ordinance of the City or the laws of the United States or of the State of Maine, the violations of which reflect unfavorably on the fitness of the holder to offer public transportation.

Prior to suspension or revocation, the holder shall be given ten (10) days notice of the proposed action to be taken, and shall have an opportunity to be heard by the City Council.

[Derivation: Section 23-25, 1973 Revised Code of Ordinances]

**SECTION 7-461**      DUTY TO PROVIDE SERVICE; PENALTY

Holders of certificates issued in accordance with this division shall maintain a central place of business within the City limits for the purpose of receiving calls and dispatching cabs.

Holders of certificates shall answer all calls received by them for services inside the corporate limits of the City as soon as they can do so and if the services cannot be rendered within a reasonable time they shall then notify the prospective passengers how long it will be before the call can be answered and give the reason therefor.

Any holder who shall refuse to accept a call during business hours anywhere in the corporate limits of the City at any time when such holder has available taxicabs, or who shall fail or refuse to give service during business hours shall be deemed a violator of this division and the certificate granted to such holder shall be revoked at the discretion of the council.

[Derivation: Section 23-26, 1973 Revised Code of Ordinances]

**SECTION 7-462**      TO BE MARKED

Taxicabs will be clearly marked as such, taxicab operators may employ a specific color scheme, identifying design, monogram or insignia.

[Derivation: Section 23-27, 1973 Revised Code of Ordinances]

**SECTION 7-463**      UNLAWFUL TO REFUSE TO PAY FARE

It shall be unlawful for any person to refuse to pay the legal fare of any vehicles mentioned in this division after having hired the same, and it shall be unlawful for any person to hire any vehicle herein defined with intent to defraud the person from whom it is hired of the value of such service.

[Derivation: Section 23-28, 1973 Revised Code of Ordinances]

**SECTIONS 7-464 THROUGH 7-479 (Reserved)**

**DIVISION D - TAXI CAB DRIVERS**

**SECTION 7-471      LICENSE REQUIRED**

No person shall operate a taxicab for hire on the streets of the City, and no person who owns or controls a taxicab shall permit it to be so driven, and no taxicab licensed by the City shall be so driven at any time for hire, unless the driver of such taxicab shall be at least eighteen (18) years of age, covered by appropriate insurance and shall have had issued to him an operator's license by the State of Maine for at least one (1) year and shall have then in force a taxicab driver's license issued under the provisions of this division.

[Derivation: Section 23-26, 1973 Revised Code of Ordinances]

**SECTION 7-472      APPLICATION FOR LICENSE; CONTENTS**

An application for a taxicab driver's license shall be filed with the City Clerk on forms provided by the City; and such application shall be verified under oath and shall contain the following information:

1. Applicant's name, address, date of application, current photograph of applicant, date of birth, place of birth and citizenship.
2. Physical and mental defects, if any.
3. Treatment of mental or physical defects or disorders during previous year and by whom.
4. Previous driving experience, previous taxi licenses and where issued, and any previous denials, suspensions, or revocations of such licenses and the reasons therefor.
5. Court convictions within the past year and for what offenses.
6. Name of employing taxicab operator.
7. Oath and signature of the applicant.

[Derivation: Section 23-37, 1973 Revised Code of Ordinances]

**SECTION 7-473      CERTIFICATE TO ACCOMPANY APPLICATION; CONTENTS**

Each application for a taxicab driver's license shall be accompanied by a certificate from a reputable physician certifying that in his opinion the applicant is not afflicted with any disease or infirmity which might make him an unsafe or unsatisfactory driver.



The certificate shall include the following evidence of examination from a reputable physician:

1. Name and age of applicant.
2. Condition of sight, including test for color blindness.
3. Condition of hearing, heart, blood pressure.
4. Report on possible respiratory ailments, including x-ray examination if indicated by preliminary examination.
5. Note of any mental disorder or other physical defect which would impair the applicant's ability to drive a taxicab.

[Derivation: Section 23-38, 1973 Revised Code of Ordinances]

**SECTION 7-474**      FEE OF APPLICANT

At the time an application for a taxicab driver's license is filed, the applicant shall pay to the City Clerk the fee established under Section 7-105.

[Derivation: Section 23-39, 1973 Revised Code of Ordinances Amended 6-6-90]

**SECTION 7-475**      INVESTIGATION OF APPLICANT REQUIRED; REPORTS TO BE ATTACHED TO APPLICATION

The police department shall conduct an investigation of each applicant for a taxicab driver's license, and a report of such investigation and a copy of the traffic and police record of the applicant, if any, shall be attached to the application for the consideration of the council.

[Derivation: Section 23-40, 1973 Revised Code of Ordinances]

**SECTION 7-476**      COUNCIL TO CONSIDER APPLICATION FOR LICENSE

The council shall upon consideration of the application for a taxicab driver's license and the reports and certificate required to be attached thereto approve or reject the application.

[Derivation: Section 23-41, 1973 Revised Code of Ordinances]

**SECTION 7-477**      PERSONAL APPEARANCE UPON REJECTION OF APPLICATION FOR LICENSE

If an application for a taxicab driver's license is rejected, the applicant may request a personal appearance before the council to offer evidence why his application should be

reconsidered.

[Derivation: Section 23-42, 1973 Revised Code of Ordinances]

**SECTION 7-478**      ISSUANCE OF TEMPORARY PERMIT; LENGTH OF VALIDITY

Upon receipt of an application for a taxicab driver's license, police report, physician's certificate and license fee, the City Clerk may issue a temporary permit providing the application has been signed by the Mayor and the Chief of Police who through personal knowledge or investigation believes the applicant to be a suitable licensee.

[Derivation: Section 23-43, 1973 Revised Code of Ordinances]

**SECTION 7-479**      DISPOSITION OF FEE FOLLOWING DENIAL OF APPLICATION FOR LICENSE

In cases of denial of an application for a taxicab driver's license, a processing fee of ten dollars (\$10.00) will be charged and the remaining forty dollars (\$40.00) returned to the applicant.

[Derivation: Section 23-44, 1973 Revised Code of Ordinances]

**SECTION 7-480**      CLERK TO ISSUE LICENSE

Upon the approval of an application for a taxicab driver's license, to the applicant which shall bear the name, address, color, age and signature of the applicant.

[Derivation: Section 23-45, 1973 Revised Code of Ordinances]

**SECTION 7-481**      REVOKED LICENSE NOT TO BE RENEWED

A license which has been revoked in one year shall not be renewable in the next.

[Derivation: Section 23-46, 1973 Revised Code of Ordinances Amended 6-11-90]

**SECTION 7-482**      CHIEF OF POLICE AUTHORIZED TO SUSPEND LICENSE

The Chief of Police is hereby given the authority to suspend any taxicab driver's license issued under this division for a driver failing or refusing to comply with the provisions of this division, such suspension to last for a period of not more than thirty (30) days.

[Derivation: Section 23-47, 1973 Revised Code of Ordinances]

**SECTION 7-483**      COURT CONVICTION A BASIS FOR SUSPENSION OF LICENSE

A court conviction of any traffic violation, felony, or crimes involving moral turpitude, shall in the public interest be the basis for suspension of a taxicab driver's license. Upon such conviction the Chief of Police is empowered and directed to take possession of the driver's license and to keep the same in his custody until disposition is directed by the council.

Such suspension will remain in force until the council has heard the case at its next regular meeting at which time it will specifically direct reinstatement of the license, a specific term of suspension, or revocation.

The suspended licensee shall be notified of the hearing and may present such pleas and extenuating circumstances as he desires.

[Derivation: Section 23-48, 1973 Revised Code of Ordinances]

**SECTION 7-484**      RECEIPTS REQUIRED UPON DEMAND FROM PASSENGER

The driver of any taxicab shall upon demand by the passenger render to such passenger a receipt for the amount charged, either by a mechanically printed receipt or by a specifically prepared receipt on which shall be the name of the owner, charges and date of transaction.

[Derivation: Section 23-49, 1973 Revised Code of Ordinances]

**SECTION 7-485**      SOLICITATION OF PASSENGERS REGULATED

No driver shall solicit patronage in a loud or annoying tone of voice or in any manner annoying to any person or obstruct the movement of any person, or follow any person for the purpose of soliciting patronage.

[Derivation: Section 23-50, 1973 Revised Code of Ordinances]

**SECTION 7-486**      RECEIPT; DISCHARGE OF PASSENGERS

Drivers of taxicabs shall not receive or discharge passengers in the roadway but shall pull up to the right-hand sidewalk, or in the absence of a sidewalk, to the extreme right-hand side of the road and there receive or discharge passengers, except upon one-way streets where passengers may be discharged at either the right or left-hand sidewalk, or side of the roadway in the absence of a sidewalk.

[Derivation: Section 23-51, 1973 Revised Code of Ordinances]

**SECTION 7-487**      NUMBER OF PASSENGERS RESTRICTED; CHILD IN ARMS

No driver shall permit more persons to be carried in a taxicab as passengers than the rated seating capacity of his taxicab as stated in the registration issued by the State of Maine for

such vehicle.

A child in arms shall not be counted as a passenger.

[Derivation: Section 23-52, 1973 Revised Code of Ordinances]

**SECTION 7-488**      REFUSAL OF PASSENGERS RESTRICTED

No driver of a taxicab shall refuse or neglect to convey any orderly person upon request, unless previously engaged or forbidden by the provisions of this division to do so.

[Derivation: Section 23-53, 1973 Revised Code of Ordinances]

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**SUBCHAPTER V - AMUSEMENTS**

**DIVISION A - IN GENERAL**

**SECTION 7-501      SPECIAL AMUSEMENT PERMIT**

1. Except as expressly provided herein, no person may own, operate, sponsor or provide for a place of public amusement for any duration of time without first obtaining a special amusement permit approved by the Chief of Police.
2. "Place of public amusement" means the premises on which members of the general public may view, listen to or participate in any type of entertainment, including dancing, music, athletic events, theaters, roller rinks, ice skating rinks, bowling alleys, pool or billiard rooms, shooting galleries and games of chance.
3. Special amusement permits for boxing events, circuses, carnivals and traveling amusement shows shall be approved by the municipal officers, and shall be subject to the additional provisions of Sections 7-541 through 7-544 and 7-551 through 7-556. Any place of public amusement that is also a mass gathering as defined at Section 7-512(1)(B) shall require both a special amusement permit and a mass gathering permit approved by the municipal officers.
4. Mechanical rides, video games and coin operated amusements under Sections 7-509 and 7-510 and entertainment and athletic events under the direction and control of a governmental entity shall not require a special amusement permit.
5. If liquor is sold to be consumed at a place of public amusement, the special amusement permit may only be approved and issued by the municipal officers pursuant to 28-A M.R.S.A. § 1054, after holding an advertised public hearing and receiving the recommendations of the Chief of Police and Fire Chief.

[Derivation: Section 3-1, 1973 Revised Code of Ordinances as repealed and replaced 11/1/95]

**SECTION 7-502      APPLICATION; FEE**

1. A completed application for a special amusement permit must be submitted to the City Clerk not later than 14 days prior to the opening or event. A completed application for a special amusement permit requiring approval of the municipal officers must be submitted to the City Clerk not later than 14 days prior to a regularly scheduled meeting of the City Council and not later than 30 days prior to the opening or event. The application shall not be considered complete without payment of the requisite fee as provided in Section 7-105.

2. The application form shall be completed and signed by the owner or operator of the place of public amusement, and shall contain the following information:
  - A. The specific nature and type of public amusement to be provided.
  - B. The full name, telephone number and address of the owner of the premises.
  - C. The name, telephone number and address of the operator of the place of public amusement.
  - D. If the owner and operator are not the same person, a written agreement signed by the owner of the premises (e.g., a contract, license or lease) evidencing authority of the operator to use the premises as a place of public amusement.
  - E. The specific location and description of the premises of the place of the public amusement.
  - F. The specific dates and hours of operation.
  - G. A specific description of any structure, tent or other enclosure on the premises in which members of the public may be present, and the seating and standing capacity of each.
  - H. The number and type of all toilet facilities on the premises or reasonably available.
  - I. The maximum number of patrons reasonably expected to be present on the premises and within 100 feet of the premises at the busiest time of operation.
  - J. Acknowledgment that the Chief of Police may designate one or more special police officers to be present at or near the premises during certain hours of operation, and covenant to reimburse the City for compensation of such officers.
  - K. Covenant that the operation will comply with all performance standards, health and safety regulations, and fire codes as provided by City Ordinance and State Law.
  - L. Whether the operator intends to serve food on the premises.
  - M. Whether the operator intends to serve liquor on the premises, and if liquor is to be served, the name of licensee(s) and type of license held.
  - N. Whether the place of amusement is out of doors and has the potential to attract the attendance of 250 or more persons on or within 100 feet of the

premises.

[Derivation: Section 3-2, 1973 Revised Code of Ordinances as repealed and replaced 11/1/95]

**SECTION 7-503**      ASSIGNMENT OF SPECIAL POLICE OFFICERS

1. The Chief of Police shall determine, based on the information provided in the application and such additional information that he may require from the operator, whether and how many police officers shall be specifically assigned for the purpose of supervision and crowd or traffic control at or around the place of public amusement.
2. (Reserved)
3. Any police officer or fire personnel performing special duties will be compensated at the rate of one and one-half their regularly hourly wage in a pay period (Wednesday noon to Wednesday noon).

Minimum compensation will be the applicable rate for 4 hours. After the first 4 hours, any fraction of an hour of service will be rounded up to the nearest hour.

The rates for such service plus administrative cost, of \$3.00 per special duty officer, shall be borne by the party running such event.

4. A police officer or firefighter on duty at a place of public amusement shall attend such gathering in uniform, shall represent the City in an official capacity, and shall not in any way represent the operator of the place of public amusement.

[Derivation: Section 3-3, 1973 Revised Code of Ordinances as repealed and replaced 11/1/95, and as amended 2/12/96]

**SECTION 7-504**      REVIEW OF APPLICATION BY FIRE CHIEF

The Fire Chief or his designee shall, based on the information contained in the application and such other information that may be obtained from the operator or from inspection of the premises, note any potential fire hazards or violations of fire and related safety codes, and advise the applicant prior to the issuance of the permit. Failure to comply with directives of the Fire Chief or his designee may result in the immediate revocation of the special amusement permit. [Amended Ord. No. 01-12 eff. 9/20/01]

[Derivation: Section 3-4, 1973 Revised Code of Ordinances as repealed and replaced 11/1/95]



**SECTION 7-505**      PERFORMANCE STANDARDS

1. The provisions of the Life Safety Code (ANSI/NFPA 101, 2000 Ed. as amended) shall apply to all places of public amusement regardless of capacity or the number of persons accommodated. A current copy of the Life Safety Code is available for review at the office of the City Clerk or the office of the Code Enforcement Officer.
2. The passageways, aisles, and exits in all places of public amusement shall be kept clear and unobstructed at all times in accordance with the Life Safety Code.
3. All fabric used for tents, coverings, curtains, decorations or similar purposes in all places of public amusement shall be of fire-proof or flame retardant materials in accordance with the Life Safety Code.
4. All places of public amusement shall have adequate lighting in accordance with the Life Safety Code.
5. All places of public amusement not within a building or permanent structure shall comply with the regulations promulgated by the State of Maine, Department of Human Services relating to Mass Outdoor Gatherings, including those relating to toilet facilities, water supply, trash removal, and sanitation, regardless of the number of persons in attendance.
6. No place of public amusement may conduct business or be open to the public between 2:00 a.m. and 7:00 a.m. in any day.

[Derivation: Section 3-5, 1973 Revised Code of Ordinances as repealed and replaced 11/1/95]

**SECTIONS 7-506 through 7-508**      (Reserved)

[Derivation: Sections 3-7 - 3-8, 1973 Revised Code of Ordinances as repealed 11/1/95]

**SECTION 7-509**      MECHANICAL HORSES, VENDING, PINBALL MACHINES, MUSIC BOXES;  
NAME, ADDRESS TO BE AFFIXED

The owner of any coin-operated machine such as a mechanical horse, vending machine, pinball machine, or music box, etc. shall have each such machine plainly marked with his name and address, and shall obtain a license for each machine from the City Clerk. License issued under this Section shall expire May 31 of each year. The annual fee for each machine shall be as provided in Section 7-105 of this Chapter.

[Derivation: Section 3-10, 1973 Revised Code of Ordinances as amended 6/11/90]

[Derivation: Ordinance NO.: 04-06, Effective: 10/22/2004]

**SECTION 7-510**      FURNISHING OF LISTS; DESIGNATION OF MACHINES

Prior to the first day of April of each year, the owners of the coin-operated machines mentioned in Section 7-509 shall furnish to the board of assessors a complete list of their machines with the year of purchase.

Any machine purchased more than five (5) years prior to the date of the list may be designated as being a five (5) year old machine.

[Derivation: Section 3-11, 1973 Revised Code of Ordinances]

**SECTION 7-511**      VIOLATIONS; PENALTIES

The operation of a place of public amusement without a special amusement permit or the breach of any covenant or condition contained in the application or permit shall constitute a separate civil violation on each day such violation occurs or continues to exist. The owner or operator of a public amusement shall be liable for violations of this Chapter and shall be subject to civil penalties and other remedies as provided in Section 1-109, and as provided by statute.

[Derivation: Section 3-12, 1973 Revised Code of Ordinances as repealed and replaced 11/1/95]

**DIVISION B - MASS GATHERINGS**

**SECTION 7-512**      MASS GATHERINGS

1.    Regulations:
  - A.    Hazard. The City Council after a hearing finds that mass outdoor gatherings frequently create a hazard to the public, health, safety and peace. Accordingly, it is deemed to be appropriate and in the interest of the public welfare to regulate the conduct of such gatherings in order to protect the public health and safety.
  - B.    Mass outdoor gatherings. For the purposes of this ordinance, a mass outdoor gathering shall be deemed to mean any gathering held outdoors with the intent to attract the continued attendance of 250 or more persons for four (4) or more hours, or any amusement, exhibition, demonstration, celebration, parade or other event at which there is the reasonable possibility that 500 or more persons may be gathered at the place of the event at any time during the event.

- C. Permit required. No person, corporation, partnership, association or group of any kind shall sponsor, promote or conduct a mass outdoor gathering until a permit has been obtained from the City Manager after approval of the City Council. The application for a permit shall be submitted to the City Manager no less than thirty (30) days prior to the scheduled date of the mass gathering.
2. Permit Issuance:
- A. Written application. The City Manager on approval of the City Council shall issue a permit for a mass outdoor gathering upon receipt of a written application therefor unless, after the consideration of the factors listed in subsection 2, it appears to the Council within a reasonable certainty that the gathering will present a grave and imminent danger to the public health or to the public safety.
- B. Council's determination. In determining whether there exists a reasonable certainty that the gathering will present a grave and imminent danger to the public health or safety, the Council shall consider the nature of the gathering and the availability of:
- (1) An adequate and satisfactory water supply and facilities;
  - (2) Adequate refuse storage and disposal facilities;
  - (3) Sleeping areas and facilities;
  - (4) Wholesome and sanitary food service;
  - (5) Adequate medical supplies and care;
  - (6) Adequate fire protection;
  - (7) Adequate police protection;
  - (8) Adequate traffic control; and
  - (9) Any other matters as may affect the security of the public health or safety.
- C. Plans: Cooperation. In its review of applications for permits for the holding or promoting of a mass outdoor gathering, the Council may require such plans, specifications and reports as it shall deem necessary for a proper review. In its review of such applications, as well as in carrying out its other duties and functions in connection with such gathering, the City Manager on direction of the Council may request, and shall receive from all public officers, departments and agencies of the City, Hallowell Water District and Maine School Administrative District #16 such cooperation and assistance as may be necessary and proper.
3. The City Manager on direction of the City Council may also require, prior to the issuance of a permit, that the applicant furnish to the City a bond of a surety company qualified to do business in this State in such an amount as the Council shall determine, but in no event less than ten thousand (\$10,000) dollars, to ensure

the public peace, safety and compensation of damage to property, public or private.

4. The fee for such permit shall be as provided in Section 7-105 of this Chapter, and must accompany the application therefor.
5. This ordinance does not apply to events sponsored by any governmental unit.

[Derivation: Section 3-13, 1973 Revised Code of Ordinances as repealed and replaced 11/1/95]

**SECTIONS 7-513 THROUGH 7-520 (Reserved)**

**DIVISION C - PUBLIC DANCES**

**SECTION 7-521      LICENSING OF HALLS, PUBLIC DANCING AREAS**

All public dance halls and public places offering dancing shall be licensed as provided under Section 7-501. All dance halls and public places offering dancing shall meet requirements of State Fire Marshal Regulations prior to issuance of such license and registration with duly issued operational certificate. The annual license fee for public dance halls and places offering dancing shall be as provided in Section 7-105 of this Chapter.

[Derivation: Section 3-23, 1973 Revised Code of Ordinances as repealed and replaced 11/1/95]

**SECTION 7-522      LIGHTING; FIRE CHIEF'S APPROVAL REGULATION**

The lighting effects at a dance regulated by the provisions of this article shall be subject to the approval of fire chief, and the general lights in the dance hall shall neither be dimmed nor extinguished during any such dance.

[Derivation: Section 3-24, 1973 Revised Code of Ordinances]

**SECTION 7-523      DECORATIONS TO BE FIREPROOF**

Decorations in any place where there is public dancing shall be of fireproof material.

[Derivation: Section 3-25, 1973 Revised Code of Ordinances]

**SECTION 7-524      SEPARATE TOILET FACILITIES REQUIRED**

There shall be in every public dance hall and in every public place offering dancing separate toilet facilities for men and women.

[Derivation: Section 3-26, 1973 Revised Code of Ordinances]

**SECTIONS 7-525 THROUGH 7-530 (Reserved)**

**DIVISION D - BOTTLE CLUBS**

**SECTION 7-531 BOTTLE CLUBS**

1. License required. No person, firm, or corporation shall keep, maintain, operate, lease, or otherwise furnish, either to its members and guests or to the general public, any premises, in the City of Hallowell, for use as a bottle club, without first having obtained a license therefore to be issued by the City Clerk after approval of the Mayor and City Council in accordance with this Article.
2. Definitions. Unless otherwise defined herein or in the text, all words used will have their common meaning.
  - A. Bottle club. "Bottle club" means any establishment or premises which is operated on a regular basis in the following manner: (a) no alcoholic beverages sold on the premises; (b) all members, guests or members of the public must provide their own alcoholic beverages for consumption on the premises; (c) fees or other charges are imposed on all members, guests or members of the public for admission to the premises; or for setups, i.e. liquid mixers, cups, ice and other items associated with the consumption of alcoholic beverages or for any other reason. For purposes of this ordinance, the term "bottle club" shall include, but not be limited to all such premises designated for municipal regulation under 28 M.R.S.A.
  - B. Person. "Person" shall mean any individual person, firm, corporation, association, partnership or organization.
  - C. Officer. "Officer" shall mean any officer, director, stockholder, owners, manager, or person who either has a financial interest of any nature in a bottle club or directs any policy of a bottle club.
3. Fees. The annual license fee for a bottle club shall be as provided in Section 7-105.
4. Application and information. Every applicant for a bottle club license shall:
  - A. Complete and file an application on a form prescribed by the Mayor and City Council;

- B. Deposit the prescribed license fee in advance with the City Clerk;
- C. Submit with the completed application to the City Clerk the following:
  - (1) An attested copy of the Articles of Incorporation and By-Laws, if the applicant is a corporation, of Articles of Association and By-Laws, if the applicant is an association, or partnership documents if the applicant is a partnership, as well as a list of all principal officers of the bottle club.
  - (2) An affidavit which will identify all principal officers, their places of residency at the present time and for the immediately preceding three (3) years.
  - (3) A description of the premises for which a license is desired and shall set forth such other material information, description, or plan of that part of the premises where liquor will be consumed.
- 5. If an application should be denied or withdrawn the License Fee shall be refunded to the Applicant.
- 6. Investigation of applicant. Upon receipt of each application for a bottle club license:
  - A. Code Enforcement Officer shall verify that the premises of the proposed bottle club comply with the applicable provisions of this Code, specifically including, but not by way of limitation, Chapters 4 and 9 and shall report his findings in writing to the Mayor and City Council.
  - B. The Health Officer shall cause inspection to be made of the proposed location of the bottle club for the purpose of determining whether the applicable ordinances relating to health and safety have been complied with. A report of his findings shall be made in writing to the Mayor and City Council.
  - C. The Fire Chief shall cause an inspection to be made of the proposed location of the bottle club for the purpose of determining if City ordinances concerning fire and safety have been complied with. He shall submit a report of his findings in writing to the Mayor and City Council.
  - D. All reports required under this section shall be filed with the City Clerk.
- 7. Notice of hearing. After receipt of the written reports required under paragraph f., the City Clerk shall give notice of a public hearing on the application in the form and manner and to the persons herein specified.
  - A. The notice shall include the time and place of such hearing, the nature of the

matter to be heard, the address or location of the property involved. Where notice by mail is required, it shall be mailed at least seven (7) days in advance of the hearing date by regular United States mail.

- B. Notices shall be given to each of the following:
- (1) To the applicant; and
  - (2) To all residents of the City by publication in a newspaper of general circulation in the City at least once, not more than thirty (30) nor less than five (5) days, before the date of the hearing; and
  - (3) To the owners of the property within three hundred (300) feet of such parcel or tract by mail.

For the purpose of this section, the owners of property, shall be considered to be the parties listed by the Board of Assessors as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action of the Mayor and City Council.

8. License not to be transferable. A separate license must be obtained for each bottle club. Each license shall authorize the operation of such an establishment only at the location described in such license and in conformity with all applicable ordinances and laws. No license shall be transferred to another person or to any other location.
9. Display of license. Every bottle club shall exhibit its license at all times in a conspicuous place on its premises.
10. Expiration. All licenses issued pursuant to this ordinance shall expire on May 31.
11. Suspension or revocation of license. The Mayor and Council may, after notice, for good cause shown suspend or revoke a license to operate a bottle club. Revocation and suspension proceedings shall be governed by the provisions of 30-A M.R.S.A. §3814 as amended.
12. Appeals. An appeal from any final decision of the Mayor and City Council shall be taken by any party to the Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.
13. Penalty. Violation of any provision of this ordinance shall be a civil violation as defined in 17-A M.R.S.A. §4 and 4-A, as amended. Each day that a violation continues shall be a separate offense. All fines shall be recovered on complaint to the use of the City.
14. Hours of bottle club. The hours of a bottle club shall be an opening for business no

earlier than 6:00 P.M. to closing no later than 4:00 A.M. the following morning. During the hours that a bottle club must remain closed, no members, guests or other persons other than regular employees, may be on or remain therein, and the use by anyone of the premises or facilities of the bottle club for the drinking of alcoholic beverages during such hours when a bottle club must remain closed is prohibited.

[Derivation: Section 3-14, 1973 Revised Code of Ordinances Enacted 6/8/82]

**SECTIONS 7-532 THROUGH 7-540 (Reserved)**

**DIVISION E - CARNIVALS AND CIRCUSES**

**SECTION 7-541      LICENSING REQUIRED; APPLICATION; HEARING**

No circus, traveling amusement show or similar exhibition may perform unless it has been licensed by the municipal officers for each day's performance pursuant to Sections 7-501 through 7-505. The daily license fee shall be as provided in Section 7-105 of this Chapter.

Application for such license shall be made to the City Clerk, and notice of such application shall be published in a local newspaper in the City at least once a week for three (3) weeks prior to a hearing on such application by the municipal officers, said applicant to prepay the cost of such notice.

[Derivation: Section 3-37, 1973 Revised Code of Ordinances as repealed and replaced 11/1/95]

**SECTION 7-542      LICENSING OF LOCATION**

A license provided by Section 7-541 shall be granted by the municipal officers only for locating where the performances will not disturb nearby residences and will not interfere with or obstruct traffic on main highways.

[Derivation: Section 3-38, 1973 Revised Code of Ordinances]

**SECTION 7-543      PROXIMITY TO BUILT-UP SECTION**

Circuses or traveling amusement shows shall be located at least two thousand (2,000) feet from a compact or built-up section of residences.

[Derivation: Section 3-39, 1973 Revised Code of Ordinances]

**SECTION 7-544      PERFORMANCE BOND REQUIRED; GROUNDS TO BE CLEANED**

The person owning, operating or sponsoring a circus or show shall file a performance bond



with the City Clerk with the condition that the grounds are to be properly cleaned to the satisfaction of the City Manager within seventy-two (72) hours after the circus or show closes.

The performance bond required by this Section shall be in the amount of two thousand five hundred dollars(\$2,500.00) and shall be supplied by an insurance company licensed to do business in the state.

[Derivation: Section 3-40, 1973 Revised Code of Ordinances]

**SECTIONS 7-545 THROUGH 7-550 (Reserved)**

**DIVISION F - BOXING**

**SECTION 7-551      STATE STATUTES, BOXING COMMISSION REGULATIONS TO APPLY**

All boxing contests or exhibitions shall be conducted in accordance with the State Statutes and with the rules and regulations adopted by the Maine State Boxing Commission.

[Derivation: Section 3-51, 1973 Revised Code of Ordinances]

**SECTION 7-552      PERMIT; BOND; CONDUCTION STANDARDS REQUIRED**

No person shall conduct any boxing contest, exhibition or bout, within the City, either professional or amateur, to which admission to witness the same is charged to the public, without first securing a special amusement permit under Section 7-501 for each set of such contests, exhibitions or bouts, for which one (1) admission charge is made.

Such permit shall be issued by the municipal officers of the City on application and upon the applicant filing a bond satisfactory to council in the sum of three hundred dollars (\$300.00), conditioned that said contests, exhibitions or bouts will be conducted as to the number of bouts as advertised and in accordance with the provisions of the laws of the state relative to such contests, exhibitions or bouts and particularly as to number and length of rounds, gloves, weight and physical examination of contestants, decisions and receipts, that accurate standard scales shall be provided by said applicant at a time and place designed for weighing in, that no person under the age of fourteen (14) years shall be admitted to such contests, exhibitions or bouts unless accompanied by a parent or legal guardian.

[Derivation: Section 3-52, 1973 Revised Code of Ordinances]

**SECTION 7-553      FEES**

The permit fee required under Section 7-552 shall be as provided in Section 7-105 of this Chapter.

[Derivation: Section 3-53, 1973 Revised Code of Ordinances as amended 6/11/90]

**SECTION 7-554**      PROMOTER RESPONSIBLE FOR COMPLIANCE WITH REGULATIONS

A boxing promoter is responsible that all rules and regulations shall be complied with, and that the boxing contest shall be as advertised.

Any promoter not complying with such rules and regulations will be denied the right to promote boxing contests within the City until said promoter has been reinstated by the police and City Council.

[Derivation: Section 3-54, 1973 Revised Code of Ordinances]

**SECTION 7-555**      PROMOTER TO SUPPLY SUITABLE REFEREE

It shall be the duty of a boxing promoter to supply a suitable referee who will meet with the approval of the Chief of Police, City Manager and City Council.

[Derivation: Section 3-55, 1973 Revised Code of Ordinances]

**SECTION 7-556**      CONTESTS TO START AT TIME ADVERTISED

Boxing contests, exhibitions or bouts must start at such time as advertised.

[Derivation: Section 3-56, 1973 Revised Code of Ordinances]

**DIVISION G – BUSKING AND STREET PERFORMANCES**

**SECTION 7-561**      DEFINITIONS

A “street artist” is a person who is engaged in the creation of a work of art or who offers for sale a work of art created by the artist who is offering it for sale. Performance artists and musicians are also considered street artists.

[Derivation: Ord. No. 18-17, eff. 11/23/2018]

**SECTION 7-562**      FREEDOM OF SPEECH PROTECTED

Works of art are protected by the First Amendment and thus permitted to be sold by the artist without a permit in Hallowell. Works of art include expressive items such as paintings, photographs, prints, and sculptures. Performance art and musical performance are also protected by the First Amendment of the United States Constitution.

[Derivation: Ord. No. 18-17, eff. 11/23/2018]

**SECTION 7-563      RESTRICTIONS**

Street artists may create works of art or sell their works of art on city property with the following exceptions:

1. Street artists shall not operate within any area designated as a sidewalk sale, street festival, farmers' market, or other special event, except as expressly authorized by any organizer of such event.
2. Street artists shall not operate within or directly adjacent to the state boat launch on the Kennebec River.
3. Street artist activities may not pose a public safety hazard.
4. Street artists shall not operate on the grounds of any public school unless expressly authorized by the school.
5. Street artists shall not operate on any sidewalk or other location so as to impede the free passage of vehicles or pedestrians. A minimum of four feet of continuous, clear, linear space shall be preserved on City sidewalks.
6. Street artists shall not obstruct any entrance to or exit from private property, jeopardize public safety, or otherwise inconvenience the public.
7. Street artists shall not operate on any road or street, or use public benches, monuments or structures to display artwork, and shall have a free standing display rack or a table to display artwork. The artist's entire display, including rack or table and chair shall be no greater than twelve (12) square feet; and
8. Street artists shall not operate in a manner that uses private property adjacent to the sidewalk to display artwork without the permission of the property owner.

[Derivation: Ord. No. 18-17, eff. 11/23/2018]

**SECTION 7-564      BLACKSMITH PERFORMANCES**

Blacksmith performances are further regulated by the following safety provisions:

1. There will always be at least one safety spotter present during such performance;
2. There will always be at least one fire extinguisher and one bucket of water on hand;
3. A fence establishing a five-foot buffer between the public and the performer must be erected;

4. There will be at least a ten-foot setback maintained from any combustibles;
5. There will be at least a 25-foot setback maintained from any building.
6. Blacksmith performances are prohibited in the downtown area between Second Street on the west and the Kennebec River on the east and between the railroad overpass on the north and Temple Street on the south.

[Derivation: Ord. No. 18-17, eff. 11/23/2018]

**SECTION 7-565**      FIRE SAFETY

Fire Performances are further regulated by the following safety provisions:

1. There will be a clearly marked 25-foot buffer maintained between the performer and the audience and any combustible material;
2. Performances will be on earth or brick / masonry surfaces only and surfaces will not be burned or otherwise damaged.
3. Any and all damage to public or private property will be repaired at the expense of the performer.
4. Only one person may perform at a time;
5. There will be at least two safety spotters at all times, each with a fire suppression blanket;
6. Performers must wear fire-resistant clothing;
7. There will be at least one five gallon bucket of water and one fire extinguisher on scene at all times.
8. No one impaired by drugs or alcohol may perform.
9. Fire performances are prohibited in the downtown area between Second Street on the west and the Kennebec River on the east and between the railroad overpass on the north and Temple Street on the south.

[Derivation: Ord. No. 18-17, eff. 11/23/2018]

**SECTION 7-566**      ACROBATIC ACTS

Performances involving acrobatic acts, including, but not limited to climbing, jumping, tumbling, balancing on objects, and the like, are regulated by the following safety provisions:

1. There will be a clearly marked 25-foot buffer maintained between the performer and the audience at all times. In the case of acts involving climbing or balancing on structures, a buffer equal to the height of the structure plus 20% of that height shall be maintained between the performer and the audience.
2. Only one person may perform at a time;
3. There will be at least two safety spotters at all times; and
4. No one impaired by drugs or alcohol may perform.

[Derivation: Ord. No. 18-17, eff. 11/23/2018]

**SECTION 7-567**      TIME OF PERFORMANCES LIMITED

Street artists are restricted to performing between the hours of 9:00 a.m. and 9:00 p.m.

[Derivation: Ord. No. 18-17, eff. 11/23/2018]

**SECTION 7-568**      NOISE STANDARDS

Street artists are subject to the noise standards of Section 9-627.

[Derivation: Ord. No. 18-17, eff. 11/23/2018]

**SECTION 7-569**      BUSKING FREE ZONES

The Code Enforcement Officer may identify “busking free zones” and publicize them through printed material, web-based material, and/or posted signs.

[Derivation: Ord. No. 18-17, eff. 11/23/2018]

**SUBCHAPTERS VI AND VII**

(Reserved)

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**SUBCHAPTER VIII - CABLE TELEVISION SYSTEM FRANCHISES AND REGULATION**

**SECTION 7-801      AUTHORITY OF THE CITY COUNCIL TO GRANT FRANCHISE AGREEMENTS**

The City Council is authorized to contract on such terms and conditions as are in the best interest of the City for the placement and maintenance of cable television systems and appurtenances or parts thereof along public ways and easements within the City limits, pursuant to the provisions of this Subchapter VIII and 30-A M.R.S.A. §3008. Any franchise granted by the City Council shall be for a period not to exceed ten years. The City Council may, however, within two years prior to the expiration of a franchise agreement permit a renewal of the franchise for a period not to exceed an additional five years, with such amendments as the City Council may deem appropriate.

[Derivation: Section 12-31, 1973 Revised Code of Ordinances Enacted 2/13/95]

**SECTION 7-802      CONTENT OF FRANCHISE AGREEMENTS**

Each franchise agreement must, as a minimum, contain provisions relating to the following:

1. The duration of the franchise agreement and provisions for renewal, if any;
2. The area or areas to be served by the franchise grantee;
3. The services to be provided to subscribers, billing procedures, the investigation and resolution of complaints, and other subscriber rights;
4. Public access, and services provided to City government and School Administrative District 16 with respect to the use of the cable television system facilities;
5. Construction standards with respect to the installation of cable television systems and appurtenances or parts thereof;
6. System design technical standards, and provisions for the orderly integration of available new technology;
7. Maintenance and repair of the cable television system;
8. Minimum insurance requirements and indemnification of the City by the franchise grantee;
9. A specific policy with respect to the extension of lines and services to persons not served;



10. The regulation of rates charged by the franchise grantee and notice and opportunity for public comment with respect to changes in rates;
11. Notice and opportunity for public comment on program availability and content, and changes thereto;
12. The revocation or termination of the franchise agreement;
13. Remedies for breach of the franchise agreement by the franchise grantee including penalties and/or liquidated damages;
14. Appropriate representations, warranties and covenants of the franchise grantee with respect to its authority, its ability to carry out the franchise agreement, and the services to be provided;
15. Required notices, reports and records to be given or maintained by the franchise grantee; and
16. Reimbursement of all expenses incurred by the City with respect to the granting of the franchise agreement, including reasonable legal fees, consulting fees, and costs of public notices and advertising.

[Derivation: Section 12-32, 1973 Revised Code of Ordinances Enacted 2/13/95]

**SECTION 7-803**      FRANCHISE APPLICATIONS

The City Council may require any persons seeking a franchise agreement for the operation of a cable television system to provide any information that may be reasonable and applicable to the City Council's consideration of a franchise agreement, including but not limited to, the following:

1. Certifications with respect to the applicant's legal existence and authority;
2. A description of the applicant's organizational structure and identification of all persons with a significant financial interest in the applicant, including shareholders, and creditors;
3. Audited financial statements;
4. Pro forma operating statements and projections;
5. Previous cable operating experience;
6. Copies of existing or previous franchises with other municipalities;

7. Proposed rates and programming;
8. Financial and technical ability and capacity to perform the proposed services;
9. The ability to introduce technical improvements; and
10. All matters relating to the minimum provisions in a franchise agreement as outlined in Section 7-802 above.

The City Council may charge any such applicant a reasonable nonrefundable filing fee to defray costs of public notices, advertising, legal fees, consulting fees, and other expenses incurred in reviewing and considering an application.

[Derivation: Section 12-33, 1973 Revised Code of Ordinances Enacted 2/13/95]

**SECTION 7-804**      FRANCHISE FEES

Except as expressly provided by this ordinance, no franchise agreement shall provide that a franchise grantee pay the City a franchise fee. Each franchise agreement granted by the City Council shall provide that, if this ordinance is amended by the City Council to require a franchise fee, the franchise agreement shall be deemed amended to incorporate by reference the provision of the ordinance establishing such fee, provided, however, the franchise grantee shall be given twelve month's written notice before payment of such fee is required.

[Derivation: Section 12-34, 1973 Revised Code of Ordinances Enacted 2/13/95]

**SECTION 7-805**      PUBLIC NOTICE AND OPPORTUNITY FOR COMMENT

1. Prior to the approval and execution of a franchise agreement by the City Council, there shall be published in the Kennebec Journal, on at least two separate days, a public notice stating that:
  - A. The proposed franchise agreement and all papers submitted by the franchise applicant are on file at the office of the City Clerk and are available for inspection and review by the public.
  - B. The City Council will conduct a public hearing with respect to the proposed franchise agreement, and the date, time, and place of the hearing.
  - C. All interested persons may submit written comments to the City Manager relative to the proposed franchise agreement and information submitted by the applicant for consideration by the City Council not later than three business days prior to the date of the public hearing.

2. The first date of publication shall be at least twenty-one (21) days prior to the date of the public hearing, and the last date of publication shall be at least fourteen (14) days prior to the date of public hearing. Additionally, the notice shall be posted at City Hall and at least one other public place within the City.
3. Prior to the issuance by the City of a request for proposals to enter into a cable television franchise agreement, the City Council shall provide an opportunity for public review and comment in the same manner provided in paragraphs a and b of this section.
4. All franchise applications and related documents filed with the City are public records.
5. For the purpose of this Section franchise agreement includes any amendment to a franchise agreement.

[Derivation: Section 12-35, 1973 Revised Code of Ordinances Enacted 2/13/95]

**CHAPTER 8**

**PLANNING AND DEVELOPMENT**

**SUBCHAPTER I - PLANNING BOARD**

**SECTION 8-101**      ESTABLISHED

The Hallowell Planning Board is hereby established pursuant to 30-A M.R.S.A. Section 3001.

[Derivation: Section 17-1, 1973 Revised Code of Ordinances as amended 8/20/90]

**SECTION 8-102**      MEMBERSHIP

1.      Number of members. The Planning Board shall consist of seven (7) members.
2.      Term of members. The term of each member shall be four (4) years, except initially there shall be appointed two (2) members for each of the following terms of two (2), three (3), and four (4) years respectively, and one (1) member for one (1) year. Members shall be City residents.
3.      Associate members. The Planning Board shall have two associate members appointed by the Mayor, with the approval of the Council, from time to time, as required. In the event that fewer than seven members of the regular board are present at any given meeting, one or both of the associate members shall be voting members and shall be counted as voting members for the purpose of determining a quorum if required.

The associate members shall be designated first and second associate, and shall move from one office to the next automatically upon appointment of the first associate to the Planning Board. The Mayor shall then appoint a new second associate Member to the Planning Board.

[Derivation: Section 17-2, 1973 Revised Code of Ordinances as amended 8/20/90]

[Derivation: Ordinance No.: 04-05, Effective October 22, 2004; Ord. No. 15-06, eff. 07/23/2015]

**SECTION 8-103**      APPOINTMENT

1.      Appointments to the Planning Board shall be made by the Mayor with the approval of the City Council. The Mayor shall consider the provisions of Section 8-508 when appointing members to the Planning Board.
2.      When a permanent vacancy occurs, the Mayor with the approval of the City Council shall appoint a person to serve the unexpired term according to the provisions of Section 8-102(3).

[Derivation: Section 17-3, 1973 Revised Code of Ordinances as amended 8/20/90; Ord. No. 15-06, eff. 07/23/2015]

**SECTION 8-104**      ORGANIZATION AND RULES

1. The Planning Board shall elect a chairman, a vice chairman and a secretary from among its members and create and fill such other offices as it may determine. The term of all offices shall be one (1) year with eligibility for re-election.
2. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members except the member who is being challenged.
3. The chairman shall call at least one regular meeting of the Planning Board every two (2) months unless business matters require more.
4. No meeting of the Planning Board shall be held without a quorum consisting of four (4) members or associate members authorized to vote.
5. The Planning Board shall adopt rules for transaction of the business and the secretary shall keep a record of its resolutions, transactions, correspondence, findings and determinations. All records of the Planning Board are public and may be inspected at reasonable times. Said records shall be kept in the City Hall.
6. The Planning Board meeting shall be open to the public. Public meetings will be preceded by a public announcement in the local news media at least twenty-four (24) hours prior to the meeting. The right to executive session is retained by the Planning Board as provided by statute.
7. A meeting place will be coordinated and requested through the City Manager.
8. The Planning Board shall, with respect to each decision made by it, compile the record of the proceedings upon which the decision is based. The decision shall be in writing, and must include a statement of findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law or discretion presented to the Board, with appropriate references to the record. As a minimum, the record of proceedings shall include:
  - A. The application and all supporting plans and other documents.
  - B. The minutes of each meeting, which shall contain the names of all persons who testified at any public hearing, the substance of any testimony that was considered by the Board, and all votes by the Board.
  - C. The audio or video recordings of each meeting.

- D. All written submissions, exhibits, or other documentary evidence submitted by any person relating to the application.
- E. The written decision of the Planning Board.
- 9. The records of each proceeding before the Planning Board shall be maintained in separate files by the Code Enforcement Officer, unless the City Manager designates another custodian for such records.

[Derivation: Section 17-4, 1973 Revised Code of Ordinances as amended 8/20/90; Ord. No. 01-09, Eff. 5/16/01]

**SECTION 8-105**      DUTIES, POWERS

- 1. The Planning Board shall prepare a Comprehensive Plan as defined by 30-A M.R.S.A. Section 4326. The comprehensive plan that is recommended shall be submitted to the City Council for approval.
- 2. The Planning Board shall perform such duties and exercise such powers as are provided by state statute and this Code, specifically including Subchapter V of this Chapter, and Chapter 9.
- 3. The Planning Board may obtain goods and services necessary for its proper function within the limits of appropriations made for the purpose.

[Derivation: Section 17.5, 1973 Revised Code of Ordinances as amended 8/20/90]

**SECTION 8-106**      ANNUAL REPORT REQUIRED

It shall be the duty of the Planning Board to make an annual report of its activities during the previous calendar year to the City Manager and City Council no later than the third Monday of January of each year and such interim reports as may be advisable.

[Derivation: Section 17-6, 1973 Revised Code of Ordinances as amended 8/20/90]

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**SUBCHAPTER II**

(Reserved)



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**SUBCHAPTER III - CONSERVATION COMMISSION**

**SECTION 8-301**      PURPOSE; ESTABLISHMENT

Whereas, the rapid expansion of residential, commercial and industrial land use has resulted in the urgent need for immediate and continued efforts designed to preserve for the present and future, relatively undisturbed woodland and wetland areas whose beauty and tranquility shall continue to provide places of relaxation, enjoyment and study, in addition to the natural benefits associated with conservation programs.

A Conservation Commission is hereby created for the protection, development, or use of the natural resources located within the City limits pursuant to the provisions of 30-A M.R.S.A. Section 3261, but to exclude from the Conservation Commission the supervision of public shade trees and public parks under 30-A M.R.S.A. Section 3263 and 3264.

[Derivation: Section 17-36, 1973 Revised Code of Ordinances as amended 8/20/90]

**SECTION 8-302**      MEMBERSHIP

1. The Commission shall be composed of nine members. At least one member, but not more than two members, shall be appointed each year for a term of five years; except that nine members shall be appointed in 2009: two for a term of one year, two for a term of two years, two for a term of three years, two for a term of four years, and one for a term of five years. A term shall expire on December 31<sup>st</sup> of the final year of that member's term or when a successor is appointed and takes the oath of office.
2. Appointments to the Commission shall be made by the Mayor with the approval of the City Council.
3. When a vacancy occurs, an appointment to fill the unexpired term shall be made by the Mayor with the approval of the City Council.
4. Any Commissioner may succeed himself.

[Derivation: Section 17-37, 1973 Revised Code of Ordinances as amended 8/20/90]

[Derivation: Ord. No. 09-06, Effective 5/21/2009]

**SECTION 8-303**      ORGANIZATION AND RULES

1. The Commission shall elect a chairman and a secretary from among its members, and create and fill such other officers as it may determine.
2. The chairman shall call at least one regular meeting of the Commission every two months, more frequent meetings may be held as business requires.

3. No business may be transacted in the absence of a quorum of four (4) Commissioners.
4. The Commission shall adopt rules for transaction of business and the secretary shall keep a record of all transactions, correspondence, findings and determinations. All records of the Commission are public and may be inspected at reasonable times. Said records shall be kept in the City Hall.
5. All Commission meetings shall be open to the public, and shall be publicly announced in the local news media at least twenty-four (24) hours prior to the meeting. The Commission shall have right to executive sessions to the extent permitted by state statute.

[Derivation: Section 17-38, 1973 Revised Code of Ordinances as amended 8/20/90]

**SUBCHAPTER IV  
PROPERTY ASSESSED CLEAN ENERGY (“PACE”) ORDINANCE**

**PREAMBLE**

WHEREAS, the 124<sup>th</sup> Maine Legislature has enacted Public Law 2009, Chapter 591, “An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act”; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy (“PACE”) Ordinance to establish a PACE program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the City/Town, financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE program; and

WHEREAS, the Municipality wishes to establish a PACE program; and

NOW THEREFORE, the Municipality hereby enacts the following Ordinance:

**SECTION 8-425      ARTICLES 1-5**

**ARTICLE I      PURPOSE AND ENABLING LEGISLATION**

§ 1 Purpose

By and through this Chapter, the City of Hallowell declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy (“PACE”) program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the City of Hallowell. The City of Hallowell declares its purpose and the provisions of this Chapter/Ordinance to be in conformity with federal and State laws.

§ 2 Enabling Legislation

The City of Hallowell enacts this Chapter/Ordinance pursuant to Public Law 2009, Chapter 591 of the 124<sup>th</sup> Maine State Legislature -- “An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act” (codified at 35-A M.R.S.A. § 10151, *et seq.*).

**ARTICLE II      TITLE AND DEFINITIONS**

§ 3 Title

This Chapter/Ordinance shall be known and may be cited as “the City of Hallowell Property Assessed Clean Energy (PACE) Ordinance” (the “Ordinance”).

§ 4 Definitions

Except as specifically defined below, words and phrases used in this Chapter/ Ordinance shall have their customary meanings; as used in this Chapter/Ordinance, the following words and phrases shall have the meanings indicated:

1. **Energy saving improvement.** “Energy saving improvement” means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:
  - A. Will result in increased energy efficiency and substantially reduced energy use and:
    - (1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy, Energy Star program or similar energy efficiency standards established or approved by the Trust; or
    - (2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or
  - B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.
2. **Municipality.** “Municipality” shall mean the City of Hallowell
3. **PACE agreement.** “Pace agreement” means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.
4. **PACE assessment.** “PACE assessment” means an assessment made against qualifying property to repay a PACE loan.
5. **PACE district.** “Pace district” means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality’s boundaries.
6. **PACE loan.** “PACE loan” means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.
7. **PACE mortgage.** “PACE mortgage” means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on

qualifying property.

8. **PACE program.** “PACE program” means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.
9. **Qualifying property.** “Qualifying property” means real property located in the PACE district of the Municipality.
10. **Renewable energy installation.** “Renewable energy installation” means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.
11. **Trust.** “Trust” means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

### **ARTICLE III** PACE PROGRAM

1. **Establishment; funding.** The Municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust’s administration of the municipality’s PACE program, and 4) agree to assist and cooperate with the Trust in its administration of the municipality’s PACE program.
2. **Amendment to PACE program.** In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

### **ARTICLE IV** CONFORMITY WITH THE REQUIREMENTS OF THE TRUST

1. **Standards adopted; Rules promulgated; model documents.** If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to the Municipality’s adoption of this Ordinance and those standards, rules or model documents substantially conflict with this

Ordinance, the Municipality shall take necessary steps to conform this Ordinance and its PACE program to those standards, rules, or model documents.

**ARTICLE V** PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

1. **Program Administration**

A. **PACE Administration Contract.** Pursuant to 35-A M.R.S.A. §10154(2)(A)(2) and (B), the Municipality will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Municipality. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:

- i. the Trust will enter into PACE agreements with owners of qualifying property in the Municipality's PACE district;
- ii. the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;
- iii. the Trust, or its agent, will disburse the PACE loan to the property owner;
- iv. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
- v. the Trust, or its agent, will be responsible for collection of the PACE assessments;
- vi. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;
- vii. the Municipality, or the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

B. **Adoption of Education and Outreach Program.** In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

C. **Assistance and Cooperation.** The Municipality will assist and cooperate with the Trust in its administration of the Municipality's

PACE program.

- D. **Assessments Not a Tax.** PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

2. **Liability of Municipal Officials; Liability of Municipality**

- A. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.
  
- B. Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article VI, §1(A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

[Derivation: Ord. No. 11-01; effective 1/20/2011]



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**SUBCHAPTER V - HISTORIC PRESERVATION**

**SECTION 8-501**      INTENT AND PURPOSE

The preservation of structures and/or areas of historic or architectural value is hereby declared to be a public purpose, in order to promote the educational, cultural, economic and general welfare of the people of the City, to protect, preserve and enhance buildings, structures, and areas within the City which possess particular historic and/or architectural significance or value.

The City of Hallowell is faced with the threat of losing a quality which makes it unique - its historic and architectural character. The loss of such character or the erosion of the Cityscape in certain distinctive areas of the City through demolition, alteration, addition, relocation, incompatible new construction or any other activity which would result in a significant exterior change contributes to the destruction of the City's unique character which is important to the well-being of the community.

The heritage and economic well-being of the City will be strengthened by:

1.      preserving its architectural and historic setting;
2.      conserving property values in such unique areas;
3.      fostering civic beauty;
4.      strengthening the local economy;
5.      promoting the use of historic or architecturally significant buildings for the education, pleasure, and welfare of the citizens of the City;
6.      to enhance the potential for securing funds for the City and its citizens and property owners which may become available from public and private sources.

[Derivation: Section 10.1, 1989 Zoning Ordinance]

**SECTION 8-502**      (Reserved)

**SECTION 8-503**      (Reserved)

**SECTION 8-504**      CHANGES TO DESIGNATED HISTORIC DISTRICTS AND HISTORIC LANDMARKS

Changes or additions to the Historic District and Historic Landmarks designated under Section 9-552 may be made by the City Council upon the recommendations of the Planning Board.

[Derivation: Section 10.4, 1989 Zoning Ordinance]

**SECTION 8-505**      STUDIES BY PLANNING BOARD

Upon initiation of the process by the Planning Board, City Council, a petition signed by six (6) or more residents of the City eighteen (18) years of age or older, or all owners of a specific property being proposed, the City Council after receiving the recommendations of the Planning Board may direct the Planning board to determine whether the proposed Landmark, District, or such proposed change in the boundaries of the District is worthy of designation. The recommendation of the Planning Board to the City Council shall be made on the basis of the criteria set forth in Section 8-506. The determination whether the proposed Landmark, District, or such proposed change in the boundaries of the District is worthy of designation, shall be based upon the history of the proposed area, site, building, or interior space; its architectural type, quality and significance; its current condition, use and occupancy; and other relevant factors. The City Council may make an appropriation of funds for the use of the Planning Board to conduct the necessary study and to prepare its report. The Board shall prepare a draft report describing the study and setting forth its initial findings. Upon completion of the draft report the Planning Board shall conduct a public hearing for the purpose of soliciting public comment on the draft report. Written notice of the hearing shall be given to owners of all property affected or abutting any property proposed for designation in an Historic District or as an Historic Landmark. After the public hearing the Planning Board shall submit a final report with its recommendations to the City Council. This report shall include any proposed changes to this Code.

[Derivation: Section 10.5, 1989 Zoning Ordinance as amended 3/12/90]

**SECTION 8-506**      CRITERIA FOR DESIGNATION

In order to determine that a site, area, building, structure, or specifically defined district is worthy of designation by the City Council as an Historic Landmark or Historic District, the Planning Board must conclude that the feature in question meets at least one of the following criteria:

1. It is associated with historically significant events, periods or persons.
2. It is architecturally significant in terms of buildings characteristic of one or more periods or styles.
3. It is historically significant by virtue of its unique architectural distinction.
4. It is part of a historically significant street-scape.

[Derivation: Section 10.6, 1989 Zoning Ordinance]

**SECTION 8-507**      ACTION BY CITY COUNCIL: NOTICE TO AFFECTED PERSONS

After receipt of the Planning Board's final report the Council may take appropriate action in

accordance with the City Charter and laws of the State. In the event of any amendment by the Council to Section 9-552 changing or designating any Historic District or Historic Landmark, the owner of any property so affected shall be given written notice of such change or designation by the City Clerk or City Manager.

[Derivation: Section 10.7, 1989 Zoning Ordinance]

**SECTION 8-508**      GENERAL POWERS OF THE PLANNING BOARD

1. The Planning Board shall, within the intent of this Chapter and Chapter 10, regulate all construction, alteration, addition, relocation, demolition and any other activity which would result in an exterior architectural change to properties, buildings, structures, public rights of way, and public improvements (including street lighting) which are part of a designated Historic Landmark or located within a designated Historic District. Such regulation is for the purpose of insuring compatibility with the historic or architectural characteristics of designated Historic Landmarks and Historic Districts.
2. To provide for appropriate expertise in the performance of the duties outlined in this Subchapter, appointments to the Planning Board shall reflect demonstrated interest, knowledge, ability, or experience in historic preservation, such as history, architecture, urban design and planning. To the extent available, members shall be professionals in these disciplines. In addition to the regular members of the Planning Board, the City Council may appoint other persons, not necessarily residents of the City, who shall serve in an advisory or consultant basis to assist the members of the Planning Board in the performance of the duties outlined in this Subchapter.
3. The duties of the Planning Board with respect to administration of this Subchapter shall be at a minimum to:
  - A. Make recommendations for establishing historic districts, historic sites, or historic landmarks to the appropriate local governing body, according to the procedures listed in Sections 8-504 through 8-507 of this Subchapter.
  - B. Review all proposed additions, reconstruction, alterations, construction or demolition of the properties within the Historic District under Sections 9-551 through 9-563 of Chapter 9 of this Code.
  - C. Review all proposed National Register nominations for properties within its jurisdiction.
  - D. Serve an advisory role to local government officials regarding local historical and cultural resources, and act as a liaison between local government and those persons and organizations concerned with historic preservation.
  - E. Conduct or cause to be conducted a continuing survey of local historic and

cultural resources, in accordance with Maine Historic Preservation Commission guidelines.

- F. Work to provide continuing education on historic preservation issues to local citizens.

The Planning Board may undertake other duties as it deems necessary or desirable to implement the purposes of this Subchapter, to include advising and assisting owners of designated structures or historic sites on compliance with the requirements of Sections 9-551 through 9-563 of this Code, and administering a historic marker program which would place an informational marker or sign on any designated structure or site.

[Derivation: Section 10.8, 1989 Zoning Ordinance]

**CHAPTER 9**

**LAND USE CONTROL**

**SUBCHAPTER I – GENERAL PROVISIONS**

**DIVISION A – PREAMBLE**

**SECTION 9-101**      **TITLE**

This Chapter 9 shall be known and may be cited as the "Hallowell Land Use Ordinance." It will be referred to in this Chapter 9 as "this Chapter".

[Derivation: Section 1.1, 1989 Zoning Ordinance]

**SECTION 9-102**      **AUTHORITY**

This Chapter is adopted pursuant to the enabling provisions of 30-A M.R.S.A. § 3001; the Mandatory Shoreland Zoning Act, 38 M.R.S.A. §§ 435 – 448 and rules issued thereunder; and the National Flood Insurance Act of 1968, as amended, 42 USC §§ 4001, et. seq. and regulations issued thereunder.

[Derivation: Section 1.2, 1989 Zoning Ordinance]

**SECTION 9-103**      **PURPOSE**

The purpose of this Chapter is to promote the health, safety, and general welfare of the residents of the City; to encourage the most appropriate use of land throughout the municipality; to promote traffic safety; to provide safety from fire and other elements; to provide adequate light and air; to prevent overcrowding of real estate; to promote a wholesome home environment; to provide an allotment of land area in new developments sufficient for adequate enjoyment of community life; to conserve natural resources; to protect shoreland areas; to provide for adequate public services; to achieve the objectives and policies of the Hallowell Comprehensive Plan; and to preserve and protect the Historic District.

[Derivation: Section 1.3, 1989 Zoning Ordinance]

**SECTION 9-104**      **JURISDICTION**

The provisions of this Chapter shall govern all land and all structures within the boundaries of the City of Hallowell in concert with this Code and other ordinances of the City.

[Derivation: Section 1.4, 1989 Zoning Ordinance]

**SECTIONS 9-105 THROUGH 9-120** (Reserved)

**DIVISION B – LEGAL STATUS PROVISIONS**

**SECTION 9-121** CONFLICTS WITH OTHER LAWS

This Chapter shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit, or provision of the Federal, State or the City. Where this Chapter imposes a greater restriction upon the use of land, buildings, or structures than otherwise provided under this Code or under the State or Federal law, this Chapter shall control.

[Derivation: Section 2.1, 1989 Zoning Ordinance]

**SECTION 9-122** VALIDITY AND SEVERABILITY

Should any section or provision of this Chapter be declared by the Courts to be invalid, such decision does not invalidate any other section or provision of this Chapter.

[Derivation: Section 2.2, 1989 Zoning Ordinance]

**SECTION 9-123** CHANGES AND AMENDMENTS

No amendment of this Chapter shall be finally adopted until after the City Council or the Planning Board has held a public hearing on the proposed amendment. Public notice shall be made at least 7 days prior to the hearing. Amendments to this Chapter shall be considered following petition, recommendation of the Planning Board, or motion of the Council.

Copies of amendments to this Chapter that effect the shoreland zone, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the City Council and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the City within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

[Derivation: Section 2.3, 1989 Zoning Ordinance; Ord. No. 11-02b, eff. 8/18/2011]

**SECTION 9-124** REPEAL OF CONFLICTING ORDINANCES

The 1989 Zoning Ordinance of the City of Hallowell, as amended, and all ordinances in conflict with this Chapter, are hereby repealed and replaced upon the adoption of this Chapter.

[Derivation: Section 2.4, 1989 Zoning Ordinance]

**SECTION 9-125      REPETITIVE PETITIONS**

No proposed change by Petition in this Chapter which has been unfavorably acted upon by the City Council shall be considered on its merits by the City Council within two years after the date of such unfavorable action unless adoption of the proposed change is recommended by vote of five of the seven members of the Planning Board.

[Derivation: Section 2.5, 1989 Zoning Ordinance]

**DIVISION C - DEFINITIONS**

**SECTION 9-151**

The following enumerated words and terms are defined and used in this Chapter as follows:

1.     Abandonment. The relinquishment of property, or a cessation of the use of the property, by the owner without the intention of transferring rights to the property to another owner or resuming the use of the property.

[Derivation: Section 9.1, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 1.1    Accessory Dwelling Unit (ADU). A small apartment with less than seven hundred fifty (750) square feet of floor area that is located in and is accessory to a single-family home. For the purposes of density and lot area requirements, an ADU shall not be considered to be a dwelling unit even if it allows fully independent living. An ADU must be incorporated into the building in such a manner that the building's visual character as a single-family home as seen from public streets is maintained.

[Derivation: Ord. No. 12-10, effective 10/19/2012]

2.     Accessory structure or use. A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or common wall, is considered part of the principal structure. Personal recreational facilities may be accessory to a residential structure.

[Derivation: Ordinance No. 97-8 effective 11/20/97; Ord. No. 09-07, eff. 7/23/2009]

3.     Adult business establishment. Any retail or service business whether conducted from a fixed or mobile location or vehicle including, but not limited to, any bookstore, newsstand, novelty store, nightclub, bar, cabaret, amusement arcade, or theater which:



- A. Keeps for public patronage or permits or allows the operation or use of any adult amusement device containing sexually explicit material; or
- B. Permits any person on the premises including an employee, entertainer, or patron to expose that person's genitals, pubic hair, buttocks or perineum, or the areola of a female breast, to a patron or member of the general public.
- C. Exhibits or displays, more often than an average of one week during any calendar month of operation, any motion pictures or any other visual representation described or advertised as being "X-rated" or "for adults only," or which customarily excludes persons from any portion of the premises by reason of immaturity of age by the use of such or similar phrases; or
- D. Has a substantial portion of its stock in trade that consists of products containing sexually explicit material; or
- E. "Distributes" or "exhibits" any "obscene matter" as those terms are defined by 17 M.R.S.A. §§2911, subsection 1.

[Derivation: Section 9.2A, 1989 Zoning Ordinance as adopted 9/28/92 and amended 12/11/95; Ord. No. 09-07, effective 7/23/2009]

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

[Derivation: Section 9.3, 1989 Zoning Ordinance]

- 5. Aggrieved party. A person whose land is directly or indirectly adversely affected by the granting or denial of a permit, approval, license, or variance under this Chapter, or whose land abuts or is across a road or street from land for which a permit, approval, license, or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

[Derivation: Section 9.4, 1989 Zoning Ordinance; Ord. No. 01-07, Effective 5/17/01; Ord. No. 09-07, effective 7/23/2009; Ord. No. 11-02b. eff. 8/18/2011]

- 5.1 Agriculture. See Farming

[Derivation: Ord. No. 09-07, effective 7/23/2009]

- 6. Amusement facilities:

- A. Amusement Park. A commercial facility containing powered apparatus, such as ferris wheels, water slides or similar devices.

- B. Commercial Indoor Recreational Center. Any commercial enterprise which receives a fee in return for the provision of some recreational activity including, but not limited to video arcades, pool halls, and pinball arcades.
- C. Outdoor Recreation Facility. Any outdoor recreational use including, but not limited to, golf courses, tennis courts, riding stables, swimming pools, or ice skating rinks, but not including campgrounds, drive-in movie theaters, race tracks, water slides, miniature golf and mechanical or motorized rides.

[Derivation: Section 9.5, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 7. Animal breeding. The keeping or raising of animals, including domestic animals and pets, for any commercial use. This definition also includes kennels.

[Derivation: Section 9.6, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

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

[Derivation: Ord. No. 09-07, effective 7/23/2009]

- 8. Automobile graveyard, junkyard. Any use or activity involving the abandonment, demolition, dismantling, storage, or salvaging of automobiles or other vehicles not in running condition, machinery, or parts thereof.

[Derivation: Section 9.7, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 8.1 Automobile Service and Sales Business. Any establishment involving the provision of maintenance or repair services for motor vehicles and/or the sale of new or used motor vehicles including passenger cars, light trucks, and recreational vehicles.

[Derivation: Ord. No. 09-07, effective 7/23/2009]

- 8.5 Basal area. The area of cross-section of a tree stem at four and a half (4.5) feet above ground level and inclusive of bark.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

- 9. Bed and Breakfast. A residence occupied by the owner or a resident manager, that offers transient lodging, with or without meals, to the public. There shall be no more than five (5) lodging accommodations on the premises, there shall be one parking space for each lodging accommodation, and meals shall not be offered to the general public but shall be limited to those persons lodging on the premises.

[Derivation: Section 9.8, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

10. Boarding Home for sheltered care. A profit or nonprofit boarding house, rest home, or other home for the sheltered care of adult persons which, in addition to providing food and shelter to four or more persons unrelated to the proprietor, also provides any personal care or service beyond food, shelter, and laundry.

[Derivation: Section 9.9, 1989 Zoning Ordinance]

11. Boarding Home. Any residential structure where lodging and meals are provided for compensation for a period of at least two weeks, and where a family or full time manager residing in the building acts as proprietor or owner. Individual rooms may not have full kitchens but may have incidental provisions for food storage and preparation.

[Derivation: Section 9.10, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

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

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

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

[Derivation: Section 9.11, 1989 Zoning Ordinance]

13. Building Inspector. The Building Inspector of the City, also referred to as the Code Enforcement Officer.

[Derivation: Section 9.12, 1989 Zoning Ordinance]

14. Business and professional offices. The place of business of doctors, lawyers, accountants, financial advisors, architects, surveyors, real estate and insurance businesses, psychiatrists, counselors, consultants, and the like or in which a business or organization conducts its administrative, financial or clerical operations including the administrative and clerical functions of banks and other financial services.

[Derivation: Section 9.13, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

15. Campground. Any area or tract of land used for commercial purposes to accommodate two or more parties, in temporary living quarters, including tents, trailers or other shelters.

[Derivation: Section 9.14, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 15.1 Cannabis. The leaves, stems, flowers, and seeds of a marijuana plant (genus Cannabis), whether growing or not. "Cannabis" includes cannabis products.

[Derivation: Ord. No. 18-15, eff. 11/23/2018]

15.2 Cannabis Product. Cannabis for use or consumption that has undergone a process whereby the plant material has been transformed into a concentrate, edible, topical, tincture, or other product containing cannabis or cannabis concentrate (including, but not limited to, the resin extracted from any part of a cannabis plant and every compound, manufacture, salt, derivative, mixture, or preparation from such resin) and other ingredients.

[Derivation: Ord. No. 18-15, eff. 11/23/2018]

15.3 Cannabis Products Manufacturing Facility. An entity that manufactures, produces, blends, infuses, compounds, extracts, chemically prepares or otherwise prepares, packages, repackages, labels, or relabels cannabis or cannabis products of any type. A cannabis products manufacturing facility is only authorized as a principal use, not an accessory use.

[Derivation: Ord. No. 18-15, eff. 11/23/2018]

15.4 Cannabis Retail Store. An entity that sells adult use and/or medical cannabis and cannabis products directly to consumers.

[Derivation: Ord. No. 18-15, eff. 11/23/2018]

15.5 Cannabis Testing Facility. An entity licensed and certified by the State of Maine pursuant to Title 28-B of the Maine Revised Statutes to develop, research and test cannabis, cannabis products, and other substances.

[Derivation: Ord. No. 18-15, eff. 11/23/2018]

15.6 Canopy (tree canopy). The more or less continuous cover formed by tree crowns in a wooded area.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011; Ord. No. 18-15, eff. 11/23/2018]

16. Cemetery. Property used for the interring of the dead or their ashes.

[Derivation: Section 9.15, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

17. Child care center. A private establishment providing day care for eight (8) or more children under the age of 16 which charges for the day care of the children and holds all legally required licenses and approvals.

[Derivation: Section 9.16, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

18. Child care home. A private home providing day care for less than eight (8) children under the age of sixteen (16) which charges for the day care of children and which holds all legally required licenses and approvals.

[Derivation: Section 9.17, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

19. Church/Place of Worship. A building or structure, or group of buildings or structures, designed, primarily intended or used for the conduct of religious services and accessory uses associated therewith, but excluding schools.

[Derivation: Section 9.18, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

20. Club. A meeting place for a group of people organized for a common purpose to pursue common goals, interests or activities, such as social or recreational, and usually characterized by certain membership qualifications, payment of fees or dues, and a constitution and bylaws.

[Derivation: Section 9.19, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

21. Cluster development. A development consisting exclusively of residential dwelling units, planned and developed as a whole or in a programmed series of developments, and controlled by one developer or individual on a tract five acres or larger which contemplates an imaginative, more compact grouping of dwelling units. Cluster developments treat the developed area as an entirety to promote flexibility in design, architectural diversity, the efficient use of land, a reduction in the length or size of road and utility systems, the creation of common open space, and the retention of the natural characteristics of the land.

[Derivation: Section 9.20, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 21.8 Coastal wetland. All tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

22. Code Enforcement Officer. The person appointed by the Mayor to administer and enforce this Chapter, pursuant to Section 9-181. Reference to the Code Enforcement Officer includes the Building Inspector and Plumbing Inspector, where applicable.

[Derivation: Section 9.21, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

23. Commercial center. A commercial activity and premises of a moderate capacity [not including retail sales unless it is incidental or accessory to a main function], which occupy premises owned or managed as a single or corporate entity, which may or may not accommodate more than one business and/or involve between 5,000 and 40,000 square feet of gross floor space.

[Derivation: Section 9.22, 1989 Zoning Ordinance; Ord. No.: 03-14, Effective September 18, 2003; Ord. No. 09-07, effective 7/23/2009]

24. Commercial activity. Any activity carried out for pecuniary gain.

[Derivation: Section 9.23, 1989 Zoning Ordinance]

25. Commercial complex. Any concentration of retail stores or service establishments occupying premises which are owned or managed as a single or corporate entity, including large department stores, grocery stores, or similar uses, which occupy more than 12,000 square feet of gross floor space.

[Derivation: Section 9.24, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

26. Community center. A building maintained by a governmental or non-profit organization, which is reasonably available to local area residents for social, cultural, or recreational activities and meetings or for educational or professional advisory services. Accommodations for meals may be included in services provided.

[Derivation: Section 9.25, 1989 Zoning Ordinance as amended 5/9/94; Ord. No. 09-07, effective 7/23/2009]

27. Community living use. A State-approved, authorized, certified or licensed group home, foster home, or intermediate care facility that provides housing for 8 or fewer persons with disabilities as defined by the term "handicapped" in the federal Fair Housing Act.

[Derivation: Section 9.26, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

28. Community uses. Non-commercial activities such as police and fire protection, schools, library and rescue services, etc., that are not hereinafter defined as a utility.

[Derivation: Section 9.27, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

29. Conditional use. A use of land or a building that would be generally appropriate with certain restrictions and controls to meet the intentions and purposes of this Chapter. Conditional uses are permitted only after review and approval by the Planning Board.

[Derivation: Section 9.28, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

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

[Derivation: Section 9.29, 1989 Zoning Ordinance]

31. Conforming. A building, structure, use of land, or portion thereof, which complies with all the applicable provisions of this Code.

[Derivation: Section 9.30, 1989 Zoning Ordinance]

- 31.5 Continuing care facility. A facility in which continuing care is provided to residents in accordance with a Certificate of Authority issued by the Maine Bureau of Insurance pursuant to 24-A M.R.S.A. §6201 et seq. or its successor. For purposes of this definition, “continuing care” means furnishing shelter for the life of an individual or for a period in excess of one year and either health care, supportive services, or both, under an agreement requiring payment.

[Derivation: Ordinance No.: 05-03, Effective May 20, 2005]

- 31.7 Controlled Environment Agriculture (CEA). The production of agricultural or other plant-based products for sale on the wholesale market in a controlled environment inside a structure of any kind.

[Derivation: Ord. No. 18-15, eff. 11/23/2018]

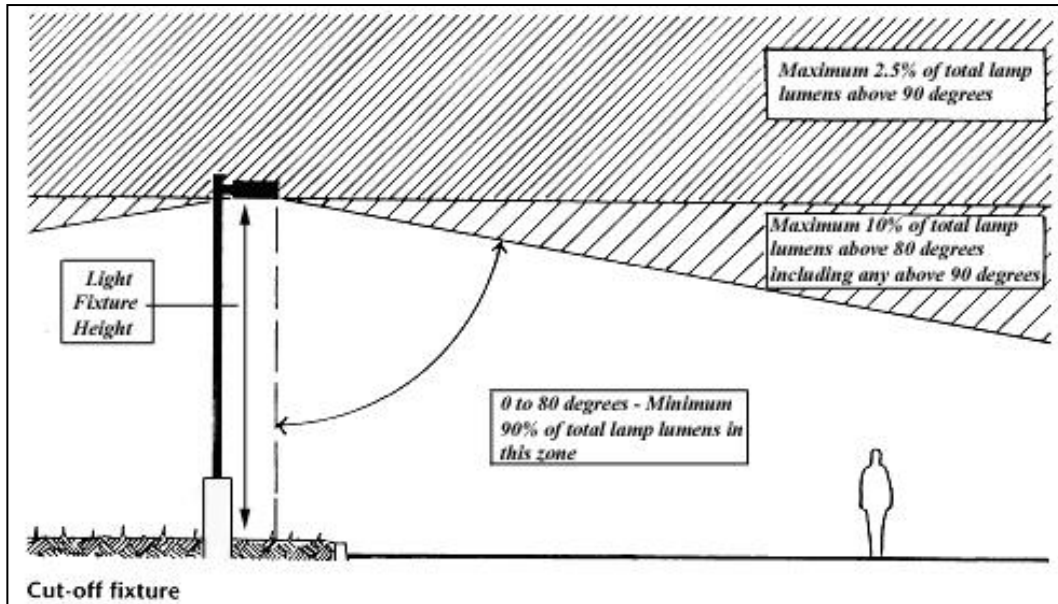
32. Corner lot. A lot located at the intersection of a street, road or public right-of-way and a street, road or public right-of-way.

[Derivation: Section 9.31, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 32.2 Cross-sectional area (of a stream). The cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

- 32.5 **Cut-off fixture.** A lighting fixture or luminaire that controls glare by directing light well below the horizontal. A cut-off fixture limits the direction of light so that a maximum of 2.5% of the total lamp lumens shine above 90 degrees or a line parallel to the surface of the ground and a maximum of 10% of the lamp lumens shine above 80 degrees, including any above 90 degrees, as shown in the following sketch.



[Derivation: Ord. No.: 08-07, eff. 10/24/2008]

- 32.9 **DBH (diameter at Breast Height).** The diameter of a standing tree measured four and a half (4.5) feet from the ground level.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

33. **Deck.** A level structure attached or adjacent to a building elevated above the surface of the ground which may have a railing, awning or other covering.

[Derivation: Section 9.32, 1989 Zoning Ordinance]

34. **Density.** The number of families, individuals, dwelling units, or housing structures per unit of land.

[Derivation: Section 9.33, 1989 Zoning Ordinance]

- 34.3 **Development.** A change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]



- 34.5 Disruption of shoreline integrity. The alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

- 34.8 Driveway (for Shoreland purposes). A vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

35. Dwelling. Any building or structure or portions thereof containing one or more dwelling units, but not including a residential care facility, continuing care facility, motel, hotel, inn, or similar use.
- A. Single Family Dwelling: A building designed or intended to be used exclusively for residential occupancy by one family only and containing only one (1) dwelling unit.
- B. Duplex: A building designed or intended to be used exclusively for residential occupancy by two (2) families living independently of one another and containing two (2) dwelling units.
- C. Multi-Family Dwelling: A building or buildings designed or intended to be used exclusively for residential occupancy by three (3) or more families living independently of one another and containing three (3) or more dwelling units. Each individual unit which functions as separate living quarters is a dwelling unit.

[Derivation: Section 9.34, 1989 Zoning Ordinance]

[Derivation: Ord. No.: 05-03, eff. May 20, 2005; Ord. No. 09-07, effective 7/23/2009]

36. Dwelling unit. One or more habitable rooms arranged, designed, or intended to be used as a house-keeping unit for one or more persons living together as a family (see definition of family) with independent living, cooking, sleeping, bathing and sanitary facilities. For purposes of Minimum Land Area requirements only, a unit within a residential care facility or continuing care facility shall not be considered a dwelling unit.

[Derivation: Section 9.35, 1989 Zoning Ordinance; Ord. No.: 05-03, Effective May 20, 2005; Ord. No. 09-07, effective 7/23/2009]

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

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

37. Essential services. Facilities owned or used for the transmission or distribution of water, gas, electricity or communications or for the collection, treatment or disposal of wastes, including without limitation, poles, wires, mains, drains, sewers, pipes, water storage tanks of the Hallowell Water District, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories but not other storage facilities or buildings or towers as herein defined which are necessary for the furnishing of such services or service drops.

[Derivation: Section 9.36, 1989 Zoning Ordinance; Ordinance No.: 00-9, Eff. April 20, 2000; Ord. No. 09-07, effective 7/23/2009; Ord. No. 11-02b, eff. 8/18/2011]

38. Extractive industries. The excavation, processing or storage of earth materials such as soil, topsoil, peat, loam, sand, gravel, rock or other mineral deposits, not including:
- A. The excavation of material incidental to and at the site of approved construction of buildings, structures, driveways or parking areas;
  - B. The excavation of material incidental to and at the site of construction or repair of streets; and
  - C. The excavation, processing or storage of less than one hundred (100) cubic yards of material on a lot within a one year period.

[Derivation: Section 9.37, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

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

[Derivation: Section 9.38, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

40. Farming. A commercial activity involving growing food products, nursery stock, or other useful or valuable plants, and/or the raising of animals such as beef and dairy cattle, sheep and chickens. Farming includes the buildings and structures used in the agricultural activity. Structures accessory to a principal farming use include, without limitation, a single family dwelling, garage, a barn, a chicken coop, personal recreational facilities, and a roadside stand, but do not include a convenience store, gas station, or other commercial building.

[Derivation: Section 9.39, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

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

[Derivation: Section 9.40, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

42. Financial institutions. Banks, savings and loan institutions, and credit unions.

[Derivation: Section 9.41, 1989 Zoning Ordinance]

43. Flood plain. The area subject to inundation during the 100-Year or Base Flood as identified on the City's Flood Insurance Rate Maps (FIRM) prepared by the Federal Emergency Management Agency (FEMA).

[Derivation: Section 9.42, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 43.5 Floodway. The channel of a river or other watercourse and adjacent land areas that shall be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one floor in height.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

44. Floor area. The total number of square feet of floor area of all floors in a building, excluding unfinished cellars, uncovered steps, and uncovered porches or decks. In the Resource Protection and Shoreland Overlay Districts, the area of uncovered porches and decks shall be included in the total floor area.

[Derivation: Section 9.43, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009; Ord. No. 11-02b, eff. 8/18/2011]

- 44.5 Foot-candle. A measure of light falling on a given surface. One foot-candle is equal to the amount of light generated by one candle shining on a square foot surface one foot away.

[Derivation: Ord. No.: 08-07, eff. 10/24/2008]

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

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

- 44.7 Forest stand. A contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

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

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

45. Forestry conservation. Timber cruising and other forest resource evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands and other similar associated activities, but not the construction or creation of roads.

[Derivation: Section 9.44, 1989 Zoning Ordinance]

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

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

- 45.7 Freshwater wetland (see also 38 MRSA § 480-B.4). Freshwater swamps, marshes, bogs and similar areas that are:

- A. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and
- B. Not considered part of a coastal wetland, river, stream or brook.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

46. Frontage. The length of a lot bordering on a public or private street, road or right-of-way. In the case of land fronting on public waters frontage is the length in a straight line measured between the intersections of the side lot lines with the shoreline at normal high water elevation.

[Derivation: Section 9.45, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

47. Front yard. A space extending for the full width of a lot between the extreme front line of a building and the nearest street, road or right-of-way.

[Derivation: Section 9.46, 1989 Zoning Ordinance]

48. Functionally water-dependent uses. Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that can not be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not functionally water-dependent uses.

[Derivation: Section 9.47, 1989 Zoning Ordinance; Ord. No. 11-02b, eff. 8/18/2011]

- 48.5 Glare. Excessive brightness that makes it difficult to see or that causes discomfort. Glare includes direct glare, disability glare, and discomfort glare as follows:

*Direct glare* means glare resulting from insufficiently shielded light sources or areas of excessive luminance within the field of view.

*Disability glare* means the effect of stray light in the eye whereby visibility and visual performance are reduced.

*Discomfort glare* means glare producing discomfort. It does not necessarily interfere with visual performance or visibility.

[Derivation: Ord. No.: 08-07, eff. 10/24/2008]

- 48.8 Ground cover. Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

49. Ground area. The total number of square feet of horizontal surface covered by a building, including covered steps and porches. The term shall be deemed to mean "footprint of a building."

[Derivation: Section 9.48, 1989 Zoning Ordinance]

50. Half story. A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than one-half (1/2) of the floor area is finished off for use.

[Derivation: Section 9.49, 1989 Zoning Ordinance]

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

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

51. Hazardous material. Any gaseous, liquid or solid materials, including asbestos and asbestos containing materials according to current guidelines of the U.S. Environmental Protection Agency, or substances designated as hazardous by the United States Environmental Protection Agency and/or the Maine Department of Environmental Protection.

[Derivation: Section 9.50, 1989 Zoning Ordinance]

52. Height of building. The vertical distance between the mean finished grade at the building or structure and the highest point of the roof, not including chimneys, spires, towers, widow's walks, cupolas, or similar auxiliary structures. The dimensional requirements for zoning districts may contain specific height standards.

[Derivation: Section 9.51, 1989 Zoning Ordinance; Ord. No.: 03-03, eff. March 21, 2003; Ord. No. 09-07, eff. 7/23/2009]

53. High water mark or line, normal:

- A. Tidal. The line on the shore of tidal waters reached by the shoreward limit of the rise of the maximum spring tide.
- B. Non-tidal Waters. That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

[Derivation: Section 9.52, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009; Ord. No. 11-02b, eff. 8/18/2011]

54. Home occupation. A business or profession which is carried on in a dwelling unit, or other structure accessory to a dwelling unit, by a member of the family residing in the dwelling unit, which use is clearly incidental and secondary to the use of the dwelling unit for residential purposes. The retail sales of products does not qualify as a home business unless the item(s) sold is a product of the owner's labor, (e.g. manufactured, produced, created, grown, caught).

[Derivation: Section 9.53, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

55. Household pet. A tame or domesticated small animal such as a cat or dog living primarily within or at a dwelling unit.

[Derivation: Section 9.54, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

56. Hotel. A commercial building or group of buildings that accommodates, for a fee, travelers and other transient guests who are staying for a limited duration in sleeping rooms, each rental unit having its own private bathroom and its own separate entrance leading either to the outdoors or to a common corridor or hallway. A hotel room may not have a full kitchen but may have incidental provisions for food storage and preparation. A hotel or motel may include restaurant facilities where food is prepared and meals served to its guests and other customers.

[Derivation: Section 9.55, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 56.5 Impervious Area. The area of the surface of the ground that is covered by materials or surfaces that prevent the direct infiltration of precipitation into the soil such as buildings, paving, gravel roads or drives, swimming pools, and solid decks or porches.

[Derivation: Ord. No.: 08-07, eff. 10/24/2008]

- 56.7 Individual private campsite. An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

- 56.8 Indoor Cannabis Cultivation Facility. An entity that cultivates cannabis where all cultivation is conducted as controlled environment agriculture, provided that the controlled environment is a permanent structure. An indoor cannabis cultivation facility may also package and label cultivated cannabis without being deemed a cannabis products manufacturing facility. An indoor cannabis cultivation facility is only authorized as a principal use, not an accessory use.

[Derivation: Ord. No. 18-15, eff. 11/23/2018]

57. Inn. A building, which contains a dwelling unit occupied by an owner or resident manager, in which lodging rooms and meals are offered to the general public for compensation, and in which entrance to bedrooms is made through a lobby or other common room. Inn includes such terms as guest house, lodging house and tourist house.

[Derivation: Section 9.56, 1989 Zoning Ordinance]

58. Junkyard. Any land used for the abandonment, storage, keeping, collection or bailing of paper, rags, scrap metals or discarded materials.

[Derivation: Section 9.57, 1989 Zoning Ordinance]

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

[Derivation: Section 9.58, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 59.3 Land management road. A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

- 59.7 Licensed forester. A forester licensed under 32 M.R.S.A. Chapter 76.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

60. Light manufacturing. A business establishment of less than 1600 square feet engaged in manufacturing, packaging, processing, assembling, or testing of goods or products, provided that all operations shall be carried on indoors and in such a manner as to confine smoke, fumes, dust, odors, and noise to the premises, and that no operations constitute a hazard by reason of the potential for fire, explosion, radiation or hazardous waste release into the air or water, or other casualty.

[Derivation: Section 9.59, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

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

A. Front Lot Line. On an interior lot the line separating the lot from the street or right of way. On a corner or through lot, the line separating the lot from either street or right of way.

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

C. Side Lot Line. Any lot line other than the front lot line or rear lot line.



[Derivation: Section 9.60, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

61.1 Lot area. The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

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

[Derivation: Ord. No.: 08-07, eff. 10/24/2008]

62. Manufactured housing. Manufactured Housing shall be subject to the Statutory definition contained in Title 30-A M.R.S.A. Section 4358. As of 1987, the Statutory definition read as follows: A structural unit or units designed for occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis, or placed on an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and then transported to a building site where it is utilized for housing and may be purchased or sold by a dealer in the interim. For purposes of this Chapter, 2 types of manufactured housing are included. They are:

- A. Those units constructed after June 15, 1976, commonly called "newer mobile homes", which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures, transportable in one or more sections which, in the traveling mode, are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein; except that the term shall include any structure which meets all the requirements of this paragraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq.; and
- B. Those units commonly called "modular homes", which the manufacturer certifies are constructed in compliance with the state's Manufactured Housing Act and regulations, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained therein.

[Derivation: Section 9.61, 1989 Zoning Ordinance]

63. Manufacturing. A business establishment engaged in the making of goods and products by hand or machinery including assembly, fabrication, finishing, packaging and processing.

[Derivation: Section 9.62, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

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

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

64. Marina. A shorefront commercial facility with provisions for one or more of the following: boat storage, boat launching, or the sale of supplies and services for watercraft and their equipment and accessories. The term shall also include any dock, pier, wharf, float, floating business, or combination of such facilities that serve five or more boats as a commercial enterprise or in association with a club.

[Derivation: Section 9.63, 1989 Zoning Ordinance]

65. Meeting and conference center. A facility used for conferences and seminars which may include accommodations for sleeping, eating, and recreation in which not more than twenty (20) percent of the rooms may be made available for transient trade.

[Derivation: Section 9.64, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

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

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

65.4 Mineral extraction. (See extractive industries).

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

65.6 Minimum lot width. The closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

66. Mobile Home Park. A contiguous parcel of land designed for the location of 2 or more manufactured homes, which is licensed as a mobile home park by the Maine Department of Business Regulation.

[Derivation: Section 9.65, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 66A. Moderate Manufacturing. A business establishment of no more than 40,000 (total) square feet engaged in manufacturing, packaging, processing, assembling or testing of goods or products, provided that all operations are carried on indoors and in such a manner as to confine smoke, fumes, dust, odors, and noise to the premises and that no operations constitute a hazard by reason of the potential for fire, explosion, radiation or hazardous waste release into the air or water, or other casualty.

[Derivation: Ordinance No.: 03-14, Effective: September 18, 2003; Ord. No. 09-07, effective 7/23/2009]

67. Motel. A building or group of detached or connected buildings designed or intended or used primarily to provide sleeping accommodations for travelers for short periods of time that has a parking space adjacent to the sleeping room, and where entrance to rooms is made directly from the outside of the building.

[Derivation: Section 9.66, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

68. Municipal recreation facility. A recreation facility owned and operated by the City of Hallowell and open to the general public.

[Derivation: Section 9.67, 1989 Zoning Ordinance]

69. Municipal use. A municipal or quasi-municipal entity funded in whole or in part by the City of Hallowell including, by way of illustration and without limitation, municipal buildings, public schools, public parks, public recreational facilities and fire stations.

[Derivation: Section 9.68, 1989 Zoning Ordinance]

- 69.5 Native. Indigenous to the local forests.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

70. Neighborhood grocery store. A retail store with less than 1600 square feet of sales area for food and convenience items, and serving the residents in the immediate vicinity.

[Derivation: Section 9.69, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

71. Net residential area. The area of a lot or lots which is useable for determining allowable densities in cluster developments.

[Derivation: Section 9.70, 1989 Zoning Ordinance]

72. Non-conforming. A building, structure, use of land, or portion thereof, that existed on the effective date of adoption or amendment of this Chapter which thereafter fails to conform to all applicable provisions of this Chapter (see Section 9-162 of this Chapter).

[Derivation: Section 9.71, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

73. Non-hazardous solid waste. Waste which is not designated as hazardous material by the United States Environmental Protection Agency and/or the Maine Department of Environmental Protection.

[Derivation: Section 9.72, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

74. Non-hazardous solid waste facility. Any land, buildings, structures or combination thereof used for disposal of non-hazardous solid waste, excluding (1) municipality operated facilities for disposal of non-hazardous building materials and discarded vegetation resulting from normal property maintenance activities.

[Derivation: Section 9.72, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

75. Non-Ionizing Electromagnetic Radiation (NIER). The lower portion of the electromagnetic spectrum which includes household electrical current, radio, television, and microwave communication, radar, and visible light.

[Derivation: Section 9.73-A, 1989 Zoning Ordinance as adopted 9/28/92; Ord. No. 09-07, effective 7/23/2009]

76. Nursing Homes. A privately operated establishment, licensed by the State of Maine, where nursing care and related medical services are provided twenty- four hours a day (see 22 MRSA §1812-A for more detail).

[Derivation: Section 9.74, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 76.5 Off-site Services Facility. A small business providing only off-site services related to agriculture, forestry, landscaping, or arboriculture and having not more than fifteen (15) employees. Off-site Services Facility specifically includes offices and equipment storage and maintenance. Off-site Services Facility specifically excludes any business manufacturing or providing goods or services on site.

[Derivation: Ord. No. 14-08, effective 11/20/2014]

77. Older mobile homes, trailers. "Older mobile homes" and "trailers" are terms that may be used interchangeably, and mean any factory built home which fails to meet the definition of "manufactured housing" as defined above including any mobile home constructed prior to June 15, 1976.

[Derivation: Section 9.75, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

78. Open space. Areas that are not otherwise included in Residential, Business, Downtown or Resource Protection Districts.

A. Which is presently used for farming, agriculture, timber harvesting, or which is suitable for such use, or

B. Which because of its nature or location is unsuited for any of the foregoing uses.

[Derivation: Section 9.76, 1989 Zoning Ordinance]

78.5 Outdoor Cannabis Cultivation Facility. An entity that cultivates cannabis where all cultivation is conducted outside of any permanent structure and not in a controlled environment. An outdoor cannabis cultivation facility is only authorized as a principal use, not an accessory use.

[Derivation: Ord. No. 18-15;, eff. 11/23/2018]

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

[Derivation: Section 9.77, 1989 Zoning Ordinance]

80. Parking space. A minimum area of 162 square feet, 18 feet by 9 feet, exclusive of drives, aisles or entrances, fully accessible for the storage or parking of vehicles.

[Derivation: Section 9.78, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

81. Patio. A level area adjacent to a dwelling unit constructed of stone, cement or other material located at ground level, with no railing or other structure above the level of the ground. The term does not include driveways.

[Derivation: Section 9.79, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

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

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

- 81.6 Personal Services. Establishments engaged in providing services involving the care of the person or personal apparel including, but not limited to, barber shops, beauty shops and manicurists, tailors, laundromats, shoe repair shops, tattoo parlors, and photographic studios.

[Derivation: Ord. No. 12-10, eff. 10/19/2012]

82. Piers, docks, wharves, breakwaters, causeways, marinas, bridges over 20 feet in length, and uses projecting into water bodies:
- A. Temporary. Structures which remain in the water for less than seven months in any period of twelve consecutive months.
  - B. Permanent. Structures which remain in the water for seven months or more in any period of twelve consecutive months.

[Derivation: Section 9.80, 1989 Zoning Ordinance]

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

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

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

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

83. Permitted use. Includes only uses listed as permitted uses in the zone in which it is located and not conditional uses or prohibited uses.

[Derivation: Section 9.81, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 83.5 Planned mixed-use development. A development in the Stevens School Planned Development District that meets the requirements of Section 9-387 Additional Requirements for a Planned Mixed Use Development.

[Derivation: Ord. No. 11-03, eff. 8/18/2011]

84. Planned unit development. A development planned and developed under unified management, consisting of mixed residential and commercial and/or community uses and developed as a whole according to a comprehensive and detailed plan, including streets, utilities, lots or building sites, site plans, and design principles for all buildings intended to be located, constructed, used and related to each other and for other

uses and improvements on the land. Development may be in a single operation, or a programmed series of operations including all lands and buildings with provision for operation and maintenance of such areas and improvements and facilities necessary for common use by the occupants of the development.

[Derivation: Section 9.82, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

85. Planning Board. The Planning Board of the City of Hallowell established under Subchapter I of Chapter 8.

[Derivation: Section 9.83, 1989 Zoning Ordinance]

86. Principal structure. The structure in which the primary use of the lot is conducted.

[Derivation: Section 9.84, 1989 Zoning Ordinance]

86.5 Principal use. A use other than one which is wholly incidental or accessory to another use on the same premises.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

87. Public building. A building owned by a unit or agency of local government, the State of Maine or any of its agencies, or the United States Government or any of its agencies.

[Derivation: Section 9.85, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

88. Public and private schools. Institutions for education or instruction in any branch or branches of knowledge, or a place where knowledge is imparted and which satisfies either of the following requirements: the school is not operated for a profit or as a gainful business; or the school teaches courses of study which are sufficient to qualify attendance in compliance with state compulsory education requirements.

[Derivation: Section 9.86, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

89. Public utility. Any person, firm, corporation, municipal department, board or commission authorized to furnish gas, steam, electricity, waste disposal, communication facilities, transportation or water to the public, or any structure or use of such entity, but excluding "Essential Services" as defined in Subsection 37.

[Derivation: Section 9.87, 1989 Zoning Ordinance]

[Derivation: Ordinance No.: 00-9, Eff. April 20, 2000]

89.5 Recent floodplain soils. The following soil series as described and identified by the National Cooperative Soil Survey:

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

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

90. Recreational facility. A commercial facility for leisure or recreational activities, including, but not limited to, tennis, racquetball, golf driving ranges, bowling alleys, ice or roller skating, arcades or miniature golf.

[Derivation: Section 9.88, 1989 Zoning Ordinance; Ord. No. 09-07, eff.7/23/2009]

91. Recreational vehicle. A self-propelled or drawn vehicle or vehicular attachment designed for temporary sleeping or living quarters for one or more persons, which is not a dwelling such as a pick-up camper, travel trailer, tent trailer, or motor home.

[Derivation: Section 9.89, 1989 Zoning Ordinance; Ord. No. 09-07, eff.7/23/2009]

92. Recycling Center. An enclosed facility located and operated primarily for the convenience of residents of the City and devoted to the collection or redemption and separation of household non-organic waste products, including paper, cardboard, and plastic, glass and metal containers, for subsequent off-site reprocessing and recycling into usable products for sale to the general public.

[Derivation: Section 9.89-A, 1989 Zoning Ordinance as adopted 4/7/97]

92.5 Residential care facility. A facility licensed by the State of Maine Department of Health and Human Services per 22 M.R.S.A. §7801(1) or its successor, that provides residents with assisted housing and living services that include: assistance with activities of daily living and instrumental activities of daily living, personal supervision, protection from environmental hazards, meals, diet care, care management, diversional or motivational activities, medication administration, and nursing services. Such services are provided to residents in private or semi-private bedrooms in buildings with common living and dining areas.

[Derivation: Ordinance No.: 05-03, Effective May 20, 2005; Ord. No. 09-07, effective 7/23/2009]

92.7 Residual basal area. The average of the basal area of trees remaining on a harvested site.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]



92.8 Residual stand. A stand of trees remaining in the forest following timber harvesting and related activities.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

93. Restaurant. An establishment where food and drink is prepared and consumed by the public on the premises. An establishment that provides for any consumption on the premises is a restaurant (see definition of retail business).

[Derivation: Section 9.90, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

94. Retail business. A business establishment engaged in the sale, rental, or lease of goods or services to the ultimate consumer for direct use or consumption and not for resale. Any establishment that provides food and/or drink entirely for take-out and consumption off the premises is a retail business (see definition of restaurant).

[Derivation: Section 9.91, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

94.5 Retail business, low-intensity. A retail business that due to the nature or scale of the business activity does not result in a large number of peak hour vehicle trips, have substantial exterior operations, or generate noise or other external impacts that are substantially greater than those associated with residential uses.

[Derivation: Ord. No. 11-03, eff. 8/18/2011]

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

[Derivation: Section 9.92, 1989 Zoning Ordinance]

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

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

96. River. Any free flowing body of water from that point at which it provides drainage for a water-shed of 25 square miles to its mouth.

[Derivation: Section 9.93, 1989 Zoning Ordinance]

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

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

96.5 Road. See street.

[Derivation: Ord. No. 09-07, effective 7/23/2009]

97. Rooming House. Same as Boarding Home.

[Derivation: Section 9.94, 1989 Zoning Ordinance]

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

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

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

98. Setback. The minimum horizontal distance from a lot line to the nearest part of a building.

[Derivation: Section 9.95, 1989 Zoning Ordinance]

98.1 Setback, shore (water or wetland). The nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a shoreland wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

99. Sexually explicit. The display or depiction of sex organs during actual or simulated sexual intercourse or sexual acts as defined in 17-A M.R.S.A. §251.

[Derivation: Section 9.95-A, 1989 Zoning Ordinance as adopted 9/28/92]

99.5 Shore frontage. The length of a lot bordering on a water body or shoreland wetland measured in a straight line between the intersections of the lot lines with the shoreline.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

100. Shoreland. All land areas subject to mandatory shoreland zoning as set forth in 38 M.R.S.A. §435.

[Derivation: Section 9.96, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

100.1 Shoreland freshwater wetland. (see also wetland) Freshwater wetlands, other than forested wetlands, that are of ten (10) or more contiguous acres; or if less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of ten (10) acres. Shoreland freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

100.5 Shoreland stream. (see also stream) A free-flowing body of water from the confluence of two (2) perennial streams as depicted on the most recent edition of a United States

Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

100.7 Shoreland wetland. (see also wetland) A coastal wetland or shoreland freshwater wetland.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

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

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

101. Sign. An object, device or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

- A. Billboard. A structure designed, intended or used for advertising a product, property, business, entertainment, service, amusement or the like, and not located where the matter advertised is available or occurs. A billboard is not a sign.
- B. Free Standing Sign. A sign supported by one or more uprights or braces permanently affixed into the ground.
- C. Portable Sign. A sign not designed or intended to be permanently affixed into the ground or to a structure.
- D. Roof Sign. A sign located upon or over a roof of a building.
- E. Temporary Sign. A sign or advertising display designed, intended to be displayed or displayed for a short period of time.

[Derivation: Section 9.97, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 101.3 Skid road or skid trail. A route repeatedly used by forwarding machinery or animals to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

- 101.5 Slash. The residue, e.g., treetops and branches, left on the ground after a timber harvest.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

- 101.8 Stream (see also 38 MRSA § 480-B.9) (see also shoreland stream). A channel created by the action of surface water that has 2 or more of the following characteristics:

- A. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topographic map or, if that is not available, a 15-minute series topographic map.
- B. It contains or is known to contain flowing water continuously for a period of at least 3 months of the year in most years.
- C. The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.
- D. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, within the stream bed.

- E. The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

"Stream" does not mean a ditch or other drainage way constructed, or constructed and maintained, solely for the purpose of draining storm water, nor a grassy swale.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

102. Street (Road). Any vehicular way which: (1) is an existing state, county or City roadway; or (2) is shown upon a plat approved pursuant to law; or (3) is approved by other official public action; or (4) is shown on a plat duly filed and recorded in the Kennebec County Registry of Deeds prior to the appointment of the Planning Board and the grant to the Board of the power to review plats; and includes the land between the street lines, whether improved or unimproved. For the purposes of this Chapter, all dimensional requirements are measured from street right-of-way lines.

[Derivation: Section 9.98, 1989 Zoning Ordinance; Ord. No. 09-07, eff.7/23/2009]

103. Structure. Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind. Structures include buildings, platforms, decks, in-ground swimming pools, fixed above ground swimming pools, wharves, piers, and floats; excluded are patios, fences, boundary walls, walks and driveways, earthwork and sanitary sewage disposal facilities.

[Derivation: Section 9.99, 1989 Zoning Ordinance as amended 9/28/92]

- 103.5 Structure (shoreland). For the purposes of the shoreland zoning requirements and within the Resource Protection and Shoreland Overlay Districts, anything built for the support, shelter, enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops, as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

104. Subdivision. "Subdivision" has the same meaning as in Title 30-A M.R.S.A. Section 4401, et. seq.

[Derivation: Section 9.100, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 104.3 Subsurface sewage disposal system. Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes;

does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

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

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

105 Swale. A depression in the ground which channels runoff.

[Derivation: Section 9.101, 1989 Zoning Ordinance]

106. Tax maps. Maps showing the property lines and lot number of each parcel of real estate. The Tax Maps shall be created by a qualified mapping professional and approved by the Board of Assessors. The approved Tax Maps shall be kept on file in the office of the Board of Assessors.

[Derivation: Section 9.102, 1989 Zoning Ordinance; Ord. No. 15-07, eff. 07/23/2015]

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

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

107. Timber harvesting. The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section O of the Shoreland performance standards, *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

[Derivation: Section 9.103, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009; Ord. No. 11-02b, eff. 8/18/2011]

107.5 Timber harvesting and related activities. Timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

108. Tourist Home. Same as Bed and Breakfast.

[Derivation: Section 9.104, 1989 Zoning Ordinance]

109. Towers. Any structure in excess of 50 feet above natural ground level used to support electric, electronic or mechanical devices or antennas, or used to transmit, receive or carry electric or electronic impulses. A tower is not a utility pole that supports electric, telephone, and/or cable television transmission lines owned by a public utility.

[Derivation: Section 9.104-A, 1989 Zoning Ordinance as adopted 9/28/92; Ord. No. 09-07, effective 7/23/2009]

110. Trailer. Any non-motorized vehicle used as a temporary dwelling for travel, recreation and vacation use. This term includes but is not limited to camper, camper-trailer and all other similar short-term shelter devices.

[Derivation: Section 9.105, 1989 Zoning Ordinance; Ord. No. 09-07, eff.7/23/2009]

111. Trailer Park. See Campground or Mobile Home Park.

[Derivation: Section 9.106, 1989 Zoning Ordinance]

- 111.5 Tributary stream. A channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

This definition does not include the term "stream" or "shoreland stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

112. Undue hardship. As used in this Chapter, the words "undue hardship" shall mean all of the following:
- A. That the land in question cannot yield a reasonable return unless a variance is granted.
  - B. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.
  - C. That the granting of a variance will not alter the essential character of the locality.

- D. That the hardship is not the result of action taken by the applicant or a prior owner.

A variance is not justified unless all four elements are met.

[Derivation: Section 9.107, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

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

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

113. Use. The purpose for which land or a building or structure is arranged, designed or intended, or is occupied.

[Derivation: Section 9.108, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

114. Variance. A relaxation of the terms of this Chapter that may be granted by the Board of Appeals only where strict application of this Chapter, or a provision of the Chapter, to the petitioner or his property, would cause undue hardship. A variance may only be granted in conjunction with a use that is allowed in the district in which it is located.

[Derivation: Section 9.109, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 114.3 Vegetation. All live trees, shrubs, and other plants including without limitation, trees both over and under four (4) inches in diameter, measured at four and a half (4.5) feet above ground level.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

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

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

115. Warehousing. The storage, deposit, or stocking of merchandise or commodities in a structure or room.

[Derivation: Section 9.110, 1989 Zoning Ordinance]



115.4 Water body (for Shoreland purposes). Any river or shoreland stream.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

115.5 Water crossing. Any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

116. Wetland. A freshwater or coastal wetland.

[Derivation: Section 9.111, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009; Ord. No. 11-02b, eff. 8/18/2011]

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

[Derivation: Section 9.112, 1989 Zoning Ordinance]

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

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

117.5 Woody vegetation. Live trees or woody, non-herbaceous shrubs.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

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

[Derivation: Section 9.113, 1989 Zoning Ordinance]

**SECTIONS 9-152 THROUGH 9-160 (Reserved)**

**DIVISION D – NON-CONFORMANCE**

**SECTION 9-161      PURPOSE**

It is the intent of this Chapter to promote land use conformities and to encourage the elimination of non-conforming uses. However, in the interest of fairness, nonconforming conditions that existed before the effective date of this Chapter or that were created as a result of amendments to this chapter will be allowed to continue, subject to the Rules and Conditions set forth in this Division D. Except as otherwise specifically permitted, a non-conforming condition may not be permitted to become more non-conforming.

[Derivation: Section 3.1, 1989 Zoning Ordinance; Ord. No. 11-02b, eff. 8/18/2011]

**SECTION 9-162      DEFINITIONS**

1. Non-conforming or "Grandfathered" Use. Use of premises that is not permitted to locate in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Chapter or subsequent amendments took effect.
2. Non-conforming or "Grandfathered" Structure. A structure that does not meet any one or more of the following dimensional requirements: set-backs, height, yard, or lot coverage. It is allowed solely because it was in lawful existence at the time this Chapter or subsequent amendments took effect.
3. Non-conforming or "Grandfathered" Lots of Record. A single lot of record which, at the effective date of adoption or amendment of this Chapter, does not meet the area, frontage, width, or depth requirements, of the District in which it is located.

[Derivation: Section 3.2, 1989 Zoning Ordinance]

**SECTION 9-163      NON-CONFORMING USES**

1.     Continuance. The use of land, building or structure, lawful at the time of adoption or subsequent amendment of this Chapter, may continue although such use no longer conforms to the provisions of this Chapter.
  
2.     Non-conforming Use Forfeited. If a non-conforming use or business is terminated by the owner/operator and is discontinued for twelve consecutive months, such use shall no longer be permitted. Abandonment shall constitute discontinuance. Any non-conforming use housed in a building or structure destroyed by fire, or other cause to the extent of 50% or more of the market value of the structure before such damage or destruction, shall be presumed to be forfeited at the time of the damage, and such use shall not be resumed, unless reconstruction is started within eighteen (18) months. Once a non-conforming use is terminated, only a conforming use shall thereafter be made of such building or land.
  
3.     Resumption. Whenever a non-conforming use is superseded for any period of time by a permitted use of a structure, or structure and land in combination, such structure or combination of land and structure shall thereafter conform to the provisions of this Chapter and the non-conforming use shall be terminated.
  
4.     Change of Use. An existing non-conforming use may not be changed to another non-conforming use unless a conditional use permit is obtained from the Planning Board, provided that the following provisions are met:
  - A.     Conversion from one business to another. A change from one type of non-conforming business to a lesser non-conforming business shall be permitted, provided that the creation of any additional parking demands can be met.
  
  - B.     Conversion from commercial to dwelling. The conversion of the Water Street level of commercial structures to dwellings shall be prohibited between Temple Street and Wilson Lane.
  
  - C.     Changes within required setback of the normal high water mark and over the water. Within twenty-five (25) feet of the normal high water mark of the Kennebec River, and within seventy-five (75) feet of all other rivers and ponds, the following activities shall be prohibited:
    - (1)     The expansion of a non-conforming use.
  
    - (2)     The projection of second floor overhangs or decks into required setbacks.
  
  - D.     Additional shoreland requirements. If the non-conforming use is located in the Resource Protection District or the Shoreland Overlay District, the

Planning Board must find that the new use will have no greater adverse impact on the water body, tributary stream or shoreland wetland, or on the subject and adjacent properties and resources than the existing use. In determining that no greater adverse impact will occur, the Planning Board may require written documentation from the applicant regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archeological and historic resources, and commercial fishing and marine activities and other functionally water-dependent uses.

5. Expansion. A non-conforming use, including a non-conforming open use of land, shall not be extended or expanded in area or function, unless the following conditions are met:

A non-conforming use may be extended within a building or other structure to any portion of the floor area that was not occupied by such use on the effective date of this Code (or on the effective date of a subsequent amendment that causes such use to become non-conforming).

[Derivation: Section 3.3, 1989 Zoning Ordinance; Ord. No. 11-02b. eff. 8/18/2011; Ord. No. 12-11, eff. 10/19/2012]

## **SECTION 9-164      NON-CONFORMING STRUCTURES**

1. Expansion of an Existing Structure. A non-conforming structure may be added to or expanded if such addition or expansion does not increase the non-conformity of the structure. Property changes or structures which either meet the dimensional standard of the district in which it is located or which cause no further increase in the linear extent of non-conformance of the existing structure shall not be considered to increase non-conformity. There is no increase in non-conformity if an expansion extends no further into a setback area than does any portion of the existing structure.

In addition, after January 1, 1989, if any portion of a non-conforming structure that is located in the Resource Protection District or Shoreland Overlay District is less than the required setback from the normal high-water line of a water body, tributary stream, of the upland edge of a shoreland wetland, that portion of the structure shall not be expanded by 30% or more as measured in floor area or volume during the lifetime of the structure.

2. Patios, Steps, Decks. The addition of an open patio, not to exceed an area eight (8) feet by ten (10) feet, to be constructed of brick, flagstone or other material, and with no structures elevated above ground level, shall not constitute the expansion of a non-conforming structure. The addition of steps shall not constitute the expansion of a non-conforming structure unless the patio is located within the Resource Protection or Shoreland Overlay Districts. The addition of a deck not to exceed eight (8) feet by ten (10) feet does not constitute the expansion of a non-conforming

structure unless the deck is located within the Resource Protection or Shoreland Overlay Districts but the deck shall meet all the dimensional setback requirements of this Code. The side-lot setback for a new deck may be reduced to equal that of a non-conforming side-lot setback of an existing building to which the deck is to be attached. A non-conforming deck may not be converted to an enclosed structure of any kind.

3. Foundations. The placement of a foundation below a lawfully existing non-conforming structure shall not constitute the expansion of the structure, so long as the first floor area of the structure is not increased.

Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure in the Resource Protection District or Shoreland Overlay District, the structure and new foundation shall be placed such that the water setback requirement is met to the greatest extent practical as determined by the Planning Board. In determining if the location meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and soils suitable for on-site sewage disposal, and the type and amount of vegetation that would need to be removed.

4. Resumption. Non-use or vacancy of a legally existing non-conforming structure shall not constitute abandonment of the structure. Any conforming use of the structure may be resumed at any time.
5. Reconstruction\Restoration\Replacement. Any non-conforming building or structure which is damaged or destroyed by fire or any other cause or which is removed may be restored or reconstructed, provided that restoration or reconstruction is initiated within eighteen (18) months of the date of said damage or destruction, and completed within the next twelve months. The Planning Board may grant an extension upon request. Such restoration or reconstruction shall not enlarge the size or change the nature of the prior non-conforming building or structure.

A non-conforming structure destroyed by fire, flood, or other casualty or that is removed, may be replaced provided:

- A. The new structure has a permitted or conditional use; and
- B. All dimensional requirements of this Code are met to at least the same extent as the original structure.
- C. The replacement complies with the provisions of Subchapter V, Division B of this Chapter.
- D. Any non-conforming structure in the Resource Protection District or Shoreland Overlay District that is located less than the required setback from

a water body, tributary stream, or shoreland wetland and that is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or shoreland wetland setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to sub-section 1. above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with sub-section 6.B below.

In determining if the location meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and soils suitable for on-site sewage disposal, and the type and amount of vegetation that would need to be removed.

- E. Any non-conforming structure in the Resource Protection District or Shoreland Overlay District that is located less than the required setback from a water body, tributary stream, or shoreland wetland and that is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.
  - F. Nothing in this section shall prevent the demolition of the remains of any building so damaged or destroyed.
6. Relocation of an Existing Structure. An existing non-conforming structure may be relocated on a lot subject to the following:
- A. The relocated structure is no more non-conforming than prior to relocation. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

- B. If the structure is located in the Resource Protection District or the Shoreland Overlay District, it may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board. If the property is not served by the public sewer system the applicant must demonstrate that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or shoreland wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed shall be replanted with vegetation. Replanting shall be required as follows:

- (1) Trees removed in order to relocate a structure shall be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees shall be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure shall be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed shall be reestablished within the setback area. The vegetation and/or ground cover shall consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- (2) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

7. Parking or Loading Space. A building or structure which is non-conforming as to the requirements for off-street parking spaces shall not be enlarged or altered to create additional dwelling units, or seats, as in the case of commercial, industrial, business, institutional, or recreational buildings, or accommodations, unless off-street parking is provided for such addition, enlargement, or alteration of the original building or structure sufficient to satisfy the requirements of this Code. A building which is non-

conforming as to the requirements for off-street loading space shall not be enlarged or added to unless off-street space is provided sufficient to satisfy the requirements of this Code for both the addition or enlargement of the original building or structure.

8. Handicapped Access. Nothing in this section shall be construed to prevent construction or reconstruction necessary to make a building accessible to handicapped persons. Handicapped ramps and steps shall not constitute the expansion of a structure.

[Derivation: Section 3.4, 1989 Zoning Ordinance; Ordinance No. 00-7, Eff. 4/20/00; Ord. No. 11-02b, eff. 8/18/2011; Ord. No. 11-05, effective 10/21/2011]

**SECTION 9-165      NON-CONFORMING LOTS**

1. Vacant Lots. A non-conforming lot may be built upon provided that such lot shall be in a separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Chapter except lot size and street and shore frontage can be met. Variance of front, side or rear setbacks or other requirements not involving area or frontage may be obtained only by action of the Board of Appeals.
2. Built Lots. A structure on a non-conforming lot may be expanded, enlarged or improved, in conformity with the dimensional standard of the district in which it is located except for lot area, lot width, street frontage, or shore frontage.
3. Contiguous Built Lots.
  - A. If two or more contiguous lots or parcels are in single or joint ownership of record, if all or part of the lots do not meet the dimensional requirements of this Chapter, and if a principal structure exists on each lot, the non-conforming lots may be conveyed separately or together.
  - B. If two or more principal structures existed on a single lot of record on April 18, 1997, each principal structure may be located on a newly created separate lot of record if each lot complies with the State of Maine Minimum Lot Size and Subsurface Wastewater Disposal Rules and each lot created is as conforming as possible to the dimensional requirements of this Chapter and is approved by the Code Enforcement Officer.
4. Contiguous Vacant Lots. If two or more vacant, contiguous lots or parcels are in single or joint ownership of record, and if these lots do not individually meet the dimensional requirements of this Chapter, the lots shall be combined to the extent necessary to meet the dimensional standards.
5. Contiguous Built and Vacant Lots. If two or more contiguous lots or parcels are in single or joint ownership of record, if all or part of the lots do not meet the



dimensional requirements of the Chapter, and if a principal structure exists on one of the lots and one or more of the other lots are vacant, the lots shall be combined to the extent necessary to meet the dimensional requirements.

[Derivation: Section 3.5, 1989 Zoning Ordinance; Ordinance No. 00-7, Eff. 4/20/00; Ordinance No. 06-05, Effective August 17, 2006; Ord. No. 11-02b, eff. 8/18/2011]

**SECTION 9-166      TRANSFER OF OWNERSHIP**

Ownership of lots and structures which remain lawful but become non-conforming by the adoption or amendment of this Chapter may be transferred and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Chapter, provided that such lots or structures are first combined with other contiguous lots as required in Section 9-165, Subsections 4 and 5.

[Derivation: Section 3.6, 1989 Zoning Ordinance]

**SECTION 9-167      MAINTENANCE**

Nothing in this Chapter precludes the normal up-keep and maintenance of non-conforming uses and structures; including repairs, renovations, or modernizations which do not involve expansion of the non-conforming use or structure and such other changes to a non-conforming use or structure as conformance with federal, state, or local building and safety codes may require.

[Derivation: Section 3.7, 1989 Zoning Ordinance; Ord. No. 11-02b, eff. 8/18/2011]

**SECTION 9-168      PENDING APPLICATION FOR BUILDING PERMITS**

Nothing in this Chapter shall require any change in the plans, construction, size, or designated use for any building, structure, or part thereof for which application for a building permit has been made or a building permit has been issued and upon which construction lawfully commenced prior to the adoption or amendment of this Chapter, provided construction is started within one year of the issuance of such permit. In a multi-phase development application, only those phases approved and actually commenced prior to the adoption of the Chapter shall be considered a pending application for the purposes of this section.

[Derivation: Section 3.8, 1989 Zoning Ordinance]

**SECTIONS 9-169 THROUGH 9-170 (Reserved)**

**DIVISION E – ESTABLISHMENT OF DISTRICTS AND LAND USE MAP**

**SECTION 9-171     DISTRICTS**

1.     Designation. For the purpose of this Chapter, the City of Hallowell is divided into the following districts:
  - A.     Residential Districts (See Subchapter II):  
  
          Medium Density Residential District (R1)  
          Moderate Density Residential District (R2)  
          Residential Development District (R3)  
          Rural Farm District (RF)
  - B.     Downtown, Business, and Mixed-Use Districts (See Subchapter III):  
  
          Downtown District (DT)  
          Northern Gateway Business A District (BA)  
          Business B District (BB)  
          Business C District (BC)  
          Southern Gateway Business District (BD)  
          Stevens School Planned Development District (SSPD)
  - C.     Resource Conservation Districts (See Subchapter IV):  
  
          Resource Protection District (RP)  
          Open Space District (OP)
  - D.     Overlay Districts (See Subchapter V):  
  
          Shoreland District (SD)  
          Floodplain Management District (FM)  
          Historic District (HD)
2.     Official Zoning Map. The location and boundaries of the above Districts (except the Floodplain Management District (FM); See Section 9-531) are located and bounded as shown on the Official Zoning Map which is adopted by reference. The Official Zoning Map (as revised) will be identified by the signature of the Mayor and attested by the signature of the City Clerk.
3.     District Boundaries. For interpretation of the boundary lines the following rules shall apply:
  - A.     Unless otherwise indicated, district boundary lines are the center lines of roads, streets, or rights of way.

- B. Where discrepancy exists between the map and written descriptions of each district, the written description shall prevail.
- C. Where discrepancy exists between physical features existing on the ground and the official map and/or written description, the Board of Appeals shall interpret the district boundaries.

[Derivation: Section 4, 1989 Zoning Ordinance as amended 5/9/94. Further amended by Ord. No. 98-1, 5/2/98; Ord. No. 99-4 eff. 8/19/99; Ord. No. 11-03, eff. 8/18/2011, Ord. No. 12-10, eff. 10/19/2012; Ord. No. 17-04, effective 07/20/2017]

**SECTION 9-172**      EXPLANATION OF PERMITTED AND CONDITIONAL USES

Within each district, uses which are listed as permitted uses require a permit from the Code Enforcement Officer. Uses which are listed as Conditional Uses require a permit from the Planning Board and in addition are subject to the standards and procedures set forth in Subchapter VI of this Chapter. In the Stevens School Planned Development District, uses that are identified in an approved Master Plan for a Planned Mixed-use Development shall be treated as permitted uses. In addition, uses that require site plan approval under Subchapter VIIIA must obtain Planning Board approval prior to the issuance of any permits by the Code Enforcement Officer.

[Derivation: Section 4, 1989 Zoning Ordinance; Ord. No. 11-03, eff. 8/18/2011]

**SECTION 9-173**      OVERLAY DISTRICTS

The Shoreland District, Floodplain Management District and Historic District, which are set forth in Subchapter V, are each an "overlay district." They are "overlay districts" because each of them adds standards to the zoning requirements already established for the areas designated therein. For example, a parcel of land along the Kennebec River may be in the Downtown District, and may also be subject to the requirements of the Shoreland District, Floodplain Management District and Historic District.

**SECTIONS 9-174 THROUGH 9-180** (Reserved)

**DIVISION F – ADMINISTRATION**

**SECTION 9-181**      CODE ENFORCEMENT OFFICER

- 1. Office of Code Enforcement Officer:
  - A. The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall be the Building Inspector and the Plumbing Inspector as those offices are designated by statute and the City Charter.

B. (Reserved)

2. Powers and Duties:

A. The Code Enforcement Officer shall have the following duties:

- (1) Administer and enforce the provisions of this Chapter, Chapter 4 relating to the construction, alteration, removal and demolition of buildings and structures, and other provisions of this Code where designated.
- (2) Examine preliminary plans.
- (3) Act upon building permit applications, and refer Conditional Use Permit applications to the Planning Board.
- (4) Inspect sites where building permits have been issued to insure compliance with this Ordinance and keep all activities subject to this Code under surveillance at all times.
- (5) Investigate complaints and reported violations.
- (6) Keep written inspection reports and thorough records.
- (7) Issue violation notices.
- (8) Participate in Appeals procedures as provided in Subchapter X.
- (9) Appear in court when necessary.
- (10) Confer with citizens upon request.
- (11) Act as staff to the Planning Board and prepare background reports on each action before the Board at its regular and special meetings and workshops.
- (12) Attend meetings of the Planning Board and Board of Appeals.
- (13) Keep records of zoning interpretations made by the Board of Appeals for use of City officials in future cases.
- (14) Refer questions concerning the interpretation of this Ordinance to the City Solicitor for opinion and advice.
- (15) The Code Enforcement Officer shall keep a complete record of all essential transactions within the shoreland zone, including

applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

- B. Right of entry. The Code Enforcement Officer and all other inspectors required under this Code, in the discharge of their official duties, and upon prior notice and presentation of proper identification, shall have authority to enter any building, structure or premises for cause at any reasonable hour.

[Derivation: Ord. No. 11-02b, eff. 8/15/2011]

**SECTION 9-182**      **BUILDING PERMITS**

1. Building Permit required. No person shall erect, locate, construct, enlarge, alter, remove, convert, or change the nature of the occupancy, or cause the same to be done, of any building or structure, costing or valued more than \$1500, without first obtaining a separate building permit from the Code Enforcement Officer for each building or structure: except that no Building Permit shall be required for the performance of repairs which are not structural in nature.
2. Application for Permit:
  - A. The application for the Building Permit shall be in writing, shall be made to the Code Enforcement Officer in such form as he shall prescribe and shall include a description of the proposed work, together with appropriate plans or drawings drawn to scale. Plans or scale drawings may be omitted at the discretion of the Code Enforcement Officer, provided however, the application and all exhibits thereto shall provide sufficient information to permit the Code Enforcement Officer to make a decision under both this Ordinance and the Building Code. After issuance of the Permit, the applications shall be filed with the Board of Assessors.
  - B. The completed application shall be filed with the Code Enforcement Officer not less than thirty (30) calendar days before the proposed start of construction, except on emergency at the discretion of the Code Enforcement Officer, but in no case may construction be scheduled to start, or in fact be started before the Permit is issued.
  - C. For new and relocated buildings and structures and additions thereto, the application shall include a plot plan, drawn to a scale not smaller than 20 feet to the inch, showing property and street lines, location of other buildings where pertinent, finished grades, driveways, parking spaces, water and sewer connections, or water supply, septic tank and disposal fields, as applicable.

- D. Each application shall be accompanied by a statement from the Hallowell Water District approving the water and sewer connections. If the proposed construction is located outside the Hallowell Water District service area, the application shall include a statement from the Plumbing Inspector that the proposed sewage disposal system is in accordance with State law.
  - E. All plans required under this Section shall bear the stamp or seal of a registered architect in accordance with Title 32 M.R.S.A. § 220 or the stamp and seal of a registered engineer in accordance with Title 32 M.R.S.A. § 1355. Excluded from this requirement are the following:
    - (1) Any building or enlargement or alteration intended for occupancy by the person making the drawings or any person, association or corporation regularly employing him;
    - (2) Any building or enlargement or alteration which is to be used for farm purposes; and
    - (3) Any single family residence of any size which is to be used by the applicant as his residence.
3. Prior approvals. Upon receipt of a completed application the Code Enforcement Officer shall review it to assure that the applicant and the proposed project will comply with all applicable provisions of this Code. The Code Enforcement Officer shall advise the applicant whether a variance, or other permits or approvals are required. If a variance is required it shall be obtained before any application is considered by the Planning Board under Subchapters V and VII. No building permit shall be issued unless:
- A. Any variance that may be required has been granted by the Board of Appeals and certificate thereof recorded in the Kennebec County Registry of Deeds.
  - B. Any approval that may be required by the Planning Board, including subdivision approval, conditional use permit, and historic district permit has been granted and evidenced in writing.
  - C. The applicant has complied with all applicable provisions of the Maine Uniform Building and Energy Code as adopted under Section 4-501.
  - D. The applicant has obtained and applicant has complied with all applicable provisions of State law relating to plumbing and sewage disposal.
4. Display of Permit. Every Building Permit shall be displayed in a conspicuous place on the premises, clearly visible from the principal traveled street and shall not be removed until the work covered by the permit has been approved.

5. Denial of permits. If the Code Enforcement Officer is compelled to deny the building permit application because it does not meet one or more requirements of this Ordinance, he may do so immediately upon application.
6. Expiration of permits. An issued Building Permit shall automatically expire if substantial construction does not begin within one year from the date of issue. If such construction has not occurred within one year, the permit may be renewed prior to the expiration date for an additional six months from the expiration date under like conditions without charge.

[Derivation: Ord. No. 12-03, Eff. 2/23/2012; Ord. No. 18-02, eff. 3/22/2018]

**SECTION 9-183**      FEES

A fee shall be required for all permits, approvals, and reviews required by this Chapter. Fees shall be set by the City Council, and a schedule of such fees shall be on file in the City Clerk's office.

[Derivation: Section 8.2, 1989 Zoning Ordinance; Ordinance No.: 03-05, Effective: April 17, 2003; Ord. No. 12-11, eff. 10/19/2012; Ord. No. 18-02, effective 03/22/2018]

**SECTION 9-184**      PUBLIC COMMENT, ABUTTER NOTIFICATION. PUBLIC HEARINGS. AND POSTING OF NOTICE

1.      **Public Comment.**
  - A.      Every application that comes before the Planning Board will have the benefit of a public comment period.
  - B.      The public comment period will take place after the applicant has made a presentation and the Board has made a determination that the application is complete and before the Board takes action on the application.
  - C.      The purpose of the public comment period will be for the public to ask questions of the applicant and to comment on the application. A public comment period will be in addition to any public hearing that may be held.
2.      **Abutter Notification.**
  - A.      Abutters will be notified for all applications that are reviewed by the Planning Board for a site plan review application, a conditional use application, a Master Plan submittal for a Planned Mixed-Use Development, or for an historic district review application when a change in square footage, or volume of the existing structure is proposed.

- B. For purposes of this Section, the term 'abutter' is defined as: Abutter: The owner of any parcel with one or more common boundaries; the owner of any parcel within 25 feet of the parcel involved in the application; and, the owner of any parcel located directly across any road, railroad or stream from the parcel involved in the application.
- C. For a site plan review application, a conditional use application, a Master Plan submittal for a Planned Mixed-Use Development, or for an historic district review application when a change in square footage, or volume of the existing structure is proposed the responsibility for providing the required notice rests with the applicant.
- D. For a subdivision application, comprehensive plan amendment or adoption, ordinance amendment or adoption, contract/conditional zoning, shoreland zoning amendment or adoption, and new or amended zoning ordinances and maps, abutter notification shall be in accordance with the appropriate State statute and be the responsibility of the Code Enforcement Officer.
- E. For purposes of a variance appeal or for an administrative appeal, abutters shall be as outlined in Section 9-1003.
- F. Property owners shall mean all parties listed as of April 1<sup>st</sup> each year by the City Tax Assessor against whom taxes are assessed.

[Derivation: Ord. No.: 08-08, eff. 11/20/2008; Ord. No. 11-03, eff. 8/18/2011; Ord. No. 12-11, eff. 10/19/2012]

**3. Public Hearings.**

- A. Public hearings for a conditional use application and for an historic district review application will be held when the Planning Board determines that the proposed use could have an impact on abutting properties.
- B. A public hearing for a variance appeal or for an administrative appeal shall be as outlined in Section 9-1003.
- C. A public hearing for a subdivision application, comprehensive plan amendment or adoption, ordinance amendment or adoption, contract/conditional zoning, shoreland zoning amendment or adoption, and new or amended zoning ordinances and maps shall be in accordance, with the appropriate State statute.
- D. A public hearing for a site plan review application will be held as provided by the requirements of Subchapter VIIIA.



- E. A public hearing on a Master Plan for a Planned Mixed-Use Development will be held as provided for in Division E of Subchapter III: Downtown, Business and Mixed-Use Districts.

[Derivation: Ord. No.: 08-08, eff. 11/20/2008; Ord. No. 11-03, eff. 8/18/2011; Ord. No. 12-11, eff. 10/19/2012]

**4. Publication of Public Hearings.**

- A. Public hearings for a conditional use application and for an historic district review application, held when the Planning Board determines that the proposed use could have an impact on abutting properties, and for a site plan review application and a Master Plan for a Planned Mixed-Use Development shall be published in the Kennebec Journal by the applicant at least 7 days prior to when the public hearing will be held.
- B. A public hearing for a variance appeal or for an administrative appeal shall be published as outlined in Section 9-1003.
- C. A public hearing for a subdivision application, comprehensive plan amendment or adoption, ordinance amendment or adoption, contract/conditional zoning, shoreland zoning amendment or adoption, and new or amended zoning ordinances and maps shall be published by the Code Enforcement Officer in accordance with the appropriate State statute.

[Derivation: Ord. No.: 08-08, eff. 11/20/2008; Ord. No. 11-03, eff. 8/18/2011]

**5. Posting of Notice.**

Every applicant for a site plan review, review of a Master Plan for a Planned Mixed-Use Development, or a conditional use application and for an historic district review application when a change in square footage or volume of the existing structure is proposed, who comes before the Planning Board, shall be required to post a notice on the premises for either abutter notification or a public hearing and to replace or remove the notice as directed by the Code Enforcement Officer.

[Derivation: Ord. No. 11-03, eff. 8/18/2011]

**6. Responsibility of the City.**

- A. It shall be the responsibility of the City to prepare the form and content of the abutter notification notice and of the public hearing notice and to provide these to the applicant when the applicant is responsible for providing notice. The notices shall contain, at a minimum, the name of the applicant, the street location and map and lot location of the property that is the subject of the application, the reason for the hearing or notification, and the date, time, and place when the hearing will be held or when the application will be heard.

- B. It shall also be the responsibility of the City to generate a map and lot list of abutters and to provide a properly completed notice for posting. This list and notice shall be provided to the applicant.

[Derivation: Ord. No. 12-11, eff. 10/19/2012]

**7. Responsibility of the Applicant.**

- A. It shall be the responsibility of the applicant to provide the information for the content of the abutter notification notice and of the public hearing notice to the Code Enforcement Officer at least 14 days prior to when the application will be heard or at least 14 days prior to the date of the public hearing, except as otherwise required to satisfy the time constraints in subsection 8.A.
- B. When the applicant is responsible for providing notice, it shall also be the responsibility of the applicant to ensure that the public hearing notice is published in the Kennebec Journal at least 7 days prior to the date of the public hearing.
- C. When the applicant is responsible for providing notice, it shall also be the responsibility of the applicant to send the abutter notification notices to the abutters via the postal service, using the Certificate of Mailing service, at least 7 days prior to when the application will be heard.
- D. It shall also be the responsibility of the applicant to post the notice on the premises at least 7 days prior to when the application will be heard and at least 7 days prior to the date of the public hearing if one is to be held.
- E. It shall also be the responsibility of the applicant to submit the Certificate of Mailing receipts to the Code Enforcement Officer at least 5 days prior to when the application will be heard or at least 5 days prior to the date of the public hearing so that the City can confirm that the notices were sent.
- F. It shall also be the responsibility of the applicant to pay the cost of the abutter notification notices and for all costs associated with the posting of the public hearing notice in the Kennebec Journal prior to the issuance of a permit or approval by the Planning Board.

[Derivation: Ord. No. 12-11, eff. 10/19/2012]

**8. Additional responsibilities of the applicant when the City provides notice.**

- A. For purposes of a subdivision application, comprehensive plan amendment, or adoption; ordinance amendment or adoption; contract/conditional zoning, shoreland zoning amendment or adoption, and new or amended zoning ordinances and maps abutter notification and public hearing notices shall be in

accordance with the appropriate State statute and shall be the responsibility of the applicant to comply with any additional notification timelines by submitting the information for the content of the abutter notification notice and public hearing notice to the Code Enforcement Officer at least 21 days prior to when the application will be heard.

- B. The applicant shall be responsible for all costs incurred if any of the above is initiated by the applicant.

[Derivation: Ord. No. 12-11, eff. 10/19/2012]

**9. Grounds for inaction on an application.**

If the City is not able to confirm that the abutter notification notices were sent by the applicant, or that the applicant has not paid for all costs directly to the Kennebec Journal and the Post Office associated with the abutter notification notices or with the public hearing notice in the Kennebec Journal, or that the applicant has not properly posted the notice on the premises, then the Planning Board shall postpone action on the application until the City is able to confirm the above.

[Derivation: Ordinance No.: 05-10 Effective November 18,2005]

**SECTION 9-185 AFTER THE FACT PERMIT AND APPLICATION FEE**

Any work or project that requires a permit or certificate of appropriateness as identified in Chapter 9, and that is started prior to a permit being granted, is in violation of this Ordinance. Any permit issued for work, or for a project, that is started prior to a permit being granted is considered an after the fact permit and the fee for the permit is doubled, in addition to any fines or actions taken in the enforcement of this ordinance.

[Derivation: Ordinance No.: 05-10 Effective November 18,2005; Ord. No. 18-02, effective 03/22/2018]

**SECTION 9-186 DEMOLITION PERMITS**

- 1. Demolition permit required. No person shall demolish any building or structure valued at more than \$1,500 without first obtaining a separate Demolition Permit from the Code Enforcement Officer for each building or structure.
- 2. Application for Permit:
  - A. The application for the Demolition Permit shall be in writing, shall be made to the Code Enforcement Officer in such form as he or she shall prescribe, and shall include a description of the proposed work. The application and all exhibits thereto shall provide sufficient information to permit the Code Enforcement Officer to make a decision under both this Ordinance and all other relevant codes and statutes. After issuance of the Permit, the

applications shall be filed with the Board of Assessors.

- B. The completed application shall be filed with the Code Enforcement Officer not less than thirty (30) calendar days before the proposed start of the work, except on emergency at the discretion of the Code Enforcement Officer, but in no case may demolition be scheduled to start, or in fact be started, before the Permit is issued.

[Derivation: Ord. No. 18-02, effective 03/22/2018]

**SECTION 9-187**      DRIVEWAY PERMITS

- 1. Driveway permit required. No person shall construct or relocate any driveway without first obtaining a separate Driveway Permit from the Code Enforcement Officer for each driveway.
- 2. Application for permit:
  - A. The application for a Driveway Permit shall be in writing, shall be made to the Code Enforcement Officer in such form as he or she shall prescribe, and shall include a description of the proposed work. The application and all exhibits thereto shall provide sufficient information to permit the Code Enforcement Officer to make a decision under this Ordinance.
  - B. The completed application shall be filed with the Code Enforcement Officer not less than thirty (30) calendar days before the proposed start of the work, except on emergency at the discretion of the Code Enforcement Officer, but in no case may construction be scheduled to start, or in fact be started, before the Permit is issued.
- 3. Driveway design standards:
  - A. Each built lot shall be provided with a driveway not less than 10 feet in width.
  - B. No driveway shall be less than 5 feet from an abutting lot line.
  - C. All driveways shall be constructed of materials and in such a manner as to minimize driveway erosion and to minimize stormwater runoff onto adjacent properties.

[Derivation: Ord. No. 18-02, effective 03/22/2018]

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**SUBCHAPTER II – RESIDENTIAL DISTRICTS**

**DIVISION A – (RESERVED)**

[Derivation: Ord. No. 12-10, eff. 10/19/2012]

**SECTIONS 9-211 THROUGH 9-230 (Reserved)**

**DIVISION B – MEDIUM DENSITY RESIDENTIAL DISTRICT (R1)**

**SECTION 9-231**      PURPOSE (R1)

To provide residential areas with medium density single and multiple family housing and neighborhood facilities, to provide opportunities for home businesses, to allow offices in buildings that are primarily residential, to provide a variety of types and styles of housing available to families of different sizes and different incomes, and to prevent uses which would depreciate the value or abuse the character of residential neighborhoods.

[Derivation: Ordinance No. 99-4 Effective August 19, 1999; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-232**      DESCRIPTION (R1)

The Medium Density Residential District (R1) shall generally include the densely developed residential neighborhood adjacent to Downtown including most of the land in the Water and Middle Street neighborhood.

The boundaries of the Medium Density Residential District (R1) are shown on the Official Zoning Map.

[Derivation: Ordinance No. 99-4 Effective August 19, 1999; Ord. No. 05-04, Effective June 23, 2005; Ord. No. 12-01, eff. 1/19/2012; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-233**      PERMITTED USES (R1)

Permitted uses in the Medium Density Residential District are:

1. Accessory buildings and structures;
2. Duplexes;
3. Essential services; and
4. Single family dwellings.

[Derivation: Ordinance No. 99-4 Effective August 19, 1999; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-234**      CONDITIONAL USES (R1)

Conditional uses in the Medium Density Residential District (R1) are:

1. Bed and Breakfast Establishments;
2. Boarding Homes;
3. Business and Professional Offices only in buildings that are predominantly residential. The total floor area used for office use shall not be more than twenty-five (25) percent of the gross floor area of the building;
4. Child Care Centers or Homes;
5. Churches, Parish Houses, Rectories, Convents;
6. Community Centers;
7. Home Occupations;
8. Multi-Family Residences (including both rental and condominium units);
9. Municipal Uses or Public Buildings;
10. Nursing Homes;
11. Parks & Playgrounds;
12. Planned Unit Developments;
13. Public Library;
14. Public and Private Schools;
15. Public Utility;
16. Recreational Facilities;
17. Schools; and
18. Accessory Dwelling Units.

[Derivation: Ordinance No. 99-4 Effective August 19, 1999; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-235**      NON-PERMITTED USES (R1)

Any use not permitted in Sections 9-233 and 9-234 above.

[Derivation: Ordinance No. 99-4 Effective August 19, 1999; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-236**      DIMENSIONAL REQUIREMENTS (R1)

The following dimensional requirements apply to the uses allowed in this district, including the expansion of existing uses, the conversion of one use to another use, and new uses.

1. Minimum Land Area in square feet
  - A. Residential:

Single family dwelling	5,000
Duplex	8,000 (4,000 per unit)
Multifamily residence	4,000 per dwelling unit
  - B. All other (per use): 5,000.
2. Minimum setback from street right-of-way: 10 feet. The setback from the street right-

of-way of any structure may be reduced to less than the required minimum setback to reflect a uniform setback of existing buildings along the street. The reduced minimum setback shall be calculated by obtaining the average street setback of buildings found next to both sides of the property, along the same side of the street for a distance of at least two hundred (200) feet in each direction as measured from the property line. The minimum setback for buildings and structures from the street right-of-way may be reduced to the calculated average existing setback.

3. Minimum side yards: 5 feet except 15 feet for new multifamily residences and new non-residential uses.
4. Minimum rear yards: 15 feet.
5. Minimum street frontage: 50 feet on a public or private road.
6. Minimum lot depth: 75 feet.
7. Maximum building height: 35 feet. The maximum height of any structure may be increased to reflect a uniform height of existing buildings along the street. This shall be calculated by obtaining the average height of buildings found next to both sides of the property, along the same side of the street for a distance of at least 200 feet in each direction as measured from the property line. The building height may be increased to the average height; however, in no case shall it be more than 8 feet higher than the buildings abutting the property.
8. Minimum roof pitch: 23 degrees for all uses.
9. Notwithstanding the above, the dimensional requirements herein shall not apply to structures used exclusively to facilitate the supply and distribution of water by a public utility.

[Derivation: Ordinance No. 99-4, eff. August 19, 1999; Ord. No. 00-7, eff. April 20, 2000; Ord. No.: 03-03, eff. March 21, 2003; Ord. No. 03-18, eff. October 24, 2003; Ord. No. 08-12, eff. 11/20/08; Ord. No. 10-01, eff. February 18, 2010; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-237**      PERFORMANCE STANDARDS (R1)

Permitted and Conditional Uses allowed in this district shall be subject to the performance standards contained in Subchapter VI of this Chapter.

In addition to the requirements of Section 9-236, any new principal building shall conform to the following standards. The modification of any existing building that increases the building footprint or the gross floor area of the building existing as of April 1, 2012 by more than fifty percent (50%) or any building in which the principal use is changed shall conform to these design standards to the extent practical as determined by the Planning Board:

1. Building setback – The building must be located on the lot in a manner that



maintains the established pattern of development in the immediate neighborhood. Locating the front wall of the building significantly further from the street than other buildings in the same block is not appropriate.

2. Building height – The height and mass of the building must be compatible with the height and mass of buildings in the immediate neighborhood. Building a single story building in an area where the predominate pattern is multi-story buildings is inappropriate.
3. Parking lot location – Any parking lot with space for five (5) or more vehicles must be located to the side or rear of the building so that any parking space is further from the front property line than the front wall of the principal building.
4. Architectural style of the building – The architectural character of new or expanded buildings shall be similar to existing residential buildings in the district and the designated Historic District. Unless the property is subject to the Historic District provisions, this standard does not require that new buildings look like the existing buildings but the overall mass and scale of the buildings as well as the placement of windows and the treatment of the front façade should reflect the character of the existing buildings.

[Derivation: Ordinance No. 99-4 Effective August 19, 1999; [Derivation: Ord. No. 12-10, eff. 10/19/2012]

**SECTIONS 238 THROUGH 250** (Reserved)

[Derivation: Ord. No. 12-10, eff. 10/19/2012]

**DIVISION C – MODERATE DENSITY RESIDENTIAL DISTRICT (R2)**

**SECTION 9-251** PURPOSE (R2)

To provide residential areas for moderate density single and duplex housing and neighborhood facilities, to provide opportunities for home businesses, to allow offices which do not generate high volumes of traffic, to provide a variety of types and styles of housing available to families of different sizes and different incomes, and to prevent uses which would depreciate the value or abuse the character of residential neighborhoods.

[Derivation: Section 4.3(A), 1989 Zoning Ordinance; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-252** DESCRIPTION (R2)

The Moderate Density Residential District (R2) generally includes the established moderate density residential neighborhoods extending up the hill on both sides of Central Street and the residential area in the Greenville neighborhood.

The boundaries of the Moderate Density Residential District (R2) are shown on the Official Zoning Map.

[Derivation: Section 4.3(B), 1989 Zoning Ordinance, amended by Ord. 98-1, 5/21/98; Ord. No. 11-03, eff. 8/18/2011; Ord. No. 12-01, eff. 1/19/2012; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-253**      PERMITTED USES (R2)

Permitted uses in the Moderate Density Residential District are:

1. Accessory buildings and structures;
2. Duplexes;
3. Essential services; and
4. Single family dwellings.

[Derivation: Section 4.3(C), 1989 Zoning Ordinance; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-254**      CONDITIONAL USES (R2)

Conditional uses in the Moderate Density Residential District are:

1. Bed and Breakfast Establishments;
2. Boarding Homes;
3. Business and Professional Offices only in buildings that are predominantly residential. The total floor area used for office use shall not be more than twenty-five (25) percent of the gross floor area of the building;
4. Child Care Centers or Homes;
5. Churches, Parish Houses, Rectories, Convents;
6. Community Centers;
7. Home Occupations;
8. Municipal Uses or Public Buildings;
9. Multi-Family Dwellings, Condominiums and Rental Units;
10. Nursing Homes;
11. Parks & Playgrounds;
12. Planned Unit Developments;
13. Public Library;
14. Public and Private Schools;
15. Public Utility;
16. Recreational Facilities;
17. Schools; and
18. Accessory Dwelling Units.

[Derivation: Section 4.3(D), 1989 Zoning Ordinance, amended by Ord. 98-1, 5/21/98; Ordinance No.: 03-16, Effective: September 18, 2003; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-255**      NON-PERMITTED USES (R2)

Any use not permitted in Sections 9-253 and 9-254 above.

[Derivation: Section 4.3(E), 1989 Zoning Ordinance; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-256**      DIMENSIONAL REQUIREMENTS (R2)

The following dimensional requirements apply to the uses permitted in this district, including the expansion of existing uses, the conversion of one use to another use, and new uses.

1.      Minimum Land Area in square feet
  - A.      Residential:

Single family dwelling	10,000
Duplex	15,000 (7,500 per unit)
Multifamily residence	7,500 per dwelling unit
  - B.      All other (per use): 10,000.
2.      Minimum setback from street right-of-way: 20 feet. The setback from the street right-of-way of any structure may be reduced to less than the required minimum setback to reflect a uniform setback of existing buildings along the street. The reduced minimum setback shall be calculated by obtaining the average street setback of buildings found next to both sides of the property, along the same side of the street for a distance of at least two hundred (200) feet in each direction as measured from the property line. The minimum setback for buildings and structures from the street right-of-way may be reduced to the calculated average existing setback.
3.      Minimum side yards: 10 feet except 15 feet for new multifamily residences and new non-residential uses.
4.      Minimum rear yards: 25 feet.
5.      Minimum street frontage: 75 feet on a public or private road.
6.      Minimum lot depth: 100 feet.
7.      Maximum building height: 35 feet. The maximum height of any structure may be increased to reflect a uniform height of existing buildings along the street. This shall be calculated by obtaining the average height of buildings found next to both sides of the property, along the same side of the street for a distance of at least 200 feet in each direction as measured from the property line. The building height may be increased to the average height; however, in no case shall it be more than 8 feet higher than the buildings abutting the property.
8.      Minimum roof pitch: 23 degrees for all uses.

9. Notwithstanding the above, the dimensional requirements herein shall not apply to structures used exclusively to facilitate the supply and distribution of water by a public utility.

[Derivation: Section 4.3(F), 1989 Zoning Ordinance as amended May 13, 1991; Ord. No. 00-7 Effective April 20, 2000; Ordinance No.: 00-08, eff. 4/20/00; Ord. No.: 03-03, eff. 3/21/03; Ord. No. 08-12, effective 11/20/08; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-257**      **PERFORMANCE STANDARDS (R2)**

Permitted and Conditional Uses allowed in this district shall be subject to the performance standards contained in Subchapter VI of this Chapter.

In addition to the requirements of Section 9-256, any new principal building shall conform to the following standards. The modification of any existing building that increases the building footprint or the gross floor area of the building existing as of April 1, 2012 by more than fifty percent (50%) or any building in which the principal use is changed shall conform to these design standards to the extent practical as determined by the Planning Board:

1. Building setback – The building must be located on the lot in a manner that maintains the established pattern of development in the immediate neighborhood. Locating the front wall of the building significantly further from the street than other buildings in the same block is not appropriate.
2. Building height – The height and mass of the building must be compatible with the height and mass of buildings in the immediate neighborhood. Building a single story building in an area where the predominate pattern is multi-story buildings is inappropriate.
3. Parking lot location – Any parking lot with space for five (5) or more vehicles must be located to the side or rear of the building so that any parking space is further from the front property line than the front wall of the principal building.

[Derivation: Section 4.3(G), 1989 Zoning Ordinance; Ord. No. 12-10, eff. 10/19/2012]

**SECTIONS 9-258 THROUGH 9-270 (Reserved)**

**DIVISION D – RESIDENTIAL DEVELOPMENT DISTRICT (R3)**

**SECTION 9-271**      **PURPOSE (R3)**

To provide areas for the development of new moderate density residential neighborhoods that provide a variety of housing options including single-family homes, duplexes, and multifamily housing. These areas should be connected to downtown, schools, and open spaces. To encourage planned development, projects that prepare a master plan

demonstrating compatibility with the surrounding neighborhood should be allowed to develop at a somewhat higher density.

[Derivation: Ord. No. 98-1, eff. 5/21/98; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-272**      DESCRIPTION (R3)

The Residential Development District (R3) shall generally include the developable land south of Mayflower and Academy Streets, the land along the City line near Ridge Road, and the area along both sides of Winthrop Street west of Stevens School.

The boundaries of the Residential Development District (R3) are shown on the Official Zoning Map.

[Derivation: Ord. No. 98-1, eff. 5/21/98; Ord. No.: 09-09, Effective: December 17, 2009; Ord. No. 12-01, eff. 1/19/2012; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-273**      PERMITTED USES (R3)

1. Accessory buildings and structures;
2. Duplexes;
3. Essential Services;
4. Single family dwellings; and
5. Timber harvesting

[Derivation: Ord. No. 98-1, eff. 5/21/98]

**SECTION 9-274**      CONDITIONAL USES (R3)

1. Bed and Breakfast Establishments;
2. Boarding Homes;
3. Repealed;
4. Child Care Centers or Homes;
5. Churches, Parish Houses, Rectories, Convents;
6. Community Centers;
7. Home Occupations;
8. Municipal Uses or Public Buildings;
9. Multi-Family Dwellings, Condominiums and Rental Units;
10. Nursing Homes;
11. Parks & Playgrounds;
12. Planned Unit Developments;
13. Public Library;
14. Public and Private Schools;
15. Public Utility;
16. Recreational Facilities;
17. Schools; and
18. Accessory Dwelling Units.

[Derivation: Ord. No. 98-1, eff. 5/21/98; Ord. No.: 03-17, Effective: September 18, 2003; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-275**      NON-PERMITTED USES (R3)

Any use not permitted in Sections 9-273 and 9-274 above.

[Derivation: Ord. No. 98-1, eff. 5/21/98; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-276**      DIMENSIONAL REQUIREMENTS (R3)

The following dimensional requirements apply to the uses permitted in this District, including the expansion of existing uses, the conversion of one use to another use, and new uses.

1.    Minimum Land Area in Square Feet:
  - A.    Residential with public sewerage:

Single family dwelling	12,500
Duplex	20,000 (10,000 per unit)
Multifamily residence	7,500 per dwelling unit
  - Residential with on-site sewage disposal (per dwelling unit):      20,000
  - B.    All other (per use):      20,000
  - C.    The required land area per dwelling unit shall be reduced by forty percent (40%) for dwelling units that are part of a planned development served by public sewerage that is approved by the Planning Board in accordance with Section 9-608.
2.    Minimum Setback from street right-of-way: 25 feet.
3.    Minimum side yards: 15 feet except 25 feet for new multifamily residences and new non-residential uses.
4.    Minimum rear yards: 25 feet.
5.    Minimum street frontage: 90 feet on a public or private road.
6.    Minimum lot depth: 100 feet.
7.    Maximum building height: 35 feet. The maximum height of any structure may be increased to reflect a uniform height of existing buildings along the street. This shall be calculated by obtaining the average height of buildings found next to both sides of the property, along the same side of the street for a distance of at least 200 feet in each direction as measured from the property line. The building height may be

increased to the average height; however, in no case shall it be more than 8 feet higher than the buildings abutting the property.

8. Minimum roof pitch: 23 degrees for all uses except as stated below.
9. Minimum shore frontage: 100 feet
10. Minimum shore setbacks from normal high water mark: 75 feet

Notwithstanding the above, the dimensional requirements herein shall not apply to structures used exclusively to facilitate the supply and distribution of water by a public utility.

Notwithstanding the above, the dimensional requirements herein shall not apply to a public school building constructed on land identified as Tax Map 6 Lot 23.

[Derivation: Ord. No. 98-1, eff. 5/21/98; Ord. No.: 03-03, eff. March 21, 2003; Ordinance No.: 04-07, Effective: November 18, 2004; Ord. No. 11-02b, eff. 8/18/2011; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-277**      PERFORMANCE STANDARDS (R3)

Permitted and Conditional Uses allowed in this District shall be subject to the performance standards contained in Subchapter VI of this Chapter.

In addition to the standards in Subchapter VI of this Chapter, any new construction shall conform to the following performance standards:

1. Vehicular access across municipal boundary – No public or private road or access drive shall be established that allows vehicular access to or from the land within the R3 District to land within the City of Augusta except for controlled or gated accesses to provide for emergency or utility vehicle or landowner travel across the boundary.

[Derivation: Ord. 98-1, 5/21/98; Ord. No. 12-10, eff. 10/19/2012]

**SECTIONS 9-278 THROUGH 9-290** (Reserved)

**DIVISION E – RURAL-FARM DISTRICT (RF)**

**SECTION 9-291**      PURPOSE (RF)

To provide for a low-density, rural residential area located generally west of the turnpike, excluding designated commercial areas, suitable for residential, recreational and agricultural uses at low densities with building development to take place in such a fashion that the need to construct and maintain new City streets is minimized, and that an attractive rural landscape with large open spaces is maintained.

[Derivation: Section 4.4(A), 1989 Zoning Ordinance]

**SECTION 9-292**      DESCRIPTION (RF)

The Rural-Farm District (RF) shall generally include the land area west of the Maine Turnpike except for the City recreation area, public parcels within the Jamies Pond watershed, the BB District and the BC District.

The boundaries of the Rural Farm District (RF) are shown on the Official Zoning Map.

[Derivation: Section 4.4(B), 1989 Zoning Ordinance; Amended by Ord. 98-1 (5/21/98) and Ord. 00-10 (7/20/00); Ordinance No.: 04-04, Effective June 7, 2004; Ord. No. 12-01, eff. 1/19/2012; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-293**      PERMITTED USES (RF)

Permitted uses in the Rural-Farm District are:

1. Accessory buildings and structures;
2. Duplexes;
3. Essential services;
4. Farming;
5. Forestry;
6. Home Occupations;
7. Manufactured Housing less than 20 feet wide;
8. Outdoor Cannabis Cultivation Facilities;
9. Retail sales as an accessory use;
10. Single Family Dwellings; and
11. Timber Harvesting.

[Derivation: Section 4.5(C), 1989 Zoning Ordinance; Amended by Ord. 98-1, 5/21/98; Ord. No. 12-10, eff. 10/19/2012; Ord. No. 18-15, eff. 11/23/2018]

**SECTION 9-294**      CONDITIONAL USES (RF)

Conditional uses in the Rural-Farm District are:

1. Animal Breeding/Kennels;
2. Bed and Breakfast Establishments;
3. Campgrounds;
4. Cannabis Products Manufacturing Facilities;
5. Cannabis Retail Stores, provided that on-premise sales of cannabis and cannabis products are conducted only between the hours of 6:00 a.m. and 11:00 p.m. of the same day;
6. Cemeteries;
7. Child Care Centers or Homes;
8. Churches, Parish Houses, Rectories, Convents;
9. Cluster Developments, including multi-family dwellings therein, except that multi-family dwellings are limited to the area north of Winthrop Street;



10. Community Centers;
11. Community Living Uses;
12. Controlled Environment Agriculture (CEA);
13. Extractive Industry (Sand or Gravel Pit Operations);
14. Indoor Cannabis Cultivation Facilities;
15. Inns, Conference Centers;
16. Mobile Home Parks;
17. Municipal Uses or Public Buildings;
18. Nursing Homes, Continuing care facilities, and Residential care facilities;
19. Off-site Services Facility related to agriculture, forestry, landscaping, or arboriculture (as defined in §9-151);
20. Outdoor Recreational Facilities;
21. Parks & Playgrounds;
22. Permanently installed power generating facilities of more than 1,000 kilowatts or transmission lines carrying 100 kilovolts or more;
23. Planned Unit Developments, including multi-family dwellings therein, and commercial uses limited and defined by Section 9-608(5); except that multi-family dwellings and commercial uses as limited and defined are limited to the area north of the Granite Hill Road;
24. Public and Private Schools;
25. Public Utility;
26. Recreational Facilities;
27. Recycling Center;
28. Schools;
29. Towers;
30. Waste Facility; and
31. Windmills.

[Derivation: Section 4.4(D), 1989 Zoning Ordinance; amended by Ord. 98-1, 5/21/98; Ord. 98-4, 10/23/98; and Ord. 99-2, effective 3/18/99; Ord. No.: 05-03, eff. May 20, 2005; Ord. No. 12-10, eff. 10/19/2012; Ord. No. 14-08, eff. 11/20/2014; Ord. No. 18-15; eff. 11/23/2018]

**SECTION 9-295**      NON-PERMITTED USES (RF)

Any use not permitted in Sections 9-293 and 9-294 above.

[Derivation: Section 4.4(E), 1989 Zoning Ordinance; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-296**      DIMENSIONAL REQUIREMENTS (RF)

The following dimensional requirements apply to the uses permitted in this district; including the expansion of existing uses, the conversion of one use to another use, and to new uses.

1.      Minimum Land Area
  - A.      Residential (per dwelling unit): 1.0 acre.
  - B.      Commercial, all other (per use): 1.0 acre.

C. The minimum lot area per dwelling unit shall be reduced to 20,000 square feet for multifamily units that are part of cluster development approved by the Planning Board in accordance with Section 9-608 or for units in a mobile home park developed in accordance with Section 9-625.

2. Minimum setback from street right-of-way: 35 feet.

3. Minimum side, rear yards: 25 feet.

NOTE: Side and rear setbacks shall be either the dimensional requirements shown above, or the height of the building, whichever is greater.

4. Minimum street frontage: 150 feet on a public or private road.

5. Minimum lot depth: 100 feet.

6. Maximum building height: 35 feet. The maximum height of any structure may be increased by no more than 10 feet, providing that all required side, rear and street right-of-way setbacks are increased by two feet for each foot of the maximum height limit.

7. Minimum roof pitch: 23 degrees. For commercial structures, this may be achieved by a false front.

8. Minimum shore setbacks from normal high water mark

A. Residential: 100 feet.

B. Commercial, all other: 100 feet.

9. Minimum shore frontage: 200 feet.

[Derivation: Section 4.4(F), 1989 Zoning Ordinance; Ord. No.: 03-03, eff. March 21, 2003; Ord. No. 11-02b, eff. 8/18/2011; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-297**      PERFORMANCE STANDARDS (RF)

Permitted and Conditional Uses allowed in this district shall be subject to the performance standards contained in Subchapter VI of this Chapter.

[Derivation: Section 4.4(G), 1989 Zoning Ordinance]

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**SUBCHAPTER III - DOWNTOWN, BUSINESS AND MIXED-USE DISTRICTS**

**DIVISION A - DOWNTOWN DISTRICT (DT)**

**SECTION 9-311      PURPOSE (DT)**

To retain the historical character of Downtown Hallowell, to allow water-oriented uses, to retain open spaces, to allow residential uses on the upper floors of Downtown buildings, to limit uses along so called Front Street to those which are functionally water-dependent, to avoid uses which require a high volume of truck deliveries, to avoid large expanses of asphalt for parking or exterior storage or display of materials, and to limit future flood damages by limiting the types of uses that can be located in flood-prone buildings.

[Derivation: Section 4.5(A), 1989 Zoning Ordinance]

**SECTION 9-312      DESCRIPTION (DT)**

The Downtown District (DT) shall generally include those properties on both sides of Water Street between the railroad R-O-W on the north and an area just south of Elm Street on the south including a portion of Winthrop Street and Second Street. The District also includes the old granite shed property (Tax Map 5, Lots 4 & 5).

A portion of the DT District along Winthrop, Second, and Water Streets is designated as the Office/Municipal Sub-District within which the Permitted Uses and Conditional Uses are limited.

The boundaries of the Downtown District (DT) and the Office/Municipal Sub-District are shown on the Official Zoning Map.

[Derivation: Section 4.5(B), 1989 Zoning Ordinance; amended by Ord. 98-1, 5/21/98; Ord. No. 12-01, eff. 1/19/2012; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-313      PERMITTED USES (DT)**

Permitted uses in the Downtown District are:

1. Accessory Buildings;
2. Bed and Breakfast Establishments (see Note 1);
3. Business and Professional Offices;
4. Cannabis Retail Stores, provided that on-premise sales of cannabis and cannabis products are conducted only between the hours of 6:00 a.m. and 11:00 p.m. of the same day (see Note 2);
5. Coin operated or card activated machines providing goods or services, but excluding coin or card activated fuel pumps, without limitation on hours of operation (see Note 2);
6. Essential Services;

7. Financial Institutions;
8. Home occupations;
9. Municipal Uses or Public Buildings;
10. Residential Uses (see Note 1);
11. Restaurants, provided they operate only during the hours from 6:00 a.m. to 1:00 a.m. of the following day (see Note 2);
12. Retail businesses (except restaurants), providing that on-premise sales are conducted only between the hours of 6:00 a.m. and 11:00 p.m. of the same day (see Note 2);
13. Personal Services;
14. Artist's studios;
15. Art galleries;
16. Theaters and other performance venues (see Note 2); and
17. Churches, Parish Houses, Rectories, Convents (see Note 1).

Note 1 – Residential uses shall be permitted only above the base flood elevation and shall not be permitted on or below the street level along Water Street between Temple Street and Wilson Lane.

Note 2 – This use is not permitted in the Office/Municipal Sub-District of the DT District.

[Derivation: Section 4.5(C), 1989 Zoning Ordinance as amended 6/12/95; amended by Ord. 98-1, 5/21/98; Ord. No. 12-10, eff. 10/19/2012; Ord. No. 18-15, eff. 11/23/2018]

#### **SECTION 9-314      CONDITIONAL USES (DT)**

Conditional uses in the Downtown District are:

1. All areas: Functionally water-dependent uses.
2. All areas exclusive of so called Front Street:
  - A. Clubs (see Note 3);
  - B. Commercial Indoor Recreation Center (see Note 3);
  - C. Community Centers (see Note 3);
  - D. Hotels, Inns (see Note 3);
  - E. Light Manufacturing (see Note 3);
  - F. Meeting and Conference Center (see Note 3);
  - G. Parks & Playgrounds; and
  - H. Recreational Facilities.

Note 3 – This use is not allowed as a Conditional Use in the Office/Municipal Sub-District of the DT District.

[Derivation: Section 4.5(D), 1989 Zoning Ordinance; Ord. No. 12-10, eff. 10/19/2012]

#### **SECTION 9-315      NON-PERMITTED USES (DT)**

Any use not permitted in Sections 9-313 and 9-314 above.

[Derivation: Section 4.5(E), 1989 Zoning Ordinance; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-316**      **DIMENSIONAL REQUIREMENTS (DT)**

The following dimensional requirements apply to the uses allowed in this district, including the expansion of existing uses, the conversion of one use to another use, and to new uses.

1.     Minimum Land Area in square feet
  - A.     Residential (per dwelling unit): 0.
  - B.     Commercial, all other (per use): 0.
2.     Minimum setback from street right-of-way: 0 feet.
3.     Minimum side, rear yards: 0 feet.
4.     Minimum street frontage: 0 feet.
5.     Minimum lot depth: 0 feet.
6.     Maximum building height: 35 feet as measured from the Water Street grade on buildings facing Water Street and primary access grade on all others in the district. The maximum height may be increased to reflect a uniform height of existing buildings along the street. This shall be calculated by obtaining the average height of buildings found next to both sides of the property, along the same side of the street for a distance of at least 100 feet in each direction as measured from the side property line. The building height may be increased to the average height; however in no case shall it be more than 8 feet higher than the buildings abutting the property.
7.     Minimum shore frontage: 0 feet.
8.     Minimum shore setbacks from normal high water mark
  - A.     Functionally water-dependent uses: 0 feet.
  - B.     All other uses: 50 feet.

[Derivation: Section 4.5(F), 1989 Zoning Ordinance; Ordinance No.: 03-03, Effective March 21, 2003; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-317**      **PERFORMANCE STANDARDS (DT)**

Permitted and Conditional Uses allowed in this district shall be subject to the performance standards contained in Subchapter VI of this Chapter. In addition to the requirements of this section, construction activities in the DT District may be subject to the historic District provisions found in Division C.

[Derivation: Section 4.5(G), 1989 Zoning Ordinance; Ord. No. 12-10, eff. 10/19/2012]

**SECTIONS 9-318 THROUGH 9-320 (Reserved)**

**DIVISION B - NORTHERN GATEWAY BUSINESS A DISTRICT (BA)**

**SECTION 9-321      PURPOSE (BA)**

To provide space for new business growth in a manner that provides for the extension of the character of Downtown and creates a transition to the commercial district in the City of Augusta, and to avoid large expanses of asphalt for parking or exterior storage or display of materials.

[Derivation: Section 4.6(A), 1989 Zoning Ordinance; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-322      DESCRIPTION (BA)**

The Northern Gateway Business A District (BA) generally includes the land that fronts on Water Street north of the railroad underpass to the City limit.

The boundaries of the Northern Gateway Business A District (BA) are shown on the Official Zoning Map.

[Derivation: Section 4.6(B), 1989 Zoning Ordinance; amended by Ord. 98-1, 5/21/98; Ord. No.: 05-05, eff. June 23, 2005; Ord. No. 12-01, eff. 1/19/2012; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-323      PERMITTED USES (BA)**

Permitted uses in the Northern Gateway Business A District are:

1. Accessory Buildings and Structures;
2. Amusement Centers;
3. Automobile Service and Sales Businesses (see Note 4);
4. Business and Professional Offices;
5. Cannabis Retail Stores, provided that on-premise sales are conducted only between the hours of 6:00 a.m. and 11:00 p.m. of the same day (see Note 6);
6. Coin-operated or card-activated machines providing goods or services, including but not limited to vending machines, telephones, automatic tellers, and fuel pumps, without limitation on hours of operation;
7. Commercial Centers and Complexes (see Note 5);
8. Commercial Indoor Recreation Centers;
9. Community Centers;
10. Duplexes;
11. Essential Services;
12. Financial Institutions;

13. Home Occupations;
14. Hotels, Motels, Inns, Bed and Breakfast Establishments;
15. Light Manufacturing (see Note 5);
16. Multi-Family Dwellings;
17. Personal Services;
18. Restaurants provided they operate only during the hours from 6:00 a.m. to 1:00 a.m. of the following day;
19. Retail Businesses (except restaurants) provided that on-premise sales are conducted only between the hours of 6:00 a.m. and 11:00 p.m. of the same day;
20. Single-family Dwellings;
21. Wholesale Businesses (see Note 5); and
22. Churches, Parish Houses, Rectories, Convents.

Note 4 – This use is limited to those lots north of Park Street that were in use for an automobile service and sales business as of April 1, 2011. No lot that was not in use for this purpose as of April 1, 2011 may be used for this purpose including for the expansion of a use existing on another lot.

Note 5 – This use is allowed only on lots north of Park Street and is limited to a gross floor area of a maximum of 10,000 (ten thousand) square feet.

Note 6 – This use is allowed only on lots whose current use, as of June 11, 2018, is non-residential.

[Derivation: Section 4.6(C), 1989 Zoning Ordinance as amended 2/7/94; amended by Ord. 98-1, 5/21/98; Ord. No. 12-10, eff. 10/19/2012; Ord. No. 18-15, eff. 11/23/2018]

## **SECTION 9-324      CONDITIONAL USES (BA)**

Conditional uses in the Northern Gateway Business A District are:

1. Adult Business Establishments;
2. Boarding Homes;
3. Cannabis Products Manufacturing Facilities;
4. Cannabis Testing Facilities (see Note 7);
5. Cemetery;
6. Clubs;
7. Controlled Environment Agriculture (CEA) (see Note 7);
8. Funeral Homes;
9. Indoor Cannabis Cultivation Facilities (see Note 7);
10. Municipal Uses or Public Buildings;
11. Nursing Homes;
12. Public Library;
13. Recreational Facilities; and
14. Towers.

Note 7 – This use is allowed only on lots whose current use, as of June 11, 2018, is non-residential.



[Derivation: Section 4.6(D), 1989 Zoning Ordinance as amended 9/28/92; Ord. No. 12-10, eff. 10/19/2012; Ord. No. 18-15, eff. 11/23/2018]

**SECTION 9-325      NON-PERMITTED USES (BA)**

Any use not permitted in Sections 9-323 and 9-324 above.

[Derivation: 1989 Zoning Ordinance; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-326      DIMENSIONAL REQUIREMENTS (BA)**

The following dimensional requirements apply to the uses allowed in this district, including the expansion of existing uses, the conversion of one use to another use, and new uses:

1.     Minimum Land Area in square feet
  - A.     Residential (per dwelling unit):         5,000 for the first unit, 2,500 for each additional unit.
  - B.     Commercial, all other (per use):         5,000.
2.     Minimum setback from street right-of-way: 10 feet. The setback from the street right-of-way of any structure may be reduced to less than the required minimum setback to reflect a uniform setback of existing buildings along the street. The reduced minimum setback shall be calculated by obtaining the average street setback of buildings found next to both sides of the property, along the same side of the street for a distance of at least two hundred (200) feet in each direction as measured from the property line. The minimum setback for buildings and structures from the street right-of-way may be reduced to the calculated average existing setback.
3.     Minimum side, rear yards: 20 feet, or the height of the building, whichever is greater.
4.     Minimum street frontage: 100 feet on a public or private road.
5.     Minimum lot depth: 100 feet.
6.     Maximum building height: 35 feet. The maximum height may be increased to reflect a uniform height of existing buildings along the street. This shall be calculated by obtaining the average height of buildings found next to both sides of the property, along the same side of the street for a distance of at least 200 feet in each direction as measured from the side property line. The building height may be increased to the average height; however in no case shall it be more than 8 feet higher than the buildings abutting the property.
7.     Minimum roof pitch: 23 degrees. For commercial structures, this may be achieved by an awning/overhang.
8.     Minimum shore frontage: 100 feet for commercial, all other (per use); measured in a

straight line between the points of intersection of the side lot lines with the shoreline at normal high water elevation.

9. Minimum shore setbacks from normal high water mark
  - A. Residential: 75 feet.
  - B. Functionally water-dependent uses: 0 feet.
  - C. Commercial, all other: 75 feet.

[Derivation: Section 4.6(F), 1989 Zoning Ordinance; Ord. No.: 03-03, eff. March 21, 2003; Ord. No. 08-12, eff. 11/20/08; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-327**      PERFORMANCE STANDARDS (BA)

Permitted and Conditional Uses allowed in this district shall be subject to the performance standards contained in Subchapter VI of this Chapter.

In addition to the requirements of Section 9-326, any new principal building shall conform to the following design standards. The modification of any existing building that increases the building footprint or the gross floor area of the building existing as of April 1, 2012 by more than fifty percent (50%) shall conform to these design standards to the extent practical as determined by the Planning Board:

1. Maximum building setback – The closest portion of the front wall of the building must be located within fifteen (15) feet of the front property line.
2. Minimum building height – The building must have a minimum of two usable stories. The usable area of the second floor must be not less than fifty percent (50%) of the usable area of the first floor.
3. Parking lot location – Any parking lot with space for five (5) or more vehicles must be located to the side or rear of the building so that any parking space is further from the front property line than the front wall of the principal building.
4. Pedestrian area – The area between the front wall of the building and the front property line extending the full width of the building must be maintained and improved as a pedestrian space. No parking, access drives, or service or storage areas may be located within this area unless the Planning Board finds that vehicular use of this area is essential for the use and operation of the property.
5. Orientation of the building and front door – The front of the building must face Route 201. A usable entrance door must be located in the front façade of the building or in the front corner of the building.

6. Architectural style of the building – The architectural character of new or expanded buildings shall be similar to the buildings on Water Street from Winthrop Street north to the railroad overpass. This standard does not require that new buildings look like the existing buildings but the overall mass and scale of the buildings as well as the placement of windows and the treatment of the front façade should reflect the character of the existing buildings.
7. Streetscape buffer strip – A vegetated buffer strip shall be established and maintained along the property line(s) adjacent to any public street. The buffer strip shall be at least ten (10) feet in width on the lot. The buffer shall extend the full width of the lot except where it is crossed by driveways, sidewalks, or utilities. The buffer strip should be designed to enhance the character of the building and to visually separate the building and parking from the street. The strip must be improved with landscaping or natural vegetation and may include pedestrian amenities that are hardscape.

[Derivation: Section 4.6(G), 1989 Zoning Ordinance; Ord. No. 12-10, eff. 10/19/2012]

**SECTIONS 9-328 THROUGH 9-350 (Reserved)**

**DIVISION C - BUSINESS B DISTRICT (BB)**

**SECTION 9-351**      PURPOSE (BB)

To provide for a wide variety of commercial and industrial uses, including those which generate a large traffic volume or truck deliveries.

[Derivation: Section 4.7(A), 1989 Zoning Ordinance]

**SECTION 9-352**      DESCRIPTION (BB)

The Business B District (BB) shall generally include the land west of the Maine Turnpike and north of Winthrop Street. The District runs west along Winthrop Street approximately 450 feet from the intersection of Winthrop Street and Whitten Road, after which it runs in a northerly direction to the City line.

The boundaries of the Business B District (BB) are shown on the Official Zoning Map.

[Derivation: Section 4.7(B), 1989 Zoning Ordinance; amended by Ord. 98-1, 5/21/98; Ord. No. 12-01, eff. 1/19/2012; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-353**      PERMITTED USES (BB)

Permitted uses in the Business B District are:

1. Essential Services

[Derivation: Section 4.7(C), 1989 Zoning Ordinance]

**SECTION 9-354**      CONDITIONAL USES (BB)

Conditional uses in the Business B District are:

1. Amusement Centers;
2. Business & Professional Offices;
3. Cannabis Products Manufacturing Facilities;
4. Cannabis Testing Facilities;
5. Coin-operated or card-activated machines providing goods or services, including but not limited to vending machines, telephones, automatic tellers, and fuel pumps, without limitation on hours of operation;
6. Commercial Centers;
7. Commercial Complexes;
8. Commercial Indoor Recreational Facilities;
9. Controlled Environment Agriculture (CEA);
10. Financial Institutions;
11. Hotels, Motels, Inns;
12. Indoor Cannabis Cultivation Facilities;
13. Manufacturing;
14. Recycling Center;
15. Utilities;
16. Warehousing;
17. Wholesale Businesses; and
18. Churches, Parish Houses, Rectories, Convents.

[Derivation: Section 4.7(D), 1989 Zoning Ordinance as amended 9/28/92; amended by Ord. 98-1, 5/21/98; Ord. No. 12-10, eff. 10/19/2012; Ord. No. 18-15, eff. 11/23/2018]

**SECTION 9-355**      NON-PERMITTED USES (BB)

Any use not permitted in Sections 9-353 and 9-354 above.

[Derivation: Section 4.7(E), 1989 Zoning Ordinance; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-356**      DIMENSIONAL REQUIREMENTS (BB)

The following dimensional requirements apply to the uses allowed in this district, including the expansion of existing uses, the conversion of one use to another use, and new uses.

	<u>With City Water, Sewer</u>	<u>City Water Unsewered</u>	<u>No City Water Unsewered</u>
1. <u>Minimum Land Area, in square feet</u>			
A.      Commercial, all other (per use)	40,000	60,000	80,000

2. Minimum setback from street right-of-way,                    50 feet            50 feet            50 feet
3. Minimum side, rear yards: 25 feet or the height of the building, whichever is greater. Any commercial/business lot that abuts a residential zone shall have a 100 foot landscaped setback from the residential zone.
4. Minimum street frontage: 200 feet on a public or private road.
5. Minimum lot depth: 100 feet.
6. Maximum building height: 35 feet.

[Derivation: Section 4.7(F), 1989 Zoning Ordinance; Ordinance No.: 03-03, Effective March 21, 2003; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-357        PERFORMANCE STANDARDS (BB)**

Permitted and Conditional Uses allowed in this district shall be subject to the performance standards contained in Subchapter VI of this Chapter.

In addition to the requirements of Section 9-356, any new principal building shall conform to the following design standards. The modification of any existing building that increases the building footprint or the gross floor area of the building existing as of April 1, 2012 by more than fifty percent (50%) shall conform to these design standards to the extent practical as determined by the Planning Board:

1. Maximum building footprint – The total area of the site covered by the building (or the building footprint) shall be not more than forty thousand (40,000) square feet.
2. Maximum gross floor area – The sum of the usable area of all of the floors in the building that is enclosed within the exterior walls of the building shall be not more than fifty thousand (50,000) square feet.
3. Parking lot location – Any parking lot with space for five (5) or more vehicles must be located to the side or rear of the building so that any parking space is further from the front property line than the front wall of the principal building.
4. Streetscape buffer strip – A vegetated buffer strip shall be established and maintained along the property line(s) adjacent to any public street. The buffer strip shall be at least twenty (20) feet in width on the lot. The buffer shall extend the full width of the lot except where it is crossed by driveways, sidewalks, or utilities. The buffer strip should be designed to enhance the character of the building and to visually separate the building and parking from the street. The strip must be improved with landscaping or natural vegetation and may include pedestrian amenities that are hardscape.

[Derivation: Section 4.7(G), 1989 Zoning Ordinance; Ord. No. 12-10, eff. 10/19/2012]

**DIVISION D - BUSINESS C DISTRICT (BC)**

**SECTION 9-371**      PURPOSE (BC)

To provide for a variety of moderate commercial and business uses which generate low-traffic flow and are subject to exterior design standards which are compatible with the surrounding rural character. Entry to these BC zones shall be on either side, limited to a single road extending generally south and north from Winthrop Street or Central Street. A 50-foot Buffer Zone shall be required along the easterly edge of the BC zone that is east of the Turnpike.

[Derivation: Ordinance No.: 03-12, Effective: September 18, 2003; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-372**      DESCRIPTION (BC)

The Business C District (BC) shall generally include the land west of the Maine Turnpike, east of Bombahook Stream, south of Winthrop Street and including the former BB District south of Central Street and including the Vaughan lot south of former BB District. In addition the BC District includes the land adjacent to and immediately east of the Turnpike north of Winthrop Street to the Augusta line and south of Winthrop Street extending to the State of Maine parcel. This portion BC District east of the Turnpike shall be limited to 650 feet from the Turnpike Right of Way except that it shall include all of Lot 1E on Tax Map 2.

The boundaries of the Business C District (BC) are shown on the Official Zoning Map.

[Derivation: Ordinance No.: 03-12, Effective September 18, 2003; Ord. No. 09-09, Effective December 17, 2009; Ord. No. 12-01, eff. 1/19/2012; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-373**      (Reserved)

**SECTION 9-374**      CONDITIONAL USES (BC)

1. Business and Professional Offices;
2. Cannabis Products Manufacturing Facilities;
3. Cannabis Testing Facilities;
4. Community Centers;
5. Churches, Parish Houses, Rectories, Convents;
6. Controlled Environment Agriculture (CEA);
7. Essential Services;
8. Financial Institutions;
9. Indoor Cannabis Cultivation Facilities;
10. Nursing Homes, Continuing Care Facilities, and Residential Care Facilities;
11. Public Utilities.

[Derivation: Ordinance No.: 03-12, Effective: September 18, 2003; Ord. No. 12-10, eff. 10/19/2012; Ord. No. 18-15, eff. 11/23/2018]

**SECTION 9-375**      NON-PERMITTED USES (BC)

Any use not permitted in Section 9-374 above.

[Derivation: Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-376**      DIMENSIONAL REQUIREMENTS (BC)

The following dimensional requirements apply to the uses allowed in this District, including the expansion of existing uses, the conversion of one use to another use, and new uses.

1.    Minimum Land Area, in square feet
  - A.    Commercial, all other (per use)                      90,000
2.    Minimum setback from street right-of-way                      40 feet
3.    Minimum side, rear yards,    25 feet, or the height of the building, whichever is greater. Any commercial/business lot that abuts a residential zone shall have a 50 foot landscaped setback from the residential zone.
4.    Minimum street frontage:    300 feet on a public or private road.
5.    Minimum lot depth:    300 feet.
6.    Maximum building height:    35 feet. The maximum height may be increased to reflect a uniform height of existing buildings along the street. This shall be calculated by obtaining the average height of buildings found next to both sides of the property, along the same side of the street for a distance of at least 200 feet in each direction as measured from the side property line. The building height may be increased to the average height; however in no case shall it be more than 8 feet higher than the buildings abutting the property.
7.    Minimum shore frontage:                      300 feet.
8.    Minimum shore setbacks from normal high water mark:                      75 feet.

[Derivation: Ordinance No.: 03-03, Effective March 21, 2003; Ordinance No.: 03-12, Effective: September 18, 2003; Ord. No. 11-02b, eff. 8/18/2011; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-377**      PERFORMANCE STANDARDS (BC)

Permitted and Conditional Uses allowed in this district shall be subject to the performance standards contained in Subchapter VI of this Chapter.

In addition to the requirements of Section 9-376, any new principal building shall conform to the following design standards. The modification of any existing building that increases the building footprint or the gross floor area of the building existing as of April 1, 2012 by more than fifty percent (50%) shall conform to these design standards to the extent practical as determined by the Planning Board:

1. Maximum building footprint – The total area of the site covered by the building (or the building footprint) shall be not more than fifteen thousand (15,000) square feet.
2. Maximum gross floor area – The sum of the usable area of all of the floors in the building that is enclosed within the exterior walls of the building shall be not more than twenty-five thousand (25,000) square feet.
3. Parking lot location – Any parking lot with space for five (5) or more vehicles must be located to the side or rear of the building so that any parking space is further from the front property line than the front wall of the principal building.
4. Streetscape buffer strip – A vegetated buffer strip shall be established and maintained along the property line(s) adjacent to any public street. The buffer strip shall be at least twenty (20) feet in width on the lot. The buffer shall extend the full width of the lot except where it is crossed by driveways, sidewalks, or utilities. The buffer strip should be designed to enhance the character of the building and to visually separate the building and parking from the street. The strip must be improved with landscaping or natural vegetation and may include pedestrian amenities that are hardscape.
5. Zoning District buffer strip – A vegetated buffer strip shall be established along the eastern boundary of the BC District. The buffer strip should be designed to enhance the character of the development and to visually separate and screen the development from adjacent land and buildings that are outside of the BC District. The strip must be improved with landscaping or natural vegetation and may include berms, fencing, stone walls, or similar features to enhance the appearance and function of the buffer.
6. Vehicular access across municipal boundary – No public or private road or access drive shall be established that allows vehicular access to or from the land within the BC District to land within the City of Augusta except for controlled or gated accesses to provide for emergency or utility vehicle or landowner travel across the boundary.

[Derivation: Division D added by Ord. No. 98-1, 5/21/98, and amended by Ord. No. 00-10, Eff. 7/20/00; Ord. No. 12-10, eff. 10/19/2012]



**DIVISION E - SOUTHERN GATEWAY BUSINESS D DISTRICT (BD)**

**SECTION 9-378**      **PURPOSE (BD)**

To provide for a mixed-use gateway along the southern end of Water Street that maintains the established character of the area while creating a transition between Downtown and Farmingdale.

[Derivation: Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-379**      **DESCRIPTION (BD)**

The Southern Gateway Business D District (BD) generally includes the land that has its primary access from Water Street south of where the railroad R-O-W crosses Water Street to the City limit with Farmingdale.

The boundaries of Southern Gateway Business D District (BD) are shown on the Official Zoning Map.

[Derivation: Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-380**      **PERMITTED USES (BD)**

Permitted uses in the Southern Gateway Business D District are:

1. Accessory Buildings and Structures;
2. Bed and Breakfast Establishments
3. Business and Professional Offices;
4. Child Care Centers or Homes;
5. Churches, Parish Houses, Rectories, Convents;
6. Community Centers;
7. Duplexes;
8. Essential Services;
9. Financial Institutions;
10. Home Occupations;
11. Personal services; and
12. Single family dwellings.

[Derivation: Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-381**      **CONDITIONAL USES (BD)**

Conditional uses in the Southern Gateway Business D District (BD) are:

1. Boarding Homes;

2. Cannabis Products Manufacturing Facilities;
3. Cannabis Retail Stores, provided that on-premise sales are conducted only between the hours of 6:00 a.m. and 11:00 p.m. of the same day;
4. Cannabis Testing Facilities;
5. Coin-operated or card-activated machines providing goods or services, including but not limited to vending machines, telephones, automatic tellers, and fuel pumps, without limitation on hours of operation;
6. Commercial Indoor Recreation Centers;
7. Controlled Environment Agriculture (CEA);
8. Hotels, Motels, Inns;
9. Indoor Cannabis Cultivation Facilities, up to a maximum of 3,000 sq. ft. of plant canopy;
10. Light Manufacturing: [Only along Water Street south of Greenville Street to the Farmingdale line].
11. Multi-Family Dwellings;
12. Municipal Uses or Public Buildings;
13. Nursing Homes;
14. Parks & Playgrounds
15. Restaurants;
16. Public and Private Schools;
17. Public Utility;
18. Recreational Facilities;
19. Retail Businesses with a maximum gross floor area of five thousand (5,000) square feet; and
20. Wholesale Businesses.

[Derivation: Ord. No. 12-10, eff. 10/19/2012; Ord. No. 18-15, eff. 11/23/2018]

**SECTION 9-382      NON-PERMITTED USES (BD)**

Any use not permitted in Sections 9-380 and 9-381 above.

[Derivation: Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-383      DIMENSIONAL REQUIREMENTS (BD)**

The following dimensional requirements apply to the uses allowed in this district, including the expansion of existing uses, the conversion of one use to another use, and new uses.

1.      Minimum Land Area in square feet
  - A.      Residential (per dwelling unit):      10,000 for the first unit, 5,000 for each additional unit.
  - B.      Commercial, all other (per use):      5,000.
2.      Minimum setback from street right-of-way: 10 feet for existing uses; 25 feet for new uses. The setback from the street right-of-way of any may be reduced to less than the

required minimum setback to reflect a uniform setback of existing buildings along the street. The reduced minimum setback shall be calculated by obtaining the average street setback of buildings found next to both sides of the property, along the same side of the street for a distance of at least two hundred (200) feet in each direction as measured from the property line. The minimum setback for buildings and structures from the street right-of-way may be reduced to the calculated average existing setback.

3. Minimum side yards: 5 feet for existing uses; 15 feet for new non-residential uses.
4. Minimum rear yards: 15 feet for existing uses; 25 feet for new uses.
5. Minimum street frontage: 50 feet on a public or private road.
6. Minimum lot depth: 75 feet.
7. Maximum building height: 35 feet. The maximum height of any structure may be increased to reflect a uniform height of existing buildings along the street. This shall be calculated by obtaining the average height of buildings found next to both sides of the property, along the same side of the street for a distance of at least 200 feet in each direction as measured from the property line. The building height may be increased to the average height; however, in no case shall it be more than 8 feet higher than the buildings abutting the property.
8. Minimum roof pitch: 23 degrees for all uses.
9. Notwithstanding the above, the dimensional requirements herein shall not apply to structures used exclusively to facilitate the supply and distribution of water by a public utility.

[Derivation: Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-384**      PERFORMANCE STANDARDS (BD)

In addition to the requirements of Section 9-383, any new principal building shall conform to the following design standards. The modification of any existing building that increases the building footprint or the gross floor area of the building by more than fifty percent (50%) shall conform to these design standards to the extent practical as determined by the Planning Board:

1. Parking lot location – Any parking lot with space for five (5) or more vehicles must be located to the side or rear of the building so that any parking space is further from the front property line than the front wall of the principal building.
2. Orientation of the building – The front of the building must face Route 201.
3. Architectural style of the building – The architectural character of new buildings shall be similar to the existing buildings on east side of Water Street within the district.

This standard does not require that new buildings look like the existing buildings but the overall mass and scale of the buildings as well as the placement of windows and the treatment of the front façade should reflect the character of the existing buildings.

4. Streetscape buffer strip – A vegetated buffer strip shall be established and maintained along the property line(s) adjacent to any public street for any portion of the lot that is used for parking or storage. The buffer strip shall be at least five (5) feet in width on the lot. The buffer strip should be designed to visually screen and separate the parking and/or storage area from the street. The strip must be improved with landscaping or natural vegetation and may include pedestrian amenities that are hardscape.

[Derivation: Ord. No. 12-10, eff. 10/19/2012]

#### **DIVISION F – STEVENS SCHOOL PLANNED DEVELOPMENT DISTRICT (SSPDD)**

[Derivation: Ord. No. 11-03, effective 8/18/2011; Ord. No. 12-10, eff. 10/19/2012]

##### **SECTION 9-386**      PURPOSE (SSPDD)

To provide for the reuse and redevelopment of the former Stevens School into a well-planned development with a common set of design elements in which the use, redevelopment, or development is focused in the areas of the campus that are already developed in a manner that is compatible with the surrounding neighborhood, accommodates a mix of uses, maintains the character of the Maine Industrial School for Girls National Register Historic District, minimizes development in areas with significant natural resources, provides appropriate infrastructure, addresses environmental issues and stormwater management, and minimizes undesirable impacts on adjacent properties and the surrounding neighborhood.

##### **SECTION 9-387**      DESCRIPTION (SSPDD)

The Stevens School Planned Development District (SSPDD) consists of Lot 27 on Tax Map 6.

##### **SECTION 9-388**      PERMITTED USES (SSPDD)

Permitted uses in the Stevens School Planned Development District are:

1. Accessory Buildings and Structures;
2. Essential Services;
3. Municipal Uses and Public Buildings;
4. Parks and Playgrounds;
5. Planned Mixed-Use Developments that conform to the requirements of Section 9-392;
6. Public Utilities;
7. Schools;
8. Residential Uses approved by the Planning Board as part of a single Open Space Development pursuant to Hallowell's Subdivision Ordinance provided that the

dwelling units are located in that portion of the Stevens School Planned Development District that is south of the gas pipeline now or formerly owned by Mobil Oil Company and west of an imaginary line that runs parallel to, and 548 feet westerly of, the easternmost boundary line of the Stevens School Planned Development District;

9. Re-use of existing structures for Business and Professional Offices and Residential Uses; and
10. Private and public streets.

[Derivation: Ord. No. 15-02, eff. 07/23/2015; Ord. No. 16-02, eff. 07/21/2016]

**SECTION 9-389**      NON-PERMITTED USES (SSPDD)

Any use not permitted in Section 9-388 above. An amendment to this Chapter adding a permitted use to Section 9-388 may be adopted pursuant to Section 9-123.

**SECTION 9-390**      DIMENSIONAL REQUIREMENTS (SSPDD)

The following dimensional requirements apply to all uses in this district except for uses and buildings and structures that are part of a Planned Mixed-Use Developments approved in accordance with the provisions of Section 9-392. These requirements apply to the expansion of existing uses, the conversion of one use to another use, and new uses. Uses and buildings and structures that are part of an approved Planned Mixed-Use Development are governed by the provisions of the adopted Master Plan for the development.

1.    Minimum Land Area in square feet
  - A.    All uses (per use): 20,000.
  - B.    Notwithstanding section 9-390 (1)(A), residential buildings in an Open Space Development where such buildings will be connected to the public sewage collection and treatment system: 5,000 per dwelling unit.
  - C.    Notwithstanding section 9-390 (1)(A), no minimum land area is required for uses in the reuse of existing structures.
2.    Minimum setback from street right-of-way: 25 feet for any new building or structure within the District, provided that if such building or structure is located within two hundred feet of the street right-of-way of Winthrop Street it shall be located to reflect a uniform setback of existing buildings along the street. The uniform setback shall be calculated by obtaining the average street setback of buildings found next to both sides of the property, along the same side of the street for a distance of at least two hundred (200) feet in each direction as measured from the property line. The minimum and maximum setback for buildings and structures from the street right-of-way must be within +/- ten (10) feet of the calculated average existing setback. The minimum setback from the street right-of-way for an existing building or structure is 0 feet.
3.    Minimum side, rear yards: Side and rear setbacks shall be either twenty (20) feet or the height of the building, whichever is greater: Where a nonresidential use abuts a residential district, the minimum side yard must be a minimum of thirty-five (35) feet

4. Minimum street frontage: 100 feet on a public or private road.
5. Minimum lot depth: None.
6. Maximum building height: 35 feet. The maximum height may be increased to reflect a uniform height of existing buildings along the street. This shall be calculated by obtaining the average height of buildings found next to both sides of the property, along the same side of the street for a distance of at least 200 feet in each direction as measured from the side property line. The building height may be increased to the average height; however in no case shall it be more than 8 feet higher than the buildings abutting the property.

[Derivation: Ord. No. 16-02, eff. 07/21/2016]

**SECTION 9-391**      PERFORMANCE STANDARDS (SSPDD)

Permitted Uses allowed in this district shall be subject to the performance standards contained in Subchapter VI of this Chapter unless a performance standard is specifically revised as part of an approved Master Plan for a Planned Mixed-Use Development in accordance with Section 9-392.

**SECTION 9-392**      ADDITIONAL REQUIREMENTS FOR A PLANNED MIXED-USE DEVELOPMENT (SSPDD)

1. **General Requirements for Approval of a Planned Mixed-Use Development** – The approval of a Planned Mixed-Use Development in the SSPDD involve a two phase process as follows:
  - A. The Master Plan Phase involves the preparation, review, and approval of a conceptual master plan for the overall Planned Mixed-Use Development and the development standards that will apply to individual buildings, subdivisions, or phases of the development. Approval of the Master Plan and development standards must occur before any application is submitted for site plan review or subdivision approval.
  - B. The Site Plan or Subdivision Review Phase involves the preparation and review of the detailed development plans for individual buildings, subdivisions, or phases of the development in accordance with the Town’s Site Plan Review requirements (Subchapter VIIIA) and/or Subdivision requirements (Subchapter VIII). In addition to conforming to the requirements of those chapters and the other zoning requirements, a Planned Mixed-Use Development must demonstrate that it is consistent with the approved Master Plan and its development standards.
2. **Master Plan Required** – Prior to the reuse, modification, or demolition of any existing building or structure, the construction of any building, structure or impervious surface, or the undertaking of any site or infrastructure work or disturbance of more than five thousand (5,000) square feet of land area or the issuance of any permits or development approvals in conjunction with a Planned Mixed-Use Development, a Master Plan for the project must be approved by the Planning Board and City Council in accordance with the provisions of this Section.

3. **Geographic Scope of the Master Plan** – The Master Plan must cover the entire land area proposed to be included in Planned Mixed-Use Development. This will be considered to be the entirety of Lot 27 on Tax Map 6 unless a portion of the site has been separately deeded for a Permitted Use in the SSPD District prior to the date of submission of the Master Plan to the City for review.
4. **Permitted Uses as Part of Planned Mixed-Use Development** – The objective of the City in establishing the Planned Mixed-Use Development use category is to allow the owner/developer of the property significant flexibility in the use of the former Stevens School complex as long as the development will meet the City’s objectives for the reuse of the complex as articulated in the Master Plan approval criteria set forth in this section. As such a wide range of residential uses and non-residential uses may be appropriate as part of a Planned Mixed-Use Development including, but not limited, to single-family and duplex dwellings, multifamily housing, elderly and retirement housing, special needs housing, low-intensity retail businesses and service uses, business, government, and professional offices, light manufacturing uses, and recreational and open space uses. The intention of these requirements is to allow any use as part of the development as long as the overall objectives for the SSPDD can be met. The Master Plan requirements require that the Master Plan identify the types of uses that are proposed to be included in the development and their general location on the property.
5. **Dimensional Requirements for a Planned Mixed-Use Development** – The objective of the City in establishing the Planned Mixed-Use Development use category is to allow the owner/developer of the property significant flexibility in the reuse/redevelopment of the former Stevens School complex as long as the development will meet the City’s objectives for the reuse of the complex as articulated in the Master Plan approval criteria set forth in this section. As such the only required dimensional standard for a Planned Mixed-Use Development is that all new buildings, structures, parking lots, storage areas, and similar improvements be setback a minimum of fifty (50) feet from any property line that physically abuts a lot in a residential district. This area shall be maintained as either a natural vegetated or landscaped buffer strip to minimize the impact of the development on adjacent residential properties. All other dimensional requirements that will apply to the Planned Mixed-Use Development will be developed as part of the Master Plan and approved by the Planning Board and City Council.
6. **Contents of the Master Plan** – A Master Plan for a Mixed-Use Planned Development consist of the following elements:
  - A development narrative
  - A site inventory and analysis
  - A conceptual land use plan
  - A conceptual infrastructure plan
  - Development and dimensional standards for the project

The specific requirements for these five elements are set forth below:

- A. Development Narrative – The Development Narrative must describe the

overall nature of the proposed development, the general utilization of the site, the types and scale of anticipated development, and provisions to address the constraints and limitations identified in the Site Inventory and Analysis. The development narrative must specifically address how the approval standards will be met.

- B. Site Inventory and Analysis – The Site Inventory and Analysis consist of three components – a Site Inventory Plan, a Site Analysis Plan, and a Site Analysis Narrative. Each component must include the required information unless waived by the Planning Board. The Board may not waive the submission of any of the three component's in their entirety but may waive the submission of individual pieces of data or information upon written request of the applicant and a finding, by formal vote of the Board, that the information is not necessary to understand the conditions of the site and the opportunities and constraints for its reuse and redevelopment.
- (1) The Site Inventory Plan shall show the existing natural features and resources and built environment on the site. The Plan shall be an accurate scale plan of the site at a scale of not more than one hundred (100) feet to the inch. If this scale is not adequate to show critical details of the inventory, the Planning Board may require larger scale plans be provided for these portions of the site. The Plan must show the following as a minimum:
    - (a) The proposed name of the development, north arrow (True Meridian), date, and scale.
    - (b) The boundaries of the parcel based upon a standard boundary survey prepared by a registered land surveyor and giving the bearings and distances of all property lines.
    - (c) Existing restrictions or easements on the site (if none, so state).
    - (d) The topography of the site at an appropriate contour interval depending on the nature of the use and character of the site as determined by the Code Enforcement Officer.
    - (e) The location, extent, and, where appropriate, value or condition of the natural features of the site, including wetlands, vernal pools, streams, ponds, floodplains, groundwater aquifers, significant wildlife habitats, scenic views or areas, significant geological features, or other important natural features. This information may be from published sources where appropriate.
    - (f) The soils on the site through a medium intensity soil survey. The Planning Board may require the submission of a high intensity soils survey for portions of the site if it determines that a high intensity survey is required to evaluate the appropriate use of the property.



- (g) Vegetative cover conditions on the property according to general cover type, and the identification of any exceptional specimens including any trees with a diameter at breast height of more than twenty-four inches.
  - (h) Watershed and sub-watershed boundaries.
  - (i) Existing buildings, structures, or other improvements on the site including streets, driveways, stone walls, fences, trails, and cemeteries (if none, so state).
  - (j) The approximate locations of all culturally, historically or archaeologically significant buildings, features, or sites.
  - (k) The location and size of existing utilities or improvements servicing the site.
  - (l) The location and nature of any known environmental issues or constraints on the site.
- (2) The Site Analysis Plan shall be at the same scale as the inventory plan (see a. above) and highlight the opportunities and constraints of the site in a bubble diagram or annotated format. This plan must enable the Planning Board to determine: which portions of the site are unsuitable for development or use; which areas of the site have potential conservation or open space value that should be addressed in the Master Plan; which areas of the site may be subject to or create off-site conflicts or concerns (noise, lighting, visual intrusion, traffic, etc.); and which areas are well suited for use.
- (3) The Site Analysis Narrative must describe the existing conditions of the site, the constraints and opportunities created by the site, the potential for mitigating any potential conflicts or concerns including known environmental issues, the open space conservation potential of the site, and the development potential of the site. This submission should include a narrative description of the existing road system that will provide access to the project and any issues related to traffic capacity, safety, sight distances, or other traffic considerations together with any preliminary studies done relative to the site including traffic studies, market studies, or other information that will help the Board understand the site and the proposed project.
- C. Conceptual Land Use Plan – The Conceptual Land Use Plan must be an accurate, scaled plan at the same scale as the Site Analysis Plan included in the Site Inventory and Analysis and show the proposed layout of the entire site, the proposed use of various parts of the site, the primary road network, primary utility network, overall approach to stormwater management,

proposed development areas, proposed open space areas, and proposed buffer areas. The conceptual land use plan may show proposed uses in a bubble diagram or similar conceptual format and does not need to include the exact location of proposed buildings.

- D. Conceptual Infrastructure Plan – The Conceptual Infrastructure Plan must show the layout and preliminary design of the various infrastructure components that will serve as the core infrastructure for the site. This should address off-site infrastructure improvements where necessary. The Plan should include the proposed primary road network within the development including access into and out of the site, the public water and sewerage systems, the overall approach to stormwater management including any mitigation activities to comply with state stormwater requirements, electric, cable, and fiber optic systems, and any shared or common facilities such as parking or service areas. The Plan must also address an interconnected open space network and pedestrian and bicycle facilities and movement within the development and for connections to adjacent residential neighborhoods. The Plan must show the location and typical design of any proposed district-wide pedestrian and bicycle facilities together with any standards for the provision of facilities to serve individual development parcels or areas of the site.
- E. Development Standards – The Development Standards must identify the development and design standards that will apply to individual buildings or areas within the overall development. The standards should assure that the development will conform to the approval standards and result in a coordinated, visually-integrated district. These standards must address, at a minimum, parking layout and design, landscaping, exterior lighting, signage, pedestrian and bicycle facilities, and architectural design, and preservation of the character of the existing National Register historic district. The following specific areas must be addressed in the proposed standards if applicable to the development proposed in the Master Plan. These standards may reference the existing site plan review standards where appropriate or establish modified or new standards.
- (1) The location of buildings on lots and the relationship of buildings to the street
  - (2) The location of parking vis-à-vis the building and the street
  - (3) The treatment of areas adjacent to streets both within the R-O-W and also within the front setback including landscaping and use of this area
  - (4) Provisions for vehicular movement within the site including access for service and emergency vehicles
  - (5) Provisions for vehicle connections between adjacent lots/buildings
  - (6) Provisions for shared/coordinated access to the internal street network

- (7) Provisions for pedestrians and bicycles including pedestrian areas and facilities
- (8) Provision of landscaping within parking areas and around buildings
- (9) Provisions for snow storage and management of related runoff
- (10) Provisions for the screening/buffering of parking lots
- (11) The location of and provisions for the screening of service areas, overhead doors, waste disposal areas, and similar facilities
- (12) The general treatment of outdoor lighting including parking lots, security lighting, roadways, and pedestrian ways
- (13) The location, width, and treatment of buffers
- (14) Standards for the size of signs to be allowed including the relationship of amount of signage to size of building
- (15) Provisions for the coordination of signs for the entire development
- (16) Standards for the design of individual buildings to create a visually-integrated development.
- (17) Provisions for maintaining the historic character of the buildings and grounds within the existing Maine Industrial School for Girls Historic District.
- (18) Provisions for providing fire protection water supplies appropriate to the types of uses that will be allowed.

**7. Review and Approval Process for a Master Plan**

- A. Waiver of the Submission Requirements. Prior to the submission of the Master Plan, the Planning Board may waive any of the submission requirements based upon a written request of the applicant. Such request must be made prior to the initial review of the Master Plan. A waiver of any submission requirement may be granted only if the Board finds that the information is not required to determine compliance with the approval standards and criteria.
- B. Submission of the Master Plan to the Code Enforcement Officer. The applicant shall prepare and submit the Master Plan to the Code Enforcement Officer. The submission must include the materials as set forth in 6 above. The Code Enforcement Officer shall provide the applicant with a dated,

written receipt for the submission.

- C. Provisional Review of the Submission by the Code Enforcement Officer. The Code Enforcement Officer shall review the submission for completeness within ten (10) business days of receipt. The Code Enforcement Officer shall provisionally determine that the submission is complete only if all of the required information has been submitted or the Planning Board has approved waivers for any required information not provided. Upon the completion of the submission review, the Code Enforcement Officer shall notify the applicant in writing as to whether or not the submission is deemed to be provisionally complete. If the submission is provisionally complete, the Code Enforcement Officer shall forward the submission to the Planning Board and shall schedule it for the next available Planning Board meeting for consideration by the Board. The Code Enforcement Officer shall require that notice be provided to abutting property owners of the pending submission in accordance with Section 9-184. The Code Enforcement Officer shall also deliver written notice of the pending submission to the City Manager, Fire Chief, Police Chief, the Chair of the Conservation Commission, Superintendent of the Hallowell Water District, Superintendent of the Greater Augusta Utility District, and other interested parties.

If the Code Enforcement Officer finds that the submission is not complete, he/she shall notify the applicant in writing of the additional material that needs to be submitted by the applicant for the application to be provisionally complete and to be considered by the Planning Board. Upon the receipt of additional information, the Code Enforcement Officer shall conduct another completeness review. This process shall be repeated, if necessary, until the Code Enforcement Officer finds that the application is provisionally complete.

- D. Initial Consideration of the Application by the Planning Board. At the first meeting at which the application is considered, the Planning Board shall review the submission material and formally determine whether or not the submission is complete. If the submission is determined to be incomplete, the Board shall notify the applicant and Code Enforcement Officer in writing of this finding, shall specify the additional materials required to make the submission complete and shall advise the applicant that the submission will not be considered by the Board until the additional information is submitted to the Code Enforcement Officer. These steps shall be repeated until the submission is found to be complete by the Planning Board. At the initial meeting, the Planning Board shall review the submission with respect to the approval standards and shall identify any questions or concerns about the submission. The applicant shall be provided the opportunity to revise the submission to address the questions or issues raised by the Board and resubmit the Master Plan or portions thereof. If the applicant chooses to re-submit the application, the process for determining that the submission is complete shall be repeated.

- E. On-Site Inspection. The Planning Board may hold an on-site inspection of the site to review the existing conditions, field-verify the information submitted, and investigate the development proposal. The Board may conduct this visit either before or after the first meeting at which the application is considered. The Board may decide not to hold an on-site inspection when the site is snow covered. If the review of a Master Plan is pending during a period when there is snow cover, the processing of the submission may be suspended until the Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided to all parties who received notice under subsection B.
  
- F. Public Workshop. The Planning Board shall hold a public workshop on a Master Plan within forty-five (45) days of determining that the initial or re-submitted submission is complete. Abutters shall be notified of the public workshop and the workshop shall be noticed and advertised in accordance with the provisions of Section 9-184. Following the public workshop, the Planning Board shall review the submission with respect to the approval standards and shall identify any questions or concerns about the submission's conformance with the approval standards. The applicant shall be provided the opportunity to revise the submission to address the questions or issues raised by the Board and resubmit the Master Plan or portions thereof.
  
- G. Planning Board Review. Within forty-five (45) days of the public workshop or the re-submission of the Master Plan if the plan is revised, the Planning Board shall review the Master Plan to determine if its questions and/or concerns identified following the public workshop have been addressed. In reviewing the Master Plan, the Planning Board may use outside reviewers including private consultants with the consent of the City Manager if the Board determines that City staff and other agencies do not have the expertise to advise the Board and City Council on the appropriateness of the Master Plan. If the Planning Board determines that outside review assistance is required, the applicant shall pay a technical review fee as provided for in Section 9-858 3. Technical Review Fee. If the Board determines that its questions and concerns have been addressed, the Code Enforcement officer shall notify the Mayor, City Manager, and City Council. If the Board determines that there are still unresolved issues with respect to the Master Plan, the Board shall notify the applicant in writing of the concerns and provide the applicant with the opportunity to revise the Master Plan prior to review with the City Council.
  
- H. Joint Council and Planning Board Consideration. Following Planning Board review of the submission, the City Council and Planning Board shall hold a joint public hearing on the submission as revised within forty-five (45) days of the completion of the Planning Board review or receipt of a revised submission. Abutters and the general public shall be provided notice of the hearing at least seven (7) days prior to the date of the hearing as provided

for in Section 9-184. All time limits provided for in this section may be extended by mutual agreement of the applicant and City Council. Following the public hearing, the City Council and Planning Board may jointly discuss the submission and its conformance with the approval standards.

- I. Planning Board Action. Within forty-five days of the public hearing, the Planning Board shall make a formal recommendation to the City Council as to whether the submission meets the approval standards. In issuing its recommendation, the Planning Board shall make written findings of fact establishing that the activities set forth in the Master Plan do or do not meet the standards of approval and other requirements of the City including any conditions of approval necessary to comply with the standards. The Board shall notify the applicant and all parties who requested to be notified of the action of the Board, including the findings of fact, and any recommended conditions of approval. This requirement can be met through the distribution of minutes of the meeting containing the findings of fact and recommendation of the Board.
  - J. City Council Action. Within forty-five (45) days of the Planning Board recommendation, the City Council shall approve, approve with conditions, or deny the Master Plan. In reviewing the Master Plan, the City Council may use outside reviewers including private consultants if the Council determines that there is a need for additional technical or legal review that cannot be provided by City staff. If the City Council determines that outside review assistance is required, the applicant shall pay a technical review fee as provided for in Section 9-858 3. Technical Review Fee. The City Clerk shall notify the applicant and all parties who requested to be notified of the action of the Council, including the findings of fact, and any conditions of approval. This requirement can be met through the distribution of minutes of the meeting containing the findings of fact and action of the City Council.
  - K. Appeals. Appeal of any actions taken by the Planning Board or the City Council with respect to the review of a Master Plan shall be to the Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B. Any such appeal must be filed within thirty (30) days of the date upon which the Planning Board or City Council voted to take action on the Master Plan. Any aggrieved party may appeal the action of the Planning Board or City Council.
8. **Approval Standards** – In reviewing a Master Plan for a Mixed-Use Planned Development, the Planning Board and City Council must both find that the Master Plan meets all of the following criteria. In approving a Master Plan, the Board or Council may impose conditions of approval to assure that the approval criteria are met. These conditions shall apply to any subsequent application for Site Plan Review or Submission approval relative to the Planned Mixed-use Development.
- A. The Master Plan will result in the reuse/redevelopment/development of the former Stevens School complex in a manner that results in a well-planned

- development that has a common set of design elements.
- B. The Master Plan assures that the design and scale of development is compatible with surrounding neighborhoods.
  - C. The Master Plan will result in a mix of uses which may include residential, office, service, community, light manufacturing, and low-intensity retail uses that are not competitive with Downtown.
  - D. The Master Plan assures that the buildings and grounds within the existing Maine Industrial School for Girls National Register Historic District are maintained and improved in a manner that maintains the character of that district.
  - E. The Master Plan will result in use, redevelopment, or development being primarily focused in the areas of the campus that are already developed.
  - F. The Master Plan assures that development of areas with significant natural resource value will be minimized.
  - G. The Master Plan will result in a functional system of interconnected open spaces and natural resource areas that serve both the campus and the larger community.
  - H. The Master Plan provides for adequate movement of vehicles into and through the campus while minimizing the potential impact on the City's street network. The vehicular circulation system avoids the use of adjacent residential streets for major access to the site and no street connections are provided to serve development in the City of Augusta.
  - I. The Master Plan provides for appropriate pedestrian and bicycle movement into and through the campus and links these networks to existing and planned facilities outside of the campus.
  - J. The Master Plan provides for adequate sewerage and water supply to support the anticipated use and redevelopment/development of the campus in accordance with the Master Plan while minimizing the impacts on the public sewer and water systems.
  - K. The Master Plan provides for adequate stormwater management including provisions to mitigate and manage run-off from the site while minimizing the impact on downstream drainage and stormwater systems.
  - L. The development standards of the Master Plan will protect adjacent properties and residential neighborhoods from unreasonable impacts resulting from the reuse/redevelopment/development of the campus.

**9. Amendment of an Approved Master Plan**

A Master Plan for a Planned Mixed-Use Development may not be amended for a period of twenty-four months following its approval by the City Council. Following this initial period, a Master Plan may be amended by vote of the City Council upon the request of the property owner but such request must be at least twenty-four (24) months from the prior approval. A request for an amendment to an approved Master Plan shall follow the same process as for the initial approval with the following exceptions:

- A. The applicant is only required to submit information on those aspects of the Master Plan that are proposed to be amended.
- B. The Planning Board and City Council shall only consider those aspects of an approved Master Plan for which an amendment is sought.
- C. The Planning Board may waive the requirement for a public workshop if it finds that the nature of the amendment is primarily technical in nature and does not involve a change in the overall pattern of development or land use.
- D. If the Planning Board waives the requirement for a public workshop, the Planning Board may complete the consideration of the amended Master Plan in one step (combining the initial consideration and Planning Board review).



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**SUBCHAPTER IV - RESOURCE CONSERVATION DISTRICTS**

**DIVISION A - RESOURCE PROTECTION DISTRICT (RP)**

**SECTION 9-411**      PURPOSE (RP)

To further the maintenance of safe and healthful conditions; prevent and control potential water pollution sources; protect spawning grounds, fish, aquatic life, bird and other wildlife habitat; and conserve shore cover, visual as well as actual points of access to coastal waters and natural beauty; and to protect historic and archaeological sites.

[Derivation: Section 4.9(A), 1989 Zoning Ordinance]

**SECTION 9-412**      DESCRIPTION (RP)

The Resource Protection District (RP) includes all land areas within 100 feet of Cascade Pond, all land areas within 100 feet of Vaughan Brook extending from Water Street upstream to Cascade Pond, all land areas within 50 feet on the north side of Vaughan Brook from the Kennebec River upstream to Water Street; Tax Map 4, all areas east of the Maine Central Railroad Tracks; Tax Map 5, lots 166 and the portion of Lot 168 that is within the mapped floodway of the Kennebec River, lots 180 through 189; Tax Map 9, lots 166 and 167A, that portion of lots 168 through 186 lying east of the right-of-way, lot 187, that portion of lots 189 through 194A lying within 25 feet of the water; Tax Map 10, lots 15, 16, 20, 25, and 29, that portion of lot 21 lying within 75 feet of the water, that portion of lot 22 lying between the top of the bank and the water, that portion of lots 23 and 24 lying within 50 feet of the Vaughan Brook, that portion of lot 26 lying between the top of the bank and the water; Tax Map 15, lots 39 and 40; and Tax Map 16, all land areas between the Maine Central Railroad Tracks and the Kennebec River.

[Derivation: Section 4.9(B), 1989 Zoning Ordinance as amended; amended by Ord. 98-1, 5/21/98; Ord. No.: 08-03, eff. April 17, 2008; Ord. No. 11-02b, eff. 8/18/2011; Ord. No. 12-01, eff. 1/19/2012]

**SECTION 9-413**      PERMITTED USES (RP)

Permitted uses in the Resource Protection District are:

1. Conservation activities;
2. Non-intensive recreational uses not requiring structures;
3. Motorized vehicular traffic on existing roads;
4. Clearing or removal of vegetation in accordance with the performance standards of Section 9-416;
5. Wildlife management practices;
6. Soil and water conservation practices;
7. Essential services; and
8. Service drops to allowed uses.

[Derivation: Section 4.9(C), 1989 Zoning Ordinance; Ord. No. 11-02b, eff. 8/18/2011]

**SECTION 9-414**      CONDITIONAL USES (RP)

Conditional uses in the Resource Protection District are:

1. Agriculture/aquaculture;
2. Small non-residential facilities for educational, scientific, nature interpretation, or religious purposes;
3. Temporary piers, docks, and wharves extending over or below the normal high water line of a water body;
4. Public and private recreational facilities involving minimal structural development;
5. Boat launches;
6. Parking in accordance with the performance standards of Section 9-416; and
7. Accessory structures.

[Derivation: Section 4.9(D), 1989 Zoning Ordinance; Ord. No. 11-02b, eff. 8/18/2011]

**SECTION 9-415**      NON-PERMITTED USES (RP)

Any use not permitted in Sections 9-413 and 9-414 above.

[Derivation: Section 4.9(E), 1989 Zoning Ordinance; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-416**      PERFORMANCE STANDARDS (RP)

Permitted and Conditional Uses allowed in this district shall be subject to the performance standards contained in Subchapter VI of this Chapter, and the performance standards of the Shoreland Overlay District, under Subchapter V of this Chapter.

[Derivation: Section 4.9(G), 1989 Zoning Ordinance; Ord. No. 11-02b, eff. 8/18/2011]

**SECTION 9-417**      DIMENSIONAL REQUIREMENTS (RP)

The following dimensional requirements apply to the uses permitted in this District, including the expansion of existing uses, the conversion of one use to another use, and new uses.

1. Minimum shore setbacks from normal high water mark: 250 feet except for structures, roads, parking spaces, and other objects specifically allowed in the district that shall conform to the following setback:

Piers, docks, wharves and other functionally water-dependent uses	0 feet
All other allowed uses	75 feet

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

**SECTIONS 418 THROUGH 430** (Reserved)

**DIVISION B - OPEN SPACE DISTRICT (OP)**

**SECTION 9-431** PURPOSE (OP)

To further the maintenance of safe and healthful conditions; prevent and control potential water pollution sources; protect bird and other wildlife habitat; and conserve vegetative cover, and natural beauty.

[Derivation: Section 4.11(A), 1989 Zoning Ordinance]

**SECTION 9-432** DESCRIPTION (OP)

The Open Space District (OP) shall generally include the Vaughan Woods, except the land areas within 100 feet of Vaughan Brook/Cascade Stream, and an area of land along the Litchfield Road between the Turnpike and the residence on the south side of Litchfield Road opposite the intersection of Litchfield Road and Middle Street, exclusive of the 100-foot Resource Protection District on either side Vaughan Brook/Cascade Stream. The Open Space District shall also generally include the City recreation area, and the Maine Central Railroad right-of-way except for the granite shed property. Also included are all publicly-owned land within the watershed of Jamie's Pond.

The boundaries of the Open Space District (OP) are shown on the Official Zoning Map.

[Derivation: Section 4.11(B), 1989 Zoning Ordinance; amended by Ord. 98-1, 5/21/98; Ord. No. 12-01, eff. 1/19/2012; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-433** PERMITTED USES (OP)

Permitted uses in the Open Space District are:

1. Outdoor Conservation; and
2. Hiking and Skiing Trails.

[Derivation: Section 4.11(C), 1989 Zoning Ordinance]

**SECTION 9-434** CONDITIONAL USES (OP)

Conditional uses in the Open Space District are:

1. Accessory Buildings and Structures;
2. Campgrounds;

3. Municipal Recreational Facilities and Related Structures;
4. Timber Harvesting; and
5. Towers.

[Derivation: Section 4.11(D), 1989 Zoning Ordinance]

**SECTION 9-435**      NON-PERMITTED USES (OP)

Any use not permitted in Sections 9-433 and 9-434 above.

[Derivation: Section 4.11(E), 1989 Zoning Ordinance; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-436**      PERFORMANCE STANDARDS (OP)

Permitted and Conditional Uses allowed in this district shall be subject to the performance standards contained in Subchapter VI of this Chapter and the clearing and timber harvesting standards of the Shoreland Zone, Section 9-513(4).

[Derivation: Section 4.11(G), 1989 Zoning Ordinance]

**SUBCHAPTER V - OVERLAY DISTRICTS**

**DIVISION A - SHORELAND OVERLAY DISTRICT (SD)**

**SECTION 9-511**      PURPOSE (SD)

To protect and enhance water quality, preserve and enhance the aesthetics of water bodies and views there from, protect shoreland areas from erosion, protect and preserve that vegetation and wildlife which is more indigenous to shoreland areas than areas not associated with water bodies, avoid the problems associated with floodplain development and use, and to encourage and insure the integrity of points of access to water bodies.

[Derivation: Section 4.10(A), 1989 Zoning Ordinance; Ord. No. 11-02b, eff. 8/18/2011]

**SECTION 9-512**      DESCRIPTION (SD)

The Shoreland Overlay District (SD) includes all land areas within two hundred fifty (250) feet of the Kennebec River, within two hundred fifty (250) feet of Vaughan Brook from the Kennebec River upstream to Cascade Pond, within two hundred fifty (250) feet of Cascade Pond, within two hundred fifty (250) feet of the portion of Vaughan Brook upstream of Cascade Pond, within two hundred fifty (250) feet of Bombahook Stream from its confluence with Vaughan Brook to the upstream side of the Central Street R-O-W, and within seventy-five (75) feet of Bombahook Stream upstream of Central Street to its confluence with the stream that continues to the City recreation area as shown on the Official Zoning Map.

The Shoreland Overlay District (SD) includes any structure built on, over, or abutting a dock, wharf, pier or other structure extending beyond the normal high water mark of a water body. Because there is an existing framework of land use districts and performance standards, the shoreland zoning standards apply as an "overlay district". In other words, in the shoreline areas, the shoreline zoning requirements will be in effect in addition to the zoning requirements already established for these areas by other provisions of this Ordinance.

[Derivation: Section 4.10(B), 1989 Zoning Ordinance; Ord. No. 11-02b, eff. 8/18/2011]

**SECTION 9-513**      SHORELAND PERFORMANCE STANDARDS (SD)

The following additional standards apply to uses in the Shoreland Overlay District:

A.      Minimum Lot Size and Frontage Requirements

- (1) The minimum requirements for lot size, lot area per dwelling unit, street frontage, and shore frontage are established by the district standards of the underlying zoning district in which the lot is located.

B. Principal and Accessory Structures

- (1) All new principal and accessory structures shall be set back from the normal high-water line of water bodies and tributary streams, and the upland edge of a shoreland wetland as provided for in the underlying district standards. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified in the district standards shall apply.

In addition:

- (a) The water body, tributary stream, or shoreland wetland setback provision shall neither apply to structures which require direct access to the water body or shoreland wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
  - (b) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or shoreland wetland setbacks, the Code Enforcement Officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.
- (2) Principal or accessory structures and expansions of existing structures shall not exceed thirty-five (35) feet in height or the maximum height standard of the district in which it is located whichever is greater. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
  - (3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. Accessory structures may be placed in accordance with the standards of City's Floodplain Management requirements and need not meet the elevation requirements of this paragraph.
  - (4) The total footprint area or lot coverage of all structures, parking lots and other non-vegetated surfaces within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed, except in the DT and R1 Districts,

where lot coverage shall not exceed seventy (70) percent and the BA District where it shall not exceed fifty (50) percent.

- (5) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a shoreland wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Shoreland Wetland.

- (1) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- (2) The location shall not interfere with existing developed or natural beach areas.
- (3) The facility shall be located so as to minimize adverse effects on fisheries.
- (4) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.
- (5) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a shoreland wetland unless the structure requires direct access to the water body or shoreland wetland as an operational necessity.
- (6) New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
- (7) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a shoreland wetland shall be converted to residential dwelling units in any district.
- (8) Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a shoreland wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.



- D. Campgrounds. Campgrounds are only allowed in those zoning districts where they are listed as a permitted or conditional use. Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:
- (1) Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting shoreland wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
  - (2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of seventy-five (75) feet, horizontal distance, from the normal high-water line of water bodies, tributary streams, or the upland edge of a shoreland wetland.
- E. Individual Private Campsites. Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:
- (1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
  - (2) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back seventy-five (75) feet, horizontal distance, from the normal high-water line of water bodies, tributary streams, or the upland edge of a shoreland wetland.
  - (3) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
  - (4) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
  - (5) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
  - (6) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

F. Parking Areas

- (1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities in Districts other than the Downtown District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
- (2) Parking areas shall be adequately sized for the proposed use in accordance with Section 9-629 and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or shoreland wetland and where feasible, to retain all runoff on-site.

G. Roads and Driveways. The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

- (1) Roads and driveways shall be set back at least seventy-five (75) feet, horizontal distance from the normal high-water line of water bodies, tributary streams, or the upland edge of a shoreland wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or shoreland wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or shoreland wetland.

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

Section G(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section G(1) except for that portion of the road or driveway necessary for direct access to the structure.

- (2) Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or shoreland wetland.
- (3) New roads and driveways are prohibited in a Resource Protection District

except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a shoreland wetland.

- (4) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section P.
- (5) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- (6) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or shoreland wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a shoreland wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- (7) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:
  - (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21 +	40

- (b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

(c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.

(d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.

(9) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

H Signs. Signs shall conform to the requirements of Section 9-637.

I. Storm Water Runoff

(1) All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwater.

(2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

J. Septic Waste Disposal

(1) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following:  
a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a shoreland wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

K. Essential Services

(1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

(2) The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection District or within seventy-five feet of Vaughan Brook or Bombahook Stream except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall

be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

- (3) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

- L. Mineral Exploration and Extraction. Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

- (1) Mineral extraction is an allowed use in the District in which the parcel is located and a conditional use permit is obtained in accordance with section 9-614.
- (2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within seventy-five (75) feet, horizontal distance, of the normal high-water line of any water body, tributary stream, or the upland edge of a shoreland wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.
- (3) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

- M. Agriculture

- (1) All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
- (2) Manure shall not be stored or stockpiled within seventy-five (75) feet horizontal distance, of water bodies, tributary streams, or shoreland wetlands. All manure storage areas within the shoreland zone shall be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- (3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area within the Resource Protection or Shoreland Overlay District shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a

violation of this Ordinance.

- (4) There shall be no new tilling of soil within seventy-five (75) feet, horizontal distance, of water bodies and coastal shoreland wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and shoreland freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
- (5) Newly established livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance, of water bodies and coastal shoreland wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater shoreland wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

N. Timber Harvesting – Statewide Standards

The provisions of this section except for Option 3 in subsection (3) become effective upon adoption of this section by the City Council and approval by the Commissioner of the Department of Environmental protection and shall be enforced by the City. Option 3 in subsection (3) shall become effective only if and when the statewide standards for timber harvesting established by 38 § 438-B become effective.

- (1) Shoreline integrity and sedimentation. Persons conducting timber harvesting and related activities shall take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and shoreland wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and shoreland wetlands occurs, such conditions shall be corrected.
- (2) Slash treatment. Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a shoreland wetland. Section N(2) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.
  - (a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.
  - (b) Adjacent to rivers and shoreland wetlands:

- (i) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a shoreland wetland; and
  - (ii) Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a shoreland wetland, all slash larger than 3 inches in diameter shall be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.
- (3) Timber harvesting and related activities shall leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following Option 1 or Option 2 below. In addition, this requirement may be satisfied by following Option 3 once the statewide timber harvesting standards have become effective:
- (a) Option 1 (40% volume removal), as follows:
    - (i) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;
    - (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, shall be maintained; and,
    - (iii) Within 75 feet, horizontal distance, of the normal high-water line of rivers and shoreland streams, and within 75 feet, horizontal distance, of the upland edge of a freshwater or coastal shoreland wetland, there shall be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or upland edge of a shoreland wetland, timber harvesting and related activities shall not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they shall be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.
  - (b) Option 2 (60 square foot basal area retention), as follows:
    - (i) The residual stand shall contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre shall be greater than or equal to 4.5 inches DBH;

- (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, shall be maintained; and,
  - (iii) Within 75 feet, horizontal distance, of the normal high-water line of water bodies and within 75 feet, horizontal distance, of the upland edge of shoreland wetlands, there shall be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river upland edge of a shoreland wetland, timber harvesting and related activities shall not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they shall be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.
- (c) Option 3 (Outcome based), which requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry (Bureau) for review and approval, which provides equal or better protection of the shoreland area than this rule.

Landowners shall designate on the Forest Operations Notification form required by 12 M.R.S.A. Chapter 805, subchapter 5 which option they choose to use. If a landowner chooses Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowner chooses Option 3, timber harvesting and related activities a may not begin until the Bureau has approved the alternative method.

The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

- (4) Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.
  - (a) Equipment used in timber harvesting and related activities shall not use river, shoreland stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.
  - (b) Skid trails and yards shall be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or shoreland wetland. Upon termination of their use, skid trails and yards shall be stabilized.



(c) Setbacks:

- (i) Equipment shall be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or shoreland wetland. On slopes of 10 percent or greater, the setback for equipment operation shall be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.
- (ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or shoreland wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or shoreland wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions shall be corrected.

(5) Land Management Roads. Land management roads, including approaches to crossings of water bodies, tributary stream channels, and shoreland freshwater wetlands, ditches and other related structures, shall be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or shoreland wetland. Surface water on or adjacent to water crossing approaches shall be diverted through vegetative filter strips to avoid sedimentation of the watercourse or shoreland wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips shall be established in accordance with the setback requirements in Section N(7) of this rule.

- (a) Land management roads and associated ditches, excavation, and fill shall be set back at least:
  - (i) 100 feet, horizontal distance, from the normal high-water line of a river or freshwater or coastal shoreland wetland;
  - (ii) 50 feet, horizontal distance, from the normal high-water line of shoreland streams; and
  - (iii) 25 feet, horizontal distance, from the normal high-water line of tributary streams
- (b) The minimum 100 foot setback specified in Section N(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot

setback specified in Section N(5)(a)(ii) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or shoreland wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or shoreland wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions shall be corrected by the property owner.

- (c) On slopes of 10 percent or greater, the land management road setback shall be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.
- (d) New land management roads are not allowed in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road shall be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.
- (e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads shall be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section N(7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or shoreland wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or shoreland wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions shall be corrected.
- (f) Road closeout and discontinuance. Maintenance of the water control installations required in Section N(5)(e) shall continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.

- (g) Upgrading existing roads. Extension or enlargement of presently existing roads shall conform to the provisions of Section N. Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.
  - (h) Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section N(5)(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or shoreland wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or shoreland wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions shall be corrected.
  - (i) Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, shoreland stream and tributary stream crossings shall take reasonable measures to avoid sedimentation of surface waters.
- (6) Crossings of waterbodies. Crossings of rivers, shoreland streams, and tributary streams shall allow for fish passage at all times of the year, shall not impound water, and shall allow for the maintenance of normal flows.
- (a) Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section N: The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008.
  - (b) Upgrading existing water crossings. Extension or enlargement of presently existing water crossings shall conform to the provisions of Section N. Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line shall conform to the provisions of Section N.
  - (c) Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, shoreland stream or tributary stream may

require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.

- (d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of shoreland freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
- (e) Notice to Bureau of Forestry. Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas shall be given to the Bureau prior to the commencement of such activities. Such notice shall contain all information required by the Bureau, including:
  - (i) a map showing the location of all proposed permanent crossings;
  - (ii) the GPS location of all proposed permanent crossings;
  - (iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
  - (iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.
- (f) Water crossing standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section N(6)(g)) below. Shoreland streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:
  - (i) concentrated water runoff does not enter the shoreland stream or tributary stream;
  - (ii) sedimentation of surface waters is reasonably avoided;
  - (iii) there is no substantial disturbance of the bank, or shoreland stream or tributary stream channel;
  - (iv) fish passage is not impeded; and,
  - (v) water flow is not unreasonably impeded.

Subject to Section N(6)(f)(i-v) above, skid trail crossings of shoreland streams and tributary streams when channels of such shoreland streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

- (g) Bridge and Culvert Sizing. For crossings of river, shoreland stream and tributary stream channels with a bridge or culvert, the following requirements apply:

- (i) Bridges and culverts shall be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2 1/2 times the cross-sectional area of the river, shoreland stream, or tributary stream channel.
- (ii) Temporary bridge and culvert sizes may be smaller than provided in Section N(6)(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures shall be at least as wide as the channel and shall be placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:
  - 1. use of temporary skidder bridges;
  - 2. removing culverts prior to the onset of frozen ground conditions;
  - 3. using water bars in conjunction with culverts;
  - 4. using road dips in conjunction with culverts.
- (iii) Culverts utilized in river, shoreland stream and tributary stream crossings shall:
  - 1. be installed at or below river, shoreland stream or tributary stream bed elevation;
  - 2. be seated on firm ground;
  - 3. have soil compacted at least halfway up the side of the culvert;
  - 4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
  - 5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.
- (iv) River, shoreland stream and tributary stream crossings allowed under Section N, but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), shall be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.
- (v) Exception. Skid trail crossings of tributary streams within shoreland areas and shoreland wetlands adjacent to such streams may be

undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and shoreland wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and shoreland wetlands occurs, such conditions shall be corrected.

- (h) Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:
  - (i) Bridges and culverts installed for river, shoreland stream and tributary stream crossings by skid trails shall either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section N(6)(i) below.
  - (ii) Water crossing structures that are not bridges or culverts shall either be removed immediately following timber harvesting and related activities, or, if frozen into the river, shoreland stream or tributary stream bed or bank, as soon as practical after snowmelt.
  - (iii) River, shoreland stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams shall be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions shall be corrected.
- (i) Land management road closeout. Maintenance of the water control features shall continue until use of the road is discontinued and the road is put to bed by taking the following actions:
  - (i) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.
  - (ii) Water crossing structures shall be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.

(iii) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:

1. it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
2. it shall be designed to provide an opening with a cross-sectional area at least 3 1/2 times the cross-sectional area of the river, shoreland stream or tributary stream channel; or
3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, shoreland stream or tributary stream.

If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions shall be corrected.

(7) Slope Table

Filter strips, skid trail setbacks, and land management road setbacks shall be maintained as specified in Section N, but in no case shall be less than shown in the following table.

Average slope of land between exposed mineral soil and the shoreline (percent)	Width of strip between exposed mineral soil and shoreline (feet along surface of the ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

O. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

- (1) In a Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.
- (2) Except in areas as described in Section O(1), above, and except to allow for the development of permitted uses, within a strip of land extending seventy-five (75) feet, horizontal distance, from any water body, tributary stream, or the upland edge of a shoreland wetland, a buffer strip of vegetation shall be preserved as follows:
  - (a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is

not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

- (b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section O(2)(b) a "well-distributed stand of trees" shall be defined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 - < 4 in.	1
4 - < 8 in.	2
8 - < 12 in.	4
12 in. or greater	8

Adjacent to water bodies, tributary streams, and shoreland wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

The following shall govern in applying this point system:

- (i) The 25-foot by 50-foot rectangular plots shall be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot shall be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points shall have no vegetation removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section O(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 1/2) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.



- (c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section O paragraphs (2) and (2)(a) above.
- (d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- (e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Section O(2) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

- (3) At distances greater than seventy-five (75) feet, horizontal distance, from any water body, tributary stream or upland edge of a shoreland wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 1½ feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared.

- (4) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- (5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section O.

P. Erosion and Sedimentation Control

- (1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

- (a) Mulching and revegetation of disturbed soil.
  - (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
  - (c) Permanent stabilization structures such as retaining walls or rip-rap.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
- (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
  - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
  - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.
- Q. Soils. All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may

include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

- R. Water Quality. No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or shoreland wetland.
  
- S. Archaeological Site. Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

[Derivation: Ord. No. 11-02b, effective 8/18/2011; Ord. No. 11-05, effective 10/21/2011; Ord. No. 12-10, eff. 10/19/2012]

**SECTIONS 9-514 THROUGH 9-530** (Reserved)

**DIVISION B - FLOODPLAIN MANAGEMENT DISTRICT (FM)**

[Derivation: Ordinance Effective 2/10/92]

[Derivation: Ordinance No.: 03-22, Effective December 18, 2003]

[Derivation: Ordinance No.: 11-02a, Effective 5/19/2011; Ord. No. 11-06, Eff. 10/21/2011]

**SECTION 9-531      PURPOSE AND ESTABLISHMENT (FM)**

Certain areas of the City of Hallowell, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the City of Hallowell, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Code.

It is the intent of the City of Hallowell, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The City of Hallowell has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A M.R.S.A., Sections 3001–3007, 4352 and 4401–4407 and Title 38 M.R.S.A., Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the City having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Division B Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the City of Hallowell, Maine.

The areas of special flood hazard, Zones A and AE identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - City of Hallowell, Maine, Kennebec County" dated June 16, 2011 with accompanying "Flood Insurance Rate Map" dated June 16, 2011 with panels: 504, 511, 512, 514, 516, 517, 519 is hereby adopted by reference and declared to be a part of this Code.

**SECTION 9-532      PERMIT REQUIRED (FM)**

Before any construction or other development (as defined in Section 9-543), including the placement of manufactured homes, begins within any areas of special flood hazard established in Section 9-531, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other building permits which may be required pursuant to the codes and ordinances of the City of Hallowell, Maine.

**SECTION 9-533**      APPLICATION FOR PERMIT (FM)

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

1.      The name, address and phone number of the applicant, owner, and contractor;
2.      An address and a map indicating the location of the construction site;
3.      A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
4.      A statement of the intended use of the structure and/or development;
5.      A statement of the cost of the development including all materials and labor;
6.      A statement as to the type of sewage system proposed;
7.      Specification of dimensions of the proposed structure and/or development;

[Subsections 8–11.B apply only to new construction and substantial improvements.]

8.      The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or to a locally established datum in Zone A only, of the:
  - A.      base flood at the proposed site of all new or substantially improved structures, which is determined:
    - (1)      in Zone AE, from data contained in the "Flood Insurance Study - City of Hallowell, Maine, Kennebec County" as described in Section 9-531 or,
    - (2)      in Zone A:
      - (a)      from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Section 9-536, subsection 11. And Section 9-538, subsection 4.
      - (b)      from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional

- engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
- (c) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
- B. highest and lowest grades at the site adjacent to the walls of the proposed building;
- C. lowest floor, including basement; and whether or not such structures contain a basement; and,
- D. level, in the case of non-residential structures only, to which the structure will be flood proofed;
9. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Section 9-536;
10. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
11. The following certifications as required in Section 9-536 by a registered professional engineer or architect:
- A. a Flood proofing Certificate (FEMA Form 81-65, 03/09, as amended), to verify that the flood proofing methods for any non-residential structures will meet the flood proofing criteria of Section 9-533, subsection 8.D.; Section 9-536, subsection 7.; and other applicable standards in Section 9-536.
- B. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Section 9-536, subsection 12.B.(1).;
- C. a certified statement that bridges will meet the standards of Section 9-536, subsection 13.;
- D. a certified statement that containment walls will meet the standards of Section 9-536, subsection 14.;
12. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and

13. A statement of construction plans describing in detail how each applicable development standard in Section 9-536 will be met.

**SECTION 9-534**      APPLICATION FEE AND EXPERT'S FEE (FM)

A non-refundable application fee shall be paid to the City Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the City submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

[Derivation: Ord. No. 18-02, effective 3/22/2018]

**SECTION 9-535**      REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS (FM)

The Code Enforcement Officer shall:

1. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Section 9-536 DEVELOPMENT STANDARDS have been, or will be met;
2. Utilize, in the review of all Flood Hazard Development Permit applications:
  - A. the base flood data and floodway contained in the "Flood Insurance Study - City of Hallowell, Maine, Kennebec County" as described in Section 9-531;
  - B. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Sections 9-533 subsection 8.A.(2); 9-536 subsection 11; and 9-538 subsection 4, in order to administer Section 9-536 of this Chapter; and,
  - C. when the community establishes a base flood elevation in a Zone A by methods outlined in Section 9-533 subsection 8.A.(2), the community shall submit that data to the Maine Floodplain Management Program in the Department of Conservation and Forestry.
3. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Section 9-531 of this Chapter;

4. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
5. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the Department of Conservation and Forestry prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
6. If the application satisfies the requirements of this Ordinance, approve the issuance of the following Flood Hazard Development Permits based on the type of development:
  - A. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Section 9-536 subsections 6, 7, or 8. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
  - B. A Flood Hazard Development Permit for Floodproofing of Non- Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Section 9-536 subsection 7.A.(1), (2) and (3). The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
  - C. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Section 9-536 subsection 10., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.
7. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including



reports of the Board of Appeals on variances granted under the provisions of Section 9-539 of this Chapter, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Section 9-533, Section 9-536, and Section 9-537 of this Chapter.

[Derivation: Ord. No. 15-07, eff. 07/23/2015]

**SECTION 9-536**      DEVELOPMENT STANDARDS (FM)

All developments in areas of special flood hazard shall meet the following applicable standards:

1.    All Development – All development shall:
  - A.    be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - B.    use construction materials that are resistant to flood damage;
  - C.    use construction methods and practices that will minimize flood damage; and
  - D.    use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
2.    Water Supply – All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
3.    Sanitary Sewage Systems – All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
4.    On Site Waste Disposal Systems – On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
5.    Watercourse Carrying Capacity – All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of any watercourse.
6.    Residential – New construction or substantial improvement of any residential structure located within:
  - A.    Zone AE shall have the lowest floor (including basement) elevated to at least

one foot above the base flood elevation.

- B. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Sections 9-533, subsection 8.A.(2); 9-535 subsection 2; or Section 9-538 subsection 4.
7. Non Residential – New construction or substantial improvement of any non-residential structure located within:
- A. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
    - (1) be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to passage of water;
    - (2) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
    - (3) be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Section 9-533, subsection 11 and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
  - B. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 9-533, subsection 8.A.(2); Section 9-535, subsection 2; or Section 9-538, subsection 4, or
    - (1) together with attendant utility and sanitary facilities meet the floodproofing standards of Section 9-536, subsection 7.A.
8. Manufactured Homes – New or substantially improved manufactured homes located within:
- A. Zone AE shall:
    - (1) be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
    - (2) be on a permanent foundation, which may be poured masonry slab

or foundation walls, with hydraulic openings, or may be reinforced piers of block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and

- (3) be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
  - (a) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
  - (b) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
  - (c) all components of the anchoring system described in Section 9-536, subsection 8.A.(3)(a) & (b) shall be capable of carrying a force of 4800 pounds.

B. Zone A shall

- (1) be elevated on a permanent foundation, as described in Section 9-536, subsection 8.A.(2)., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Section 9-533, subsection 8.A.(2).; Section 9-535, subsection 2.; or Section 9-538, subsection 4.; and:
- (2) meet the anchoring requirements of Section 9-536, subsection 8.A.(3).

9. Recreational Vehicles – Recreational vehicles located within:

A. Zone A and AE shall either:

- (1) be on the site for fewer than 180 consecutive days,
- (2) be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
- (3) be permitted in accordance with the elevation and anchoring requirements for “manufacturing homes” in Section 9-536, subsection 8.A.

10. Accessory Structures – Accessory structures, as defined in Section 9-543, located within Zones AE and A, shall be exempt from the elevation criteria required in Section 9-536, Subsection 6 & 7 above, if all other requirements of Section 9-536 and all the following requirements are met. Accessory Structures shall:
  - A. be 500 square feet or less and have a value less than \$3000.;
  - B. have unfinished interiors and not be used for human habitation;
  - C. have hydraulic openings, as specified in Section 9-536, subsection 12.B., in at least two different walls of the accessory structure;
  - D. be located outside the floodway:
  - E. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and
  - F. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.
  
11. Floodways:
  - A. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's digital Flood Insurance Rate Map, Kennebec County unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
  - B. In Zones AE and A riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Section 9-536, subsection 11.C. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
    - (1) will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
    - (2) is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study – Guidelines and Specifications for Study Contractors*, (FEMA 37/January 1995 as

amended).

- C. In Zones AE and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.
12. Enclosed Areas Below the Lowest Floor – New construction or substantial improvement of any structure in Zones AE and A that meets the development standards of Section 9-536, including the elevation requirements of Section 9-536, subsections 6, 7 or 8, and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded.
- A. Enclosed areas are not "basements" as defined in Section 9-543;
  - B. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either:
    - (1) be engineered and certified by a registered professional engineer or architect; or,
    - (2) meet or exceed the following minimum criteria:
      - (a) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
      - (b) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
      - (c) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means.
  - C. The enclosed area shall not be used for human habitation; and
  - D. The enclosed areas are usable solely for building access, parking of vehicles, or storage.
13. Bridges – New construction or substantial improvement of any bridge in Zones AE and A shall be designed such that:

- A. when possible, the lowest horizontal member (excluding the pilings or columns) is elevated to at least one foot above the base flood elevation; and
  - B. a registered professional engineer shall certify that:
    - (1) the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Section 9-536, subsection 11.; and
    - (2) the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.
14. Containment Walls – New construction or substantial improvement of any containment wall located within:
- A. Zones AE and A shall:
    - (1) have the containment wall elevated to at least one foot above the base flood elevation;
    - (2) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
    - (3) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Section 9-533, subsection 11.
15. Wharves, Piers and Docks – New construction or substantial improvement of wharves, piers, and docks are permitted in Zones AE and A, in and over water and seaward of the mean high tide if the following requirements are met:
- A. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
  - B. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

**SECTION 9-537**      CERTIFICATE OF COMPLIANCE (FM)

No land in a special flood hazard area shall be occupied or used and no structure which is

constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

1. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer, an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Section 9-536, subsection 6, 7, or 8.
2. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
3. Within 10 working days, the Code Enforcement Officer shall:
  - A. review the Elevation Certificate and the applicant's written notification; and,
  - B. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

**SECTION 9-538**      REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS (FM)

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

1. All such proposals are consistent with the need to minimize flood damage.
2. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
3. Adequate drainage is provided so as to reduce exposure to flood hazards.
4. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
5. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Section 9-536 of this Chapter. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

**SECTION 9-539**      APPEALS AND VARIANCES (FM)

The Board of Appeals of the City of Hallowell may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Chapter.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

1. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
2. Variances shall be granted only upon:
  - A. a showing of good and sufficient cause; and,
  - B. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
  - C. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
  - D. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
    - (1) that the land in question cannot yield a reasonable return unless a variance is granted; and,
    - (2) that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
    - (3) that the granting of a variance will not alter the essential character of the locality; and,
    - (4) that the hardship is not the result of action taken by the applicant or a prior owner.
3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.



4. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
  - A. other criteria of Section 9-539 and Section 9-536, subsection 11. are met; and
  - B. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
5. Variances may be issued for the repair, reconstruction, or restoration of Historic Structures upon the determination that:
  - A. the development meets the criteria of Section 9-539, subsections 1 through 4 above; and,
  - B. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
6. Any applicant who meets the criteria of Section 9-539, subsections 1 through 5 shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
  - A. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
  - B. such construction below the base flood level increases risks to life and property; and,
  - C. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.
7. Appeal Procedure for Administrative and Variance Appeals
  - A. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
  - B. Upon being notified of an appeal, the Code Enforcement Officer or Planning

Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

- C. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
- D. The person filing the appeal shall have the burden of proof.
- E. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
- F. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
- G. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to the Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

**SECTION 9-540**      ENFORCEMENT AND PENALTIES (FM)

- 1. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- 2. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Chapter.
- 3. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:
  - A. the name of the property owner and address or legal description of the property sufficient to confirm its identify or location;
  - B. a clear and unequivocal declaration that the property is in violation of a cited State or local law, or ordinance;
  - C. a statement that the public body making the declaration has authority to do so and a citation to that authority;
  - D. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,

- E. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

**SECTION 9-541**      VALIDITY AND SEVERABILITY (FM)

If any section or provision of this Division B is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Division B Ordinance.

**SECTION 9-542**      CONFLICT WITH OTHER ORDINANCES (FM)

This Division B Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Division B Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Division B Ordinance shall control.

**SECTION 9-543**      DEFINITIONS (FM)

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Division B Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

1. Accessory Structure – means a small detached structure that is incidental and subordinate to the principal structure.
2. Adjacent Grade – means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
3. Area of Special Flood Hazard – means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Section 9-531 of this Ordinance.
4. Base Flood – means the flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.
5. Basement – means any area of the building having its floor subgrade (below ground level) on all sides.
6. Building – see Structure.
7. Certificate of Compliance – a document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.
8. Code Enforcement Officer – a person certified under Title 30-A MRSA Section 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and

ordinances.

9. Development – means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials.
10. Elevated Buildings – means a non-basement building
  - A. built, in the case of a building in Zones AE or A, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
  - B. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones AE or A, Elevated Building also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Section 9-536, subsection 12.

11. Elevation Certificate – an official form (FEMA Form 81-31, 03/09, as amended) that:
  - A. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
  - B. is required for purchasing flood insurance.
12. Flood or Flooding – means:
  - A. A general and temporary condition of partial or complete inundation of normally dry land areas from:
    - (1) The overflow of inland or tidal waters.
    - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
  - B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph A.(1) of this definition.
13. Flood Elevation Study – means an examination, evaluation and determination of

flood hazards and, if appropriate, corresponding water surface elevations.

14. Flood Insurance Rate Map (FIRM) – means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.
15. Flood Insurance Study – see Flood Elevation Study.
16. Floodplain or Flood-prone Area – means any land area susceptible to being inundated by water from any source (see Flooding).
17. Floodplain Management – means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.
18. Floodplain Management Regulations – means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
19. Floodproofing – means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.
20. Floodway – see Regulatory Floodway.
21. Floodway Encroachment Lines – means the lines marking the limits of floodways on federal, state, and local floodplain maps.
22. Freeboard – means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.
23. Functionally Dependent Use – means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
24. Historic Structure – means any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
  - C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
  - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - (1) By an approved state program as determined by the Secretary of the Interior, or
    - (2) Directly by the Secretary of the Interior in states without approved programs.
25. Locally Established Datum – means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.
26. Lowest Floor – means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design Requirements described in Section 9-536, subsection 12. of this Chapter.
27. Manufactured Home – means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.
28. Manufactured Home Park or Subdivision – means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

29. Mean Sea Level – means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
30. Minor Development – means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Section 9-536, subsection 10., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.
31. National Geodetic Vertical Datum (NGVD) – means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called “1929 Mean Sea Level (MSL)”.
32. New Construction – means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.
33. North American Vertical Datum (NAVD) – means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.
34. 100-year flood – see Base Flood.
35. Recreational Vehicle – means a vehicle which is:
  - A. built on a single chassis;
  - B. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
  - C. designed to be self-propelled or permanently towable by a motor vehicle; and
  - D. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

36. Regulatory Floodway –
- A. means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
  - B. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.
37. Riverine – means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
38. Special Flood Hazard Area – see Area of Special Flood Hazard.
39. Start of Construction – means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.
40. Structure – means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.
41. Substantial Damage – means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
42. Substantial Improvement – means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of



the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
  - B. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.
43. Variance – means a grant of relief by a community from the terms of a floodplain management regulation.
44. Violation – means the failure of a structure or development to comply with a community's floodplain management regulations.

**SECTION 9-544**      ABROGATION (FM)

This Division B Ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

**SECTIONS 9-545 THROUGH 9-550** (Reserved)

**DIVISION C - HISTORIC DISTRICT (HD)**

**SECTION 9-551**      PURPOSE (HD)

The purpose of the Historic District and the designation of Historic Landmarks is to preserve structures and areas of historic and architectural value and as declared by the City Council under the provisions of Sub-Chapter V of Chapter 8 of this Code.

**SECTION 9-552**      DESCRIPTION (HD)

1. Historic District:
- A. The Historic District (HD) shall generally include the land area bounded as follows: easterly by the Kennebec River; southerly by the south and west lines of Lot 26, Water Street, by the south and east lines of lot 29, by Bridge Street, and by the south line of lot 30 all as shown on Tax Map 10, by Second Street, and by Litchfield Road; westerly by the west line of the lots that front on the west side of Middle Street on Tax Map 11 and on Tax Map 9 from Litchfield Road to Academy Street, excepting lot 1 on Tax Map 11, and lot 10A on tax Map 9, by Academy Street, by the west line of the lots that front on the west line of Warren Street from Academy Street to Central

Street, by Central Street, by the west line of lot 66A, lot 66, and lot 41, by the south and west line of lot 44 all as shown on Tax Map 6, by Winthrop Street, and by the west line of lot 28, lot 32, lot 33, lot 34, and lot 35 all as shown on Tax Map 6; northerly by Getchell Place, by the north and east line of lot 125, by the east line of lot 126, by the north line of lot 82, all as shown on Tax Map 5, by the north line of the lots that front on the north line of Lincoln Street, by the north line of lot 95 on Tax Map 5, by Second Street, by the north line of Maine Central Railroad, by the east line of Water Street, by the north line of lot 172 and lot 182, as shown on Tax Map 5, and by the north line of lot 182 extended easterly.

- B. The Historic District (HD) shall specifically include the areas shown on Tax Map 10, except lots 27, 28, and 31; all of the lots shown on Tax Map 9, except lots 9A through 13, 16 through 24, 28, and 29; all of the lots shown on Tax Map 5, except lots 87, 96 through 124, 128 through 130, 158 through 159A, 160 through 165A, 166 through 170, 180, 181, and the Maine Central Railroad land east of the line of Water Street; only the lots designated as 2 through 18 on Tax Map 11; and only the lots designated as 28 through 35, 39 through 44, and 66 through 68 on Tax Map 6.

[Derivation: Ordinance No.: 06-01, Effective: 3./23/2006]

2. Historic Landmarks. Historic Landmarks are designated as follows:

- A. The Powder House located at High Street, and within lot 53 on Tax Map 6.

### **SECTION 9-553**      DEFINITIONS (HD)

The following enumerated words and terms as used in this Division C shall have the meaning ascribed herein, unless the context otherwise indicates.

1. Addition. Any proposed change which increases the size of a building.
2. Alteration. Any proposed change to buildings or structures which would alter or affect any exterior architectural feature.
3. Exterior Architectural Features. Elements of a building's outside appearance including but not limited to, architectural character; general composition and general appearance of exterior siding; exterior trim; change in size of door and window openings; roofs; porches; signs; fire escapes and accessory buildings; and solar facilities.
4. Historic District. An explicitly delineated area within the City, designated by the City Council as a Historic District under the provision of Subchapter V of Chapter 8 of this Code and as described in Section 9-552.
5. Historic Landmark. A building, structure, or site officially designated as a Historic

Landmark by the City Council under the provisions of Sub chapter V of Chapter 8 of this Code. A Historic Landmark may be located within a Historic District.

6. New Construction. Any construction requiring a building permit or sign permit.
7. Public Improvements. Works of governmental units and public utilities, including but not be limited to, lighting, sidewalks, street furniture, overhead utilities, buildings, tree planting programs, street signs, traffic lights, and bus stops and shelters.

[Derivation: Section 10.2, 1989 Zoning Ordinance]

**SECTION 9-554**      APPLICATION (HD)

1. Any owner or person in charge of property designated as a Historic Landmark or situated within a Historic District must apply for and receive a Historic District Certificate of Appropriateness on the relevant building permit, prior to undertaking of any construction, alteration, addition, relocation, demolition or other activity which would result in an exterior architectural change to any property, including any structure, public rights of way improvements, or street lighting, which is part of a designated Historic Landmark or located within a designated Historic District. Such certification must also be obtained prior to undertaking the construction of any new structure in a Historic District. Any such certification shall be obtained before any building, removal, demolition, or other similar City permit is issued.
2. This Division C shall apply to municipal, quasi-municipal and county governments and their agencies. This Division C also applies to private non-profit organizations and public-service corporations regardless of their exemption from any other municipal ordinance to the extent that general law permits.
3. No building permit or demolition permit shall be issued for any property designated as a Historic Landmark or any property located within a Historic District unless a Certification of Planning Board Approval has been previously issued with respect to same property and subject matter as the required permit.
4. The Code Enforcement Officer shall not approve any application for a building permit or demolition permit with respect to any property within a Historic District or to any Historic Landmark, that is materially different than the copy of the building or demolition permit application submitted with the application for Certificate of Planning Board Approval. All such building or demolition permits are conditioned upon compliance with any conditions set forth in the Certificate of Planning Board Approval and all plans and representations in the application approved by the Planning Board.

[Derivation: Sections 10.8(4) and 10.9, 1989 Zoning Ordinance]

5. The Historic District Certificate of Appropriateness Application Fee is \$25.00.

[Derivation: Ordinance No.: 05-10 Effective November 18, 2005]

6. The Planning Board may require that an engineer, attorney or consultant review one or more aspects of an application for compliance with this Ordinance or to conduct independent studies or testing, and to advise the Board. It is intended that such review shall be requested only where there may be serious questions concerning methodologies, practices, opinions, or scientific principles presented by the applicant or its experts to meet its burden of proof. The engineer, attorney or consultant shall first establish the maximum cost of such review by written agreement with the City. The applicant shall then deposit with the City an amount equal to the full maximum cost, which the City shall place in an escrow account. The City shall pay the engineer, attorney or consultant from the escrow account and reimburse any remaining balance to the applicant, after final payment. Any interest accrued shall remain with the City.

[Derivation: Ordinance 07-01; Effective March 22, 2007]

**SECTION 9-555 APPLICATION FORM (HD)**

All applications for a certification of Planning Board approval shall be made to the Planning Board. Where additional building permits are required, application will be made concurrently to the Code Enforcement Officer.

The application shall include the following information:

1. Applicant's name, address and interest in the subject property.
2. The owner's name, address, if different from applicant.
3. The address and location of the property.
4. A brief written description of the action desired to be undertaken with respect to the property.
5. A drawing or drawings indicating the design, texture, color and location of any proposed alteration or new construction for which the Certificate is being applied. As used herein, drawings shall mean plans and exterior elevations drawn to scale, with sufficient detail to show as far as they relate to exterior appearances, the architectural design of the buildings, including materials, textures and colors, including samples of materials and colors.
6. Photographs of the property involved and adjacent property if requested by Planning Board or Code Enforcement Officer.
7. A copy of each completed and executed application for a building permit with respect to the property and the proposed construction, alteration, addition, relocation, demolition, or architectural change thereon. Such additional materials as the Board

may reasonably require.

[Derivation: Section 10.10, 1989 Zoning Ordinance; Ord. No. 00-2, effective 1/20/2000]

**SECTION 9-556** APPROVAL OR DENIAL BY THE PLANNING BOARD (HD)

The Planning Board shall render its decision within sixty (60) days after the Planning Board accepts a complete application for certification. The Board shall render its decision in the form of a written statement either granting, denying, or granting with conditions, a certification of the Planning Board approval. Such a statement shall include findings of fact, shall specify the reason or reasons for such decision, and shall contain a conclusion or statement separate from the findings of fact which shall grant approval, conditional approval subject to expressly stated modifications or conditions, or shall deny approval. In the case of an approval, the Board shall specifically describe the particular exterior change which is authorized by the certification including a specific enumeration of any conditions imposed. In the case of a denial, the Board shall, if possible, make recommendations and suggest ways of satisfying its adopted standards. The City Manager shall mail notice of any decision of the Board to the appellant or the applicant and any designated interested parties within ten (10) business days of such decision.

[Derivation: Section 10.11, 1989 Zoning Ordinance]

**SECTION 9-557** AMENDMENT OF APPLICATION (HD)

In the event of a denial, an applicant may amend the application to conform to the Planning Board's recommendations and resubmit it by the same procedure as the original submission.

[Derivation: Section 10.12, 1989 Zoning Ordinance]

**SECTION 9-558** CRITERIA FOR CERTIFICATION OF PLANNING BOARD APPROVAL FOR NEW CONSTRUCTION IN HISTORIC DISTRICT (HD)

The following standards and requirements and the standards contained in the U.S. Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall be used in review of applications for Certificates of Approval. Design considerations and structural factors related to maintaining historic structures in good condition shall be the Planning Board's primary area of focus.

1. General Recommendations:
  - A. Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.
  - B. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided

when possible.

- C. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and that seek to create an earlier appearance shall be discouraged.
  - D. Changes that may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
  - E. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.
  - F. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
  - G. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
  - H. Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to, any project.
  - I. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.
  - J. Wherever possible, new additions or alterations to structures shall be done in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.
2. Visual Compatibility. New and existing buildings and structures, and appurtenances thereof, that are moved, reconstructed, materially altered, or repaired shall be visually compatible in terms of:
- A. Height. The height of the proposed buildings and structures shall be visually compatible with adjacent buildings.

- B. Proportion of front facade. The relationship of the width to the height of the front elevation shall be visually compatible with buildings, public ways, and places to which it is visually related.
- C. Proportion of openings. The relationship of the width to height of windows shall be visually compatible with buildings, public ways, and places to which the building is visually related.
- D. Rhythm of solids to voids in front facades. The relationship of solids to voids in the front facade of a building shall be visually compatible with buildings, public ways, and places to which it is visually related.
- E. Rhythm of spacing and buildings on streets. The relationship of a building or structure to the open space between it and adjoining buildings or structures shall be visually compatible with the buildings, public ways, and places to which it is visually related.
- F. Rhythm of entrance porch and other projections. The relationship of entrances and other projections to sidewalks shall be visually comparable with the buildings, public ways, and places to which it is visually related.
- G. Relationship of materials, texture, and color. The relationship of the materials, texture and color of the facade shall be visually compatible with the predominant materials used in the buildings and structures to which it is visually related.
- H. Roof shapes. The roof shape of a building shall be visually compatible with the buildings to which it is visually related.
- I. Walls of continuity. Building facades and appurtenances, such as walls, fences, and landscape masses, shall, when it is a characteristic of the area, form cohesive walls of enclosure along a street, to ensure visual compatibility with the buildings, public ways, and places to which such elements are visually related.
- J. Scale of a building. The size and mass of buildings and structures in relation to open spaces, windows, door openings, porches, and balconies shall be visually compatible with the buildings, public ways, and places to which they are visually related.
- K. Directional expression of front elevation. A building shall be visually compatible with the buildings, public ways, and places to which it is visually related in its directional character, whether this be vertical character, horizontal character, or non directional character.
- L. Exterior lighting. (Reserved)

[Derivation: Section 10.13, 1989 Zoning Ordinance]

**SECTION 9-559** (Reserved)

**SECTION 9-560** CRITERIA FOR CERTIFICATION OF PLANNING BOARD APPROVAL FOR DEMOLITION OR REMOVAL OF HISTORIC LANDMARKS OR BUILDINGS IN HISTORIC DISTRICT (HD)

A certification of Planning Board approval shall not be issued for the whole or partial demolition or removal of an Historic Landmark or a structure which is located in an Historic District unless such is found by the Board to conform to one or more of the following criteria:

1. The structure is of limited architectural or historic value as part of the visual character of the street on which it is located.
2. The structure presents an immediate hazard and a possibility of harm to the neighborhood.

[Derivation: Section 10.14, 1989 Zoning Ordinance]

**SECTION 9-561** CERTIFICATION OF PLANNING BOARD APPROVAL: TRANSFERABILITY AND LAPSE (HD)

Certification of Planning Board approval shall be non-transferable and shall lapse and be of no effect if the activity permitted shall not have commenced within one (1) year from the date of issuance.

[Derivation: Section 10.15, 1989 Zoning Ordinance]

**SECTION 9-562** EXEMPTIONS (HD)

1. Ordinary Maintenance Permitted. Nothing in this Division C shall be construed to regulate or prevent the ordinary maintenance or repair of any exterior feature in an Historic District or of any City Landmark which does not involve a change in the design, material, or outer appearance.
2. Safety. Nothing in this Division C shall prevent the construction, reconstruction, alteration, restoration, or demolition of any feature which the Code Enforcement Officer shall certify is required by the public safety because of an unsafe or dangerous condition, but any such action shall be, where possible, in accordance with the criteria set forth in this Chapter.
3. Handicapped Accessibility. Nothing in this Division C shall be construed to prevent construction or reconstruction necessary to make a building accessible to handicapped persons, to the extent required by statute. Any such construction or reconstruction shall conform as closely as possible to the criteria and performance



standards set forth in this Chapter.

[Derivation: Section 10.16, 1989 Zoning Ordinance]

**SECTION 9-563**      ENFORCEMENT (HD)

Permits. No building, removal or demolition permit shall be issued for any property designated as an Historic Landmark or located within an Historic District unless a certification of Planning Board approval shall have been issued for the action for which the permit is required.

[Derivation: Section 10.17, 1989 Zoning Ordinance]

**SECTION 9-564**      MAINTENANCE AND REPAIR REQUIRED (HD)

1.    PURPOSE: The purpose of this Section is to prevent the deterioration of all buildings that abut Water Street in the Historic District, hereinafter referred to as “designated area”, by requiring that such buildings be enclosed so that the interiors are protected from the elements of the weather.
  
2.    REQUIREMENTS: An owner or the agent of the owner in charge of a building within the designated area shall protect the building from falling into a state of disrepair or deterioration so that the interior of the building is not protected from the elements of the weather.

Evidence of deterioration and disrepair include but is not limited to any or all of the following: holes, cracks and gaps in exterior walls, roofs, chimneys and foundations; and broken or missing windows and doors.

In evaluating a building for compliance with this Section, the Code Enforcement Officer shall use the definitions in Sections 9-151 and 9-553.

3.    INSPECTION: The Code Enforcement Officer may visually inspect the building from the inside and the outside in order to ensure compliance with the ordinance.

[Derivation: Ord. No. 15-08, eff. 9/18/2015]

**SUBCHAPTER VI – PERFORMANCE STANDARDS**

The standards in this Subchapter shall apply to all new or expanded uses of land and buildings, which are listed as Permitted or Conditional Uses in Subchapters II, III, and IV of this Chapter.

**SECTION 9-601      ACCESSORY BUILDINGS**

No garage or other accessory structure shall be located in a required front yard setback. When located to the rear of the main building, the accessory structure shall be set back at least ten (10) feet from the side or rear lot lines, provided that all accessory structures, other than those that are water oriented, shall meet the shoreland setback requirements of the district in which they are located.

[Derivation: 1989 Zoning Ordinance, Section 5.1]

**SECTION 9-602      ADULT BUSINESS ESTABLISHMENTS**

1.    Findings and Purpose. The Council hereby finds that because of their unique and potentially offensive nature, adult business establishments can have a blighting influence on the surrounding neighborhood if permitted in certain districts or if allowed to concentrate in certain other districts within the City. Moreover, such establishments are incompatible with uses characterized by family and youth related activities. The purpose of this subsection is, therefore, to prevent such deleterious effects and, thus, protect public health, safety, and general welfare by regulating the location and certain other aspects of adult business establishments as defined in Section 9-151(3).
  
2.    Requirements:
  - A.    Adult business establishments shall be at least one thousand (1,000) feet from any other adult business establishment, and at least two hundred fifty (250) feet from the nearest property line of any public, private or parochial school, church, synagogue or similar place of worship, public library, playground, or child care facility, and at least two hundred fifty (250) feet from any Residential District (R1, R2, and R3) or the Historic District as measured in a straight line without regard to intervening structures or objects; and
  
  - B.    No sexually explicit materials, entertainment or activity shall be visible from the exterior of the premises.

[Derivation: Section 5.1-A, 1989 Zoning Ordinance as adopted; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-603**      FARMING AND KEEPING FARM ANIMALS

The keeping or raising of animals for any commercial purpose and according to the “best management practices” of the Maine Department of Agriculture, may be conducted as a permitted use in the Rural Farm District.

[Derivation: Section 5.2, 1989 Zoning Ordinance as amended 2/10/92; Ord. No. 13-01, eff. 1/17/2013]

**SECTION 9-604**      ANTENNAS

Any antenna erected or constructed whether or not it is on or in or part of a tower shall be subject to the standards set forth for towers in Section 9-640, Subsections 3 and 6.

[Derivation: Section 5.2-A, 1989 Zoning Ordinance as adopted 9/28/92]

**SECTION 9-605**      BED & BREAKFAST

1. There shall be at least one parking space for each rental room in addition to the spaces required for the dwelling unit.
2. There shall be at least one bathroom provided for the rental rooms, in addition to the bathroom for the dwelling unit.
3. Each rental room shall have not less than ten by twelve feet horizontal dimensions.
4. Each rental room shall be equipped with an approved smoke detector.
5. Secondary building exits shall be provided for emergency use in conformance with State and local fire and building codes.

[Derivation: Section 5.3, 1989 Zoning Ordinance]

**SECTION 9-606**      CAMPGROUNDS

1. Campgrounds shall conform to the minimum requirements imposed under State Licensing Procedures and the following:
  - A. Recreational vehicle and tenting areas shall contain approved water-carried sewage facilities and shall meet the following criteria:
    - (1) Each recreational vehicle, tent, or shelter site shall contain a minimum of one thousand (1,000) square feet, not including roads and driveways, except it shall be five thousand (5,000) square feet when within two hundred and fifty (250) feet of normal high water mark of any stream or pond.

- (2) Each recreational vehicle, tent, or shelter site shall be provided with a picnic table, trash receptacle, and fireplace or cooking grill.
- B. The area intended for placement of the recreational vehicle, tent or shelter and utility and service buildings, shall be set back a minimum of one hundred (100) feet from the exterior lot lines of the camping area.
- C. All campgrounds shall be screened from adjacent land areas by a continuous landscaped area not less than twenty-four (24) feet in width containing evergreen shrubs, trees, fences, walls or any combination which forms an effective visual barrier of not less than six (6) feet in height.
- D. Roads, parking, campsites and required facilities shall be planned and shall be shown on the proposed plan which is submitted for review and approval as a Conditional Use.
- E. A soil erosion and sedimentation control plan prepared in consultation with the Maine Soil and Water Conservation Commission or registered soil scientist or engineer, shall be submitted. In addition to data on soils, slopes and drainage, a vegetation map showing the following items may be required.
  - (1) The major types of vegetation shall be identified and described (as to age, height, openness or density, and pattern – either natural or reforested).
  - (2) New planting shall be selected to provide screening and shelter, to tolerate existing and proposed site conditions, and to blend compatibly with existing natural vegetation.
  - (3) All vegetative clearing shall avoid creating straight line edges between open land and surviving stands in order that the development better blend into the existing area.
  - (4) Areas of activity and/or traffic shall be sited to avoid wildlife areas (such as thickets for birds and small mammals, or deer yards and trails).

[Derivation: Section 5.4, 1989 Zoning Ordinance]

**SECTION 9-607**      CHILD CARE CENTERS

- 1. All outside play equipment shall be located in side or rear yards and shall meet the required side and rear setback requirements.
- 2. Outside play areas shall be buffered from adjoining uses by fencing at least 4 feet in height or plantings at least 4 feet in height.

[Derivation: Section 5.5, 1989 Zoning Ordinance]

**SECTION 9-608**      CLUSTER AND PLANNED UNIT DEVELOPMENTS

1. Purpose. The purpose of this provision is to allow for new concepts and greater flexibility in site planning and housing design. To this end, dimensional and area requirements of each district except the Resource Protection and Open Space Districts may be altered in conformance with this section. This shall not be construed as granting variances to relieve hardship.
  - A. A residential subdivision development proposal or a mixed commercial and residential subdivision development proposal encompassing at least 5 acres but less than 10 acres may be laid out and presented to the Planning Board as a cluster or planned unit development proposal.
  - B. A residential development subdivision proposal or a mixed commercial and residential subdivision development proposal encompassing 10 acres or more shall be laid out and presented to the Planning Board as a cluster or planned unit development proposal. This requirement shall not apply if the proposed development is subdivided into lots of 2 acres or more in size.

[Derivation: Ord. No. 12-11, eff. 10/19/2012]

2. Basic Requirements:
  - A. The Planning Board shall review all clustering and planned unit development proposals under the Conditional Use Procedures of this Chapter.
  - B. All cluster and planned unit developments shall meet the requirements for a subdivision except those relating to set-backs, certain frontage requirements, road widths, lot area per dwelling unit, and lot sizes. The Board shall conduct cluster or PUD site review and the subdivision review simultaneously.
  - C. Any use of land within the development shall conform to uses allowed in the District in which development is proposed.
  - D. Building set-backs from public roads or adjacent property shall not be reduced, except as provided by paragraph J below.
  - E. The distance between the foundations of any two main buildings shall not be less than the height of the higher of such two main buildings.
  - F. All dwelling units in a cluster or PUD shall be connected to a common water supply and distribution system, either public or private.
  - G. All structures with required plumbing in a cluster or PUD shall be connected

to a public sanitary sewer, if available, or to a central collection and treatment system or to a clustered leaching field system in accordance with the Maine State Subsurface Wastewater Disposal Rules, unless the applicant can clearly demonstrate that another alternative will adequately treat wastewater generated by the project.

- H. All utilities shall be installed underground wherever economically feasible. Transformer boxes, pumping stations, and meters shall be located so as not to be unsightly or hazardous to the public.
- I. It shall be the responsibility of the developer or subsequently established owners association to provide for rubbish removal and disposal, snow removal, and site maintenance. All outdoor storage areas for waste collection shall be enclosed by a wooden or masonry structure at least 4 feet in height, and shall be protected by a roof and door.
- J. A cluster or PUD may be exempted from applicable street frontage, road width, lot area per dwelling unit, or lot size requirements of this Chapter, if the development provides for a common open space that is of a size and purpose that reasonably relates to the location of the development in light of the characteristics of the surrounding neighborhood, and the size and design of the development proposal. In addition, a cluster or PUD may be exempted from applicable street setback requirements from internal streets within the development and for side and rear setback requirements within the development but shall comply with the setback requirements for units adjacent to the perimeter of the development. Such open space, which shall not include paved areas for parking, streets, or walkways, shall be no less than 50% of the entire land area. Except as otherwise provided in this paragraph, the open space shall not be considered to meet this requirement if it is land otherwise unsuitable for building, such as steep slopes, swales, and wetlands. Steep slopes, swales and wetlands may be included in meeting the 50% open space requirement if the applicant demonstrates that the open space will be used for farming. The requirements of the Street Design Ordinance shall be met.

[Derivation: Ord. No. 12-10, eff. 10/19/2012]

3. Siting and Buffering Standards:

- A. Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography, south facing slopes (where possible) and natural drainage areas, in accordance with an overall plan for site development and landscaping. A site inspection shall be conducted by the Board prior to approval. Approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals and supporting documents, except de minimus changes as determined by the Planning Director which do not affect approval standards, is subject to the

review and approval of the Planning Board prior to implementation.

- B. Buildings shall be designed and laid out to protect bedroom windows from light invasions by vehicle headlights or glare from existing outdoor lighting or illuminated signs, insofar as practicable.
- C. Where parking spaces or storage areas are located in areas abutting existing residential properties, a permanent wood or masonry screen at least four feet high shall be erected along the property line in addition to the green perimeter strip described below.
- D. A green perimeter strip not less than twenty (20) feet wide shall be maintained with grass, bushes, flowers, or trees all along side lot or rear lot lines of the property as a whole, and (except for entrance and exit driveways) along the entire front of such lot. Such green strip shall not be built on or paved or used for parking or storage. There shall be no removal of trees over 4 inches in diameter within this buffer.
- E. Except for normal thinning and landscaping, existing vegetation shall be left intact to prevent soil erosion unless the existing vegetation includes non-native, invasive species listed in Section 9-621 of this Ordinance. If there are any non-native, invasive plants within these areas, these plants may be removed and replaced with non-invasive species. The Board shall require a developer to take appropriate measures to prevent and correct soil erosion in the proposed development.

[Derivation: Ord. No. 09-02, effective 3/19/2009]

4. Dedication and Maintenance of Common Open Space and Facilities:

- A. All open space and common land and facilities shall be owned jointly or in common by the owners of the building lots or units, by a unit owners association which has as its principal purpose the conservation or preservation of land in essentially its natural condition, by a non-profit association, or by the City of Hallowell, or by another entity.
- B. Further subdivision of open space or common land or its use other than for agricultural use, recreation or conservation, except for easements for underground utilities, shall be prohibited. Only structures or buildings accessory to such uses may be erected on the common land.
- C. The open space and common land and facilities shall be shown on the development plan with appropriate notations to indicate that:
  - (1) It shall not be used for future building lots; and that
  - (2) The common open space shall be maintained by a unit owners association or other entity, or if the whole or a portion is accepted by

the City, operated by the City as a public recreation facility.

- D. If any or all of the common land and facilities are to be owned jointly or in common by the owners of the building lots or units, the formation and incorporation by the developer of a unit owners association shall be required, and the bylaws of the proposed association shall specify maintenance responsibilities and shall be submitted to the Planning Board prior to the Final Plan approval.
- E. The association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of the common land, private roads, sewerage disposal, landscaping, recreational facilities and other commonly used system and City assessments.
- F. The developer or subdivider shall maintain control of such common areas, open space and facilities, and be responsible for its maintenance until development sufficient to support the association has taken place, or alternatively, the objectives of clustering have been met. Such determination shall be made by the Board upon request of the unit owners association or the developer or subdivider.

[Derivation: Section 5.6, 1989 Zoning Ordinance]

5. Commercial Uses.

- A. Commercial activity may be conducted within a Planned Unit Development, if such activity is confined to retail business, financial institutions, and professional services providing goods and services to the residents of the Planned Unit Development.
- B. The Planning Board may as part of an approved conditional use permit establish reasonable conditions with respect to each commercial use within a Planned Use Development, including requirements for limitations on times of operation, area and size of facilities, and means of restricting services to, and identifying, residents of the Planned Use Development.

[Derivation: Ord. No. 97-4 Eff. 10/23/1998]

**SECTION 9-609**      CORNER LOTS

The setbacks on a corner lot shall be the front yard setback from the building to the street rights of way in both directions.

[Derivation: Section 5.7, 1989 Zoning Ordinance]



**SECTION 9-610**      DUMPSTER

Dumpsters shall be designed, maintained and regularly emptied so that they are secure, safe, covered and leak-proof, and so that they do not leak, attract animals or emit noxious odors. Dumpsters may not be placed within, or otherwise obstruct or impair, access to any public right of way. All dumpsters for the temporary storage of household and/or commercial waste shall be screened by a 6-foot high fence or 6-foot plantings which are of a type to form an effective visual barrier. With the written approval of the Code Enforcement Officer, screening of dumpsters shall not be required if there is a clearly demonstrated need for a dumpster together with a clearly demonstrated constraint which would make screening impractical or impossible. A dumpster may be temporarily placed in any safe location on private property during construction or demolition activities or as otherwise needed for short-term use, without the need for screening. Temporarily placed dumpsters shall be removed upon completion of the project for which they are being used, but in no case shall a temporary dumpster remain in place for more than 180 days except by approval of the Code Enforcement Officer.

[Derivation: Section 5.8, 1989 Zoning Ordinance; Ord. No. 07-13, eff. 10/19/2007; Ord. No. 18-09, eff. 06/21/2018]

**SECTION 9-611**      DUST, FUMES, VAPORS, AND GASES

Emission of dust, dirt, fly ash, fumes, vapors or gases, which could damage human health, animals, vegetation, or property, or which could soil or stain persons or property, at any point beyond the lot line of the commercial or industrial establishment creating such emission, shall be prohibited. All such activities shall also comply with applicable Federal and State laws and regulations.

[Derivation: Section 5.9, 1989 Zoning Ordinance]

**SECTION 9-612**      EROSION CONTROL

Erosion of soil and sedimentation of watercourses and water-bodies shall be minimized by employing the following "best management" practices:

1. Stripping of vegetation, soil removal, and regrading or other development shall be accomplished in such a way as to minimize erosion.
2. The duration of exposure of the disturbed area shall be kept to a practical minimum.
3. Temporary vegetation and/or mulching shall be used to protect exposed areas during development.
4. Permanent (final) vegetation and mechanical erosion control measures, in accordance with the standards of the County Soil and Water Conservation District and the Maine Soil and Water Conservation Commission, shall be installed as soon as possible after construction ends.
5. Until a disturbed area is stabilized, sediment in runoff water shall be trapped by the

use of debris basins, sediment basins, silt traps, or other acceptable methods as determined by the Planning Board, Board of Appeals or Code Enforcement Officer, whichever has the authority to make such decisions on the project.

6. The top of a cut or the bottom of a fill section shall not be closer than ten feet to an adjoining property, unless otherwise specified in this Ordinance or specified by the Planning Board, the Board of Appeals, or Code Enforcement Officer.
7. During grading operations, methods of dust control shall be employed wherever possible.

[Derivation: Section 5.10, 1989 Zoning Ordinance]

8. No plant materials installed on any site as part of erosion control measures shall include plants that are listed as being an invasive species in Section 9-621 of this Ordinance unless the Planning Board determines that the species is not an invasive species in Maine.

[Derivation: Ord. No. 09-02, effective 3/19/2009]

**SECTION 9-613      EXPLOSIVE MATERIALS**

All flammable or explosive liquids, solids or gases shall be stored in a manner and location which is in compliance with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate Federal and State regulations.

[Derivation: Section 5.11, 1989 Zoning Ordinance]

**SECTION 9-614      EXTRACTIVE INDUSTRY**

1. The purpose of this Section is to allow the extraction and processing of valuable sand, gravel, rock, soil, peat, or other mineral deposits with a minimum of adverse impact upon ground waters, surface waters, and neighboring properties.
2. Approval as Conditional Use:
  - A. The excavation, processing or storage of soil, top-soil, peat, loam, sand, gravel, rock or other mineral deposits shall be approved by the Planning Board as a conditional use prior to commencing any such operation.
  - B. The following earth-moving activities shall be allowed without approval as a conditional use:
    - (1) The removal or filling of material incidental to construction, alteration or repair of a building or accessory structure or in the grading and landscaping incidental to such construction, alteration or repair.
    - (2) The removal or filling of material incidental to construction, alteration or repair of a public or private way or public utility.

- (3) The excavation, processing or storage of less than one hundred (100) cubic yards of material on a parcel within any 12 month period.
  - (4) Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance. A Conditional Use permit from the Planning Board shall be required for mineral exploration which exceeds the above limitations.
3. Application for Conditional Use Approval. Application for conditional use approval by the Planning Board shall include:
  - A. A sketch plan which shows:
    - (1) The name and address of the owner of the property involved;
    - (2) The name and address of the operator who will undertake the earth moving activity, if different from the property owner;
    - (3) The location and boundaries of the lot or lots for which approval is requested;
    - (4) The names of the owners of all parcels of land directly abutting or directly across any street adjoining the property for which approval is requested;
    - (5) The location of all proposed access roads and temporary or permanent structures;
    - (6) The location of all natural or man-made water bodies within the proposed site or within 150 feet of the proposed site;
    - (7) The topography of the proposed site shown with contour lines with a contour interval of not more than five (5) feet; and
    - (8) The specific location of the proposed earth movement with an indication of the degree to which earth movement activity will occur within specified time intervals.
  - B. Written statements and/or sketch plans which detail:
    - (1) The location and nature of proposed fencing, buffer strips, signs, lighting, parking and loading areas;
    - (2) The proposed method of earth movement;
    - (3) The estimated duration, regularity and working hours of the proposed operation;

- (4) Plans to control erosion and sedimentation during the operation;
  - (5) Plans to stabilize unstable slopes;
  - (6) Plans to store and/or remove stripped vegetation and topsoil;
  - (7) Plans for the rehabilitation and restoration of the site upon completion of the operation including the timing of such site restoration, the final grade, and methods to control erosion and sedimentation both during and after reclamation activities;
  - (8) The effect of the proposed activity on existing and foreseeable traffic patterns in the City; and
  - (9) A narrative description of the operation, including the size of the operation, the number of trucks, and how and by what routes the extracted material is to be moved.
4. Standards. The Planning Board in granting conditional use approval shall specify such requirements as it deems necessary or desirable to ensure compliance with the following performance standards:
- A. No part of any extraction operation shall be permitted within 75 feet of any property or street line, except that drainage ways to reduce runoff into or from the extraction area may be allowed up to 50 feet of such lines. Natural vegetation shall be undisturbed and maintained in buffer areas.
  - B. If the Planning Board determines that a proposed site and improvements are in a location that may have mud-slide hazards, further review must be made by persons qualified in geology and soils engineering and the cost of such review shall be paid by the applicant; and the proposed new construction, substantial improvement, or grading must (i) be adequately protected against mudslide damage and (ii) not aggravate the existing hazard.
  - C. No slope steeper than 2 feet horizontal to 1 foot vertical shall be permitted at any extraction site unless a fence at least 4 feet high is erected to limit access to such locations.
  - D. Any top soil and subsoil suitable for purposes of revegetation shall, to the extent required for restoration, be stripped from the location of extraction operations and stockpiled for use in restoring the location after extraction operations have ceased. Such stockpiles shall be protected from erosion according to the erosion prevention performance standards of this Ordinance.
  - E. Sediment shall be trapped by diversions, silting basins, terraces and other measures designed by a professional engineer, in order to protect the

surface water bodies from sedimentation.

- F. The sides and bottom of cuts, fills, channels, and artificial water courses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to Standards of the Maine Soil and Water Conservation Commission.
- G. The hours of operation at any extraction site shall be limited to 7 a.m. to 6 p.m. during weekdays, unless otherwise specified by the Planning Board.
- H. No equipment, debris, junk or other material shall be permitted on an extraction site except those directly related to active extraction operations, and any temporary shelters or buildings erected for such operations and equipment used in connection therewith shall be removed within 30 days following completion of active extraction operations.
- I. Within twelve months following the completion of extraction operations at any extraction site or at any one or more locations within any extraction site, ground levels and grades shall be established in accordance with the approved plans filed with the Planning Board so that:
  - (1) All debris, stumps, boulders and similar materials shall be removed and disposed of in an approved location or buried and covered with a minimum of 2 feet of soil. Only materials generated on-site may be buried or covered.
  - (2) Storm drainage and water courses shall leave the location at the original natural drainage points, where practicable, and in a manner such that the amount of drainage at any point is not significantly increased.
  - (3) At least 4" of top soil or loam shall be retained or obtained to cover all disturbed land areas, which shall be reseeded and properly restored to a stable condition.
  - (4) The final grade slope shall be a two-to-one (2:1) slope.

Extractive operations shall be deemed to be complete when less than 100 cubic yards of materials are removed in any consecutive twelve month period.

- 5. Surety and Terms of Approval. No approval shall be issued without some form of security to ensure compliance with such conditions as the Planning Board may impose. No approval shall be issued for a period to exceed five years, although such approval may be renewed for additional periods in the same manner contained herein.
- 6. Existing Operations. Discontinuation of any operation existing prior to August 9, 1989 for a period of more than one year shall result in the loss of non-conforming

use status for that operation. Discontinuation is defined as being the excavation, processing or storage of less than one hundred (100) cubic yards of material.

[Derivation: Section 5.12, 1989 Zoning Ordinance as amended]

**SECTION 9-615**      FLOOD HAZARD AREAS

In areas delineated as being within the 100-year floodplain as shown on the Flood Insurance Rate Map for the City of Hallowell, dated June 16, 2011, all new construction, additions, and modifications to existing structures shall conform to the requirements of Division B of Subchapter V of this Chapter.

[Derivation: Section 5.13, 1989 Zoning Ordinance; Ord. No. 11-06, eff. 10/21/2011]

**SECTION 9-616**      EXTERIOR LIGHTING

1.      General Requirements. All new or revised exterior lighting including the replacement or modification of existing lighting fixtures that results in a change in the lighting characteristics of the fixture, must be designed to provide only the minimum lighting necessary to ensure adequate vision, safety, and comfort and may not cause glare beyond the limits of the property boundaries including street rights-of-way. New and replacement exterior lighting must conform to the current recommended practices of the Illuminating Engineering Society of North America (IESNA) unless more restrictive requirements are established by this article. When the lamps or bulbs of existing lighting installations are replaced, the replacements must conform to the requirements of IESNA and this article to the extent reasonable.
  
2.      Lighting Fixtures. All new exterior lighting fixtures and installations for single family dwellings or duplexes constructed after April 1, 2008 and all new or replacement exterior lighting fixtures and installations for both newly constructed and existing multifamily housing and nonresidential uses other than outdoor sports and recreational facilities that are located outside the right-of-way of a public street must meet the following standards:
  - A.      Lighting fixtures mounted on masts or poles must be cut-off fixtures except for period or historical fixtures meeting the provisions of F of this section.
  
  - B.      Flood lighting or other directional lighting may be used for supplemental illumination provided that the flood lights are installed no higher than twenty (20) feet above ground level, are aimed to avoid the source of the light being seen from adjacent streets or properties, and utilize lamps with an initial lumen rating not exceeding 39,000 lumens. The City has the right to inspect the completed lighting installation and, if flood lights are used, to require that the flood lights be re-aimed or fitted with face louvers if necessary to control direct brightness or glare.
  
  - C.      Except for ornamental lighting fixtures that utilize lamps with initial lumen ratings of 8,500 lumens or less, wall mounted building lights must include full

face shielding consisting of either a solid panel or full face louvers. Exposed lamps, reflectors or refractors may not be visible from any part of the fixture except the bottom, light emitting surface.

- D. Lighting fixtures located on or within canopies must be recessed into the ceiling of the canopy so that the lamp, reflector, and lens are not visible from public streets. Fixtures must limit the direction of light as required for a “cut-off fixture”. Refractors or diffusing panels that are dropped below the canopy ceiling surface are not permitted.
- E. Lighting fixtures must be mounted at the lowest level that allows reasonable compliance with IESNA recommended practices and the provisions of this article. The maximum light fixture height shall be twenty-five (25) feet.
- F. Period or historical fixtures that do not meet the requirements of this section may be used as an alternative to cutoff fixtures provided the maximum initial lumens generated by each fixture does not exceed 2,000. The maximum initial lumens for metal halide lamps may be increased to 8,500 if the lamp is internally recessed within the fixture or is shielded by internal louvers or refractors. The mounting height of period or historical fixtures may not exceed twelve (12) feet above the adjacent ground.
- G. The use of searchlights, lasers, or any similar high intensity light for outdoor advertising or entertainment is prohibited.

3. Illumination Standards for Non-Residential Uses and Multifamily Residential Uses. New or revised exterior lighting serving both newly constructed and existing nonresidential uses and multifamily housing must conform to the following standards:

- A. The maximum illumination level at the property line of a nonresidential or multifamily housing use with abutting properties in a residential district may not exceed 0.1 foot-candles.
- B. The minimum and maximum illumination levels and uniformity ratios must be consistent with IESNA recommended practices and be compatible with the overall lighting of the project and be specifically approved by the Planning Board.
- C. Exterior site or building lighting at a place of business or a public venue shall be turned off or dimmed no later than one hour after closing, except as needed for basic security.

4. Lighting Plan Required. Any non-residential or multifamily housing project that involves the construction of more than two thousand (2,000) square feet of nonresidential floor area, or the creation of more than five thousand (5,000) square feet of impervious area, or the creation of three (3) or more dwelling units in a building, must have a lighting plan approved by the Planning Board prior to the issuance of any permits for the project. The lighting plan must be prepared by a

qualified lighting professional with training or experience in the design of lighting meeting IESNA recommended practices or other qualified professional approved by the Planning Board. The lighting plan must include the following:

- A. The location of all buildings, parking areas, driveways, service areas, pedestrian areas, landscaping, and proposed exterior lighting fixtures;
- B. Specifications and illustrations of all proposed lighting fixtures including photometric data, designation as “cut-off” fixtures, Color Rendering Index (CRI) of all lamps (bulbs), and other descriptive information on the fixtures;
- C. The proposed mounting height of all exterior lighting fixtures;
- D. Analyses and illuminance level diagrams or photometric point by point diagrams on a twenty foot grid showing that the proposed installation conforms to the lighting level standards of this ordinance together with statistical summaries documenting the average illuminance, maximum illuminance, minimum illuminance, average to minimum uniformity ratio, and maximum to minimum uniformity ratio for each parking area, drive, canopy, and sales or storage area;
- E. Drawings of all relevant building elevations showing the lighting fixtures, the portions of the walls to be illuminated, the illuminance levels of the walls, and the aiming points for any remote light fixtures; and
- F. A narrative that describes the hierarchy of site lighting and how the lighting will be used to provide safety, security, and aesthetic effects.

[Derivation: Section 5.14, 1989 Zoning Ordinance]

[Derivation: Ord. No.: 08-07, eff. 10/24/2008]

**SECTION 9-617**      HISTORIC DISTRICT (Reserved)

**SECTION 9-618**      HOME OCCUPATIONS

An occupation or profession may be carried on in a dwelling unit or other structure accessory to a dwelling unit, clearly incidental and secondary to the use of the dwelling unit for residential purposes. A retail sales outlet does not qualify as a home business unless the item sold is either a product of the owner's labor (e.g. manufactured, produced, created, grown, caught) or the sale of antiques. Home occupations as defined in this Chapter are permitted in residential districts upon approval of the Planning Board which must be satisfied that the following conditions have been met:

- 1. The owner of the home occupation must reside in the residence on the lot where the home occupation is being carried on.
- 2. No nuisance, waste discharge, offensive noise, vibration, smoke, dust, odors, heat, glare or radiation, or accumulations of by-products, junk or outside storage of



materials shall be generated.

3. Adequate off-street parking as determined by the Planning Board shall be provided for any home occupation whose operation shall attract customers of the provided service.
4. Exterior storage of materials and any other exterior evidence of the home occupation shall be so located or screened, so as not to detract from the residential character of the principal building.
5. Signs for home occupations shall be limited to two signs, no larger than 5 square feet on each side.
6. No more than two (2) persons outside the family shall be employed in the home occupation.

[Derivation: Section 5.15, 1989 Zoning Ordinance]

**SECTION 9-619**      HOTELS/MOTELS & INNS

1. For traffic safety on and immediately adjoining each motel, hotel or inn and to assure the health, safety and welfare of the occupants and of the neighborhood generally, the following land, space, building, traffic, utility, and service design requirements shall be complied with. In approving a Master Plan for a Planned Mixed-Use Development, the City Council, upon recommendation of the Planning Board, may waive or modify these provisions. Any such waiver or modification shall apply to the subsequent approval and permitting of a hotel, motel, or inn that is in conformance with the approved Master Plan. For the purposes of this section, the terms hotel, motel and inn are used interchangeably.
  - A. Access driveways into the development shall be at an angle no less than 30 degrees and no more than 45 degrees to facilitate movement of traffic off the public way and onto the property. Driveways shall be separated by a minimum of 100 feet. The curb radius of the intersection of the driveway to the public way shall be no less than 30 feet. Access and egress drives shall not exceed a slope of 2% for the first seventy-five (75) feet onto the property.
  - B. If cooking or eating facilities are provided in hotel rental units, each rental unit shall be considered a dwelling unit and the hotel shall be required to meet all the standards for multi-family developments in this ordinance including the residential density requirements of the appropriate district.
  - C. Each motel rental unit shall contain not less than two hundred fifty (250) square feet of habitable floor area enclosed by walls and roof, exclusive of any adjoining portions of roofed or covered walk-ways. Each motel rental sleeping room shall not be less than twelve by fifteen feet horizontal dimensions, exclusive of baths. Each rental unit shall include private bathroom facilities.

- D. On each hotel lot, one apartment may be provided for a resident owner, manager, or other responsible staff person.
- E. Hotel building construction plans shall be reviewed and approved by the State Fire Marshall's Office.
- F. All hotels shall be connected to the public sewer and water systems.

[Derivation: Section 5.16, 1989 Zoning Ordinance; Ordinance No. 11-03, eff. 8/18/2011; Ord. No. 12-11, eff. 10/19/2012]

**SECTION 9-620      MANUFACTURING FACILITIES AND RELATED USES**

1. Environmental Standards. When submitting an application for a building permit or conditional use or site plan approval for a manufacturing use, the applicant shall submit the following information to the Code Enforcement Officer and to the Planning Board:
  - A. A written description of the industrial operations proposed in sufficient detail to indicate the effects of these operations in producing traffic congestion, noise, toxic or noxious matter, vibration, odor, heat, glare, air pollution, waste, and other objectionable effects.
  - B. Engineering and architectural plans for the treatment of and disposal of sewage and industrial wastes and any on-site disposal of wastes.
  - C. Engineering and architectural plans for handling any traffic congestion, noise, odor, heat, glare, air pollution, fire hazard, or safety hazard.
  - D. Designation of the fuel proposed to be used and any necessary plans for controlling the emission of smoke or particulate matter.
  - E. The proposed number of shifts to be worked and the maximum number of employees on each shift.
  - F. A plan indicating trees to be retained, streams and other topographical features on the site and within one hundred (100') feet from the exterior boundaries of the property.
  - G. A list of all hazardous materials to be hauled, stored, used, generated or disposed of on the site, and any pertinent State or Federal permits required.
2. General Requirements:
  - A. All business, service, repair, manufacturing, storage, processing, or display on property abutting or facing a residential use or property shall be conducted wholly within an enclosed building unless screened from the

residential area.

- B. Doors, windows, loading docks, and other openings in structures shall be prohibited on sides of the structure adjacent to or across a street from a residential use or property if such an opening will cause glare, excessive noise, or other adverse effects.
- C. Front yards shall be continuously maintained in lawn or other landscaping. All other yards abutting or across a street from a residential use or property shall be continuously maintained in lawn or other landscaping unless screened from the residential use as provided in Subsection 2(A) above.
- D. Access points from a public road to industrial operations shall be so located as to minimize traffic congestion and to avoid directing traffic onto local access streets of a primarily residential character.
- E. All materials including wastes shall be stored, and all grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard.
- F. Prior to the issuance of building permits, the applicant shall demonstrate to the Code Enforcement Officer that all provisions of this Chapter have been met.
- G. Off-street parking requirements as stated in Section 9-928 must be met.

[Derivation: Section 5.17, 1989 Zoning Ordinance; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-621**      INVASIVE PLANT ATLAS OF NEW ENGLAND (IPANE)

For the purposes of this chapter, where the provisions refer to invasive species, any species on the following list is considered to be an invasive species:

List of IPANE species by common name

<b>Common Name</b>	<b>Scientific Name</b>
Amur honeysuckle	<i>Lonicera maackii</i> (Rupr.) Herder
Amur maple	<i>Acer ginnala</i> Maxim.
Autumn olive	<i>Elaeagnus umbellata</i> Thunb.
Bell's honeysuckle	<i>Lonicera x bella</i> Zabel
Bittersweet nightshade	<i>Solanum dulcamara</i> L.
Black locust	<i>Robinia pseudoacacia</i> L.
Black swallow-wort	<i>Cynanchum louiseae</i> Kartesz & Gandhi
Border privet	<i>Ligustrum obtusifolium</i> Sieb. & Zucc.
Brazilian waterweed	<i>Egeria densa</i> Planchon
Bristled knotweed	<i>Polygonum caespitosum</i> Blume
Brittle water-nymph	<i>Najas minor</i> Allioni
California privet	<i>Ligustrum ovalifolium</i> Hassk.
Canada bluegrass	<i>Poa compressa</i> L.
Canada thistle	<i>Cirsium arvense</i> (L.) Scop.
Celandine	<i>Chelidonium majus</i> L.

Common Name	Scientific Name
Chinese privet	<i>Ligustrum sinense</i> Lour.
Coltsfoot	<i>Tussilago farfara</i> L.
Common barberry	<i>Berberis vulgaris</i> L.
Common buckthorn	<i>Rhamnus cathartica</i> L.
Common kochia	<i>Kochia scoparia</i> (L.) Schrader
Common reed	<i>Phragmites australis</i> (Cav.) Trin. Ex Steud.
Creeping buttercup	<i>Ranunculus repens</i> L.
Crested late-summer mint	<i>Elsholtzia ciliata</i> (Thunb.) Hylander
Cup plant	<i>Silphium perfoliatum</i> L.
Curly-leaved pondweed	<i>Potamogeton crispus</i> L.
Cypress spurge	<i>Euphorbia cyparissias</i> L.
Dame's rocket	<i>Hesperis matronalis</i> L.
Drooping brome-grass	<i>Bromus tectorum</i> L.
Dwarf honeysuckle	<i>Lonicera xylosteum</i> L.
Eulalia	<i>Miscanthus sinensis</i> Anderss.
Eurasian watermilfoil	<i>Myriophyllum spicatum</i> L.
European black alder	<i>Alnus glutinosa</i> (L.) Gaertner
European frogbit	<i>Hydrocharis morsus-ranae</i> L.
European privet	<i>Ligustrum vulgare</i> L.
European speedwell	<i>Veronica beccabunga</i> L.
European waterclover	<i>Marsilea quadrifolia</i> L.
False indigo	<i>Amorpha fruticosa</i> L.
Fanwort	<i>Cabomba caroliniana</i> A. Gray
Fig buttercup	<i>Ranunculus ficaria</i> L.
Flowering rush	<i>Butomus umbellatus</i> L.
Forget-me-not	<i>Myosotis scorpioides</i> L.
Garden heliotrope	<i>Valeriana officinalis</i> L.
Garden loosestrife	<i>Lysimachia vulgaris</i> L.
Garlic mustard	<i>Alliaria petiolata</i> (Bieb.) Cavara & Grande
Giant hogweed	<i>Heracleum mantegazzianum</i> Sommier & Levier
Giant knotweed	<i>Polygonum sachalinense</i> F. Schmidt ex Maxim.
Glossy buckthorn	<i>Frangula alnus</i> Mill.
Goutweed	<i>Aegopodium podagraria</i> L.
Ground ivy	<i>Glechoma hederacea</i> L.
Hairy jointgrass	<i>Arthraxon hispidus</i> (Thunb.) Makino
Hairy willow-herb	<i>Epilobium hirsutum</i> L.
Hydrilla	<i>Hydrilla verticillata</i> (L. f.) Royle
Japanese barberry	<i>Berberis thunbergii</i> DC.
Japanese honeysuckle	<i>Lonicera japonica</i> Thunb.
Japanese hops	<i>Humulus japonicus</i> Sieb. & Zucc.
Japanese knotweed	<i>Polygonum cuspidatum</i> Sieb. & Zucc.
Japanese sedge	<i>Carex kobomugi</i> Ohwi
Japanese stilt grass	<i>Microstegium vimineum</i> (Trin.) A. Camus
Jimsonweed	<i>Datura stramonium</i> L.
Kudzu	<i>Pueraria montana</i> var. <i>lobata</i> (Willd.)
Leafy spurge	<i>Euphorbia esula</i> L.
Marsh thistle	<i>Cirsium palustre</i> (L.) Scop.
Mile-a-minute vine	<i>Polygonum perfoliatum</i> L.
Moneywort	<i>Lysimachia nummularia</i> L.
Morrow's honeysuckle	<i>Lonicera morrowii</i> A. Gray
Multiflora rose	<i>Rosa multiflora</i> Thunb. ex Murr.
Narrowleaf bittercress	<i>Cardamine impatiens</i> L.
Norway maple	<i>Acer platanoides</i> L.
Oakforest woodrush	<i>Luzula luzuloides</i> (Lam.) Dandy & Wilmott
Onerow yellowcress	<i>Rorippa microphylla</i> (Boenn. ex Reichenb.) Hyl. ex A. & D. Löve
Oriental bittersweet	<i>Celastrus orbiculatus</i> Thunb.
Ornamental jewelweed	<i>Impatiens glandulifera</i> Royle

Common Name	Scientific Name
Pale swallow-wort	<i>Cynanchum rossicum</i> (Kleo.) Barbarich
Parrotfeather	<i>Myriophyllum aquaticum</i> (Vell.) Verdc.
Perennial pepperweed	<i>Lepidium latifolium</i> L.
Pond water-starwort	<i>Callitriche stagnalis</i> Scop.
Porcelainberry	<i>Ampelopsis brevipedunculata</i> (Maxim.) Trautv.
Princess tree	<i>Paulownia tomentosa</i> (Thunb.) Sieb. & Zucc.
Purple loosestrife	<i>Lythrum salicaria</i> L.
Ragged robin	<i>Lychnis flos-cuculi</i> L.
Reed canary grass	<i>Phalaris arundinacea</i> L.
Reed mannagrass	<i>Glyceria maxima</i> (Hartman) Holmburg
Rugosa rose	<i>Rosa rugosa</i> Thunb.
Russian olive	<i>Elaeagnus angustifolia</i> L.
Salvinia	<i>Salvinia molesta</i> Mitchell Complex
Scotch broom	<i>Cytisus scoparius</i> (L.) Link
Scotch thistle	<i>Onopordum acanthium</i> L.
Sheep sorrel	<i>Rumex acetosella</i> L.
Shrubby St. Johnswort	<i>Hypericum prolificum</i> L.
Silver hairgrass	<i>Aira caryophyllea</i> L.
Slender snake cotton	<i>Froelichia gracilis</i> (Hook.) Moq.
Spotted knapweed	<i>Centaurea biebersteinii</i> DC.
Star-of-Bethlehem	<i>Ornithogalum umbellatum</i> L.
Sycamore maple	<i>Acer pseudoplatanus</i> L.
Tansy ragwort	<i>Senecio jacobaea</i> L.
Tatarian honeysuckle	<i>Lonicera tatarica</i> L.
Thunberg's geranium	<i>Geranium thunbergii</i> Sieb. & Zucc. ex Lindl. & Paxton
Tree of heaven	<i>Ailanthus altissima</i> (Mill.) Swingle
Variable-leaf watermilfoil	<i>Myriophyllum heterophyllum</i> Michx.
Water chestnut	<i>Trapa natans</i> L.
Water hyacinth	<i>Eichhornia crassipes</i> (Mart.) Solms
Water lettuce	<i>Pistia stratiotes</i> L.
Watercress	<i>Rorippa nasturtium-aquaticum</i> (L.) Hayek
White poplar	<i>Populus alba</i> L.
Wild chervil	<i>Anthriscus sylvestris</i> (L.) Hoffm.
Wild garlic	<i>Allium vineale</i> L.
Wineberry	<i>Rubus phoenicolasius</i> Maxim.
Winged euonymus	<i>Euonymus alata</i> (Thunb.) Sieb.
Yellow floating heart	<i>Nymphoides peltata</i> (Gmel.) Kuntze
Yellow hornpoppy	<i>Glaucium flavum</i> Crantz
Yellow iris	<i>Iris pseudacorus</i> L.

List of IPANE species by scientific name

Scientific Name	Common Name
<i>Acer ginnala</i> Maxim.	Amur maple
<i>Acer platanoides</i> L.	Norway maple
<i>Acer pseudoplatanus</i> L.	Sycamore maple
<i>Aegopodium podagraria</i> L.	Goutweed
<i>Ailanthus altissima</i> (Mill.) Swingle	Tree of heaven
<i>Aira caryophyllea</i> L.	Silver hairgrass
<i>Alliaria petiolata</i> (Bieb.) Cavara & Grande	Garlic mustard
<i>Allium vineale</i> L.	Wild garlic
<i>Alnus glutinosa</i> (L.) Gaertner	European black alder
<i>Amorpha fruticosa</i> L.	False indigo
<i>Ampelopsis brevipedunculata</i> (Maxim.) Trautv.	Porcelainberry
<i>Anthriscus sylvestris</i> (L.) Hoffm.	Wild chervil
<i>Arthraxon hispidus</i> (Thunb.) Makino	Hairy jointgrass

**Scientific Name**

**Common Name**

<i>Berberis thunbergii</i> DC.	Japanese barberry
<i>Berberis vulgaris</i> L.	Common barberry
<i>Bromus tectorum</i> L.	Drooping brome-grass
<i>Butomus umbellatus</i> L.	Flowering rush
<i>Cabomba caroliniana</i> A. Gray	Fanwort
<i>Callitriche stagnalis</i> Scop.	Pond water-starwort
<i>Cardamine impatiens</i> L.	Narrowleaf bittercress
<i>Carex kobomugi</i> Ohwi	Japanese sedge
<i>Celastrus orbiculatus</i> Thunb.	Oriental bittersweet
<i>Centaurea biebersteinii</i> DC.	Spotted knapweed
<i>Chelidonium majus</i> L.	Celandine
<i>Cirsium arvense</i> (L.) Scop.	Canada thistle
<i>Cirsium palustre</i> (L.) Scop.	Marsh thistle
<i>Cynanchum louiseae</i> Kartesz & Gandhi	Black swallow-wort
<i>Cynanchum rossicum</i> (Kleo.) Barbarich	Pale swallow-wort
<i>Cytisus scoparius</i> (L.) Link	Scotch broom
<i>Datura stramonium</i> L.	Jimsonweed
<i>Egeria densa</i> Planchon	Brazilian waterweed
<i>Eichhornia crassipes</i> (Mart.) Solms	Water hyacinth
<i>Elaeagnus angustifolia</i> L.	Russian olive
<i>Elaeagnus umbellata</i> Thunb.	Autumn olive
<i>Elsholtzia ciliata</i> (Thunb.) Hylander	Crested late-summer mint
<i>Epilobium hirsutum</i> L.	Hairy willow-herb
<i>Euonymus alata</i> (Thunb.) Sieb.	Winged euonymus
<i>Euphorbia cyparissias</i> L.	Cypress spurge
<i>Euphorbia esula</i> L.	Leafy spurge
<i>Frangula alnus</i> Mill.	Glossy buckthorn
<i>Froelichia gracilis</i> (Hook.) Moq.	Slender snake cotton
<i>Geranium thunbergii</i> Sieb. & Zucc. ex Lindl. & Paxton	Thunberg's geranium
<i>Glaucium flavum</i> Crantz	Yellow hornpoppy
<i>Glechoma hederacea</i> L.	Ground ivy
<i>Glyceria maxima</i> (Hartman) Holmburg	Reed mannagrass
<i>Heracleum mantegazzianum</i> Sommier & Levier	Giant hogweed
<i>Hesperis matronalis</i> L.	Dame's rocket
<i>Humulus japonicus</i> Sieb. & Zucc.	Japanese hops
<i>Hydrilla verticillata</i> (L. f.) Royle	Hydrilla
<i>Hydrocharis morsus-ranae</i> L.	European frogbit
<i>Hypericum prolificum</i> L.	Shrubby St. Johnswort
<i>Impatiens glandulifera</i> Royle	Ornamental jewelweed
<i>Iris pseudacorus</i> L.	Yellow iris
<i>Kochia scoparia</i> (L.) Schrader	Common kochia
<i>Lepidium latifolium</i> L.	Perennial pepperweed
<i>Ligustrum obtusifolium</i> Sieb. & Zucc.	Border privet
<i>Ligustrum ovalifolium</i> Hassk.	California privet
<i>Ligustrum sinense</i> Lour.	Chinese privet
<i>Ligustrum vulgare</i> L.	European privet
<i>Lonicera x bella</i> Zabel	Bell's honeysuckle
<i>Lonicera japonica</i> Thunb.	Japanese honeysuckle
<i>Lonicera maackii</i> (Rupr.) Herder	Amur honeysuckle
<i>Lonicera morrowii</i> A. Gray	Morrow's honeysuckle
<i>Lonicera tatarica</i> L.	Tatarian honeysuckle
<i>Lonicera xylosteum</i> L.	Dwarf honeysuckle
<i>Luzula luzuloides</i> (Lam.) Dandy & Wilmott	Oakforest woodrush
<i>Lychnis flos-cuculi</i> L.	Ragged robin
<i>Lysimachia nummularia</i> L.	Moneywort
<i>Lysimachia vulgaris</i> L.	Garden loosestrife
<i>Lythrum salicaria</i> L.	Purple loosestrife

**Scientific Name**

*Marsilea quadrifolia* L.  
*Microstegium vimineum* (Trin.) A. Camus  
*Miscanthus sinensis* Anderss.  
*Myosotis scorpioides* L.  
*Myriophyllum aquaticum* (Vell.) Verdc.  
*Myriophyllum heterophyllum* Michx.  
*Myriophyllum spicatum* L.  
*Najas minor* Allioni  
*Nymphoides peltata* (Gmel.) Kuntze  
*Onopordum acanthium* L.  
*Ornithogalum umbellatum* L.  
*Paulownia tomentosa* (Thunb.) Sieb. & Zucc.  
*Phalaris arundinacea* L.  
*Phragmites australis* (Cav.) Trin. ex Steud.  
*Pistia stratiotes* L.  
*Poa compressa* L.  
*Polygonum caespitosum* Blume  
*Polygonum cuspidatum* Sieb. & Zucc.  
*Polygonum perfoliatum* L.  
*Polygonum sachalinense* F. Schmidt ex Maxim.  
*Populus alba* L.  
*Potamogeton crispus* L.  
*Pueraria montana* var. *lobata* (Willd.)  
*Ranunculus ficaria* L.  
*Ranunculus repens* L.  
*Rhamnus cathartica* L.  
*Robinia pseudoacacia* L.  
*Rorippa microphylla* (Boenn. ex Reichenb.) Hyl. ex A. & D. Löve  
*Rorippa nasturtium-aquaticum* (L.) Hayek  
*Rosa multiflora* Thunb. ex Murr.  
*Rosa rugosa* Thunb.  
*Rubus phoenicolasia* Maxim.  
*Rumex acetosella* L.  
*Salvinia molesta* Mitchell Complex  
*Senecio jacobaea* L.  
*Silphium perfoliatum* L.  
*Solanum dulcamara* L.  
*Trapa natans* L.  
*Tussilago farfara* L.  
*Valeriana officinalis* L.  
*Veronica beccabunga* L.

**Common Name**

European waterclover  
 Japanese stilt grass  
 Eulalia  
 Forget-me-not  
 Parrotfeather  
 Variable-leaf watermilfoil  
 Eurasian watermilfoil  
 Brittle water-nymph  
 Yellow floating heart  
 Scotch thistle  
 Star-of-Bethlehem  
 Princess tree  
 Reed canary grass  
 Common reed  
 Water lettuce  
 Canada bluegrass  
 Bristled knotweed  
 Japanese knotweed  
 Mile-a-minute vine  
 Giant knotweed  
 White poplar  
 Curly-leaved pondweed  
 Kudzu  
 Fig buttercup  
 Creeping buttercup  
 Common buckthorn  
 Black locust  
 Onerow yellowcress  
 Watercress  
 Multiflora rose  
 Rugosa rose  
 Wineberry  
 Sheep sorrel  
 Salvinia  
 Tansy ragwort  
 Cup plant  
 Bittersweet nightshade  
 Water chestnut  
 Coltsfoot  
 Garden heliotrope  
 European speedwell

List of IPANE species by life form

**Aquatic**

<i>Cabomba caroliniana</i> A. Gray	Fanwort
<i>Callitriche stagnalis</i> Scop.	Pond water-starwort
<i>Egeria densa</i> Planchon	Brazilian waterweed
<i>Eichhornia crassipes</i> (Mart.) Solms	Water hyacinth
<i>Hydrilla verticillata</i> (L. f.) Royle	Hydrilla
<i>Hydrocharis morsus-ranae</i> L.	European frogbit
<i>Marsilea quadrifolia</i> L.	European waterclover
<i>Myriophyllum aquaticum</i> (Vell.) Verdc.	Parrotfeather
<i>Myriophyllum heterophyllum</i> Michx.	Variable-leaf watermilfoil
<i>Myriophyllum spicatum</i> L.	Eurasian watermilfoil

**Aquatic**

<i>Najas minor</i> Allioni	Brittle water-nymph
<i>Nymphoides peltata</i> (Gmel.) Kuntze	Yellow floating heart
<i>Pistia stratiotes</i> L.	Water lettuce
<i>Potamogeton crispus</i> L.	Curly-leaved pondweed
<i>Rorippa microphylla</i> (Boenn. ex Reichenb.) Hyl. ex A. & D. Löve	Onerow yellowcress
<i>Rorippa nasturtium-aquaticum</i> (L.) Hayek	Watercress
<i>Salvinia molesta</i> Mitchell Complex	Salvinia
<i>Trapa natans</i> L.	Water chestnut

**Grass/Sedge/Rush**

<i>Aira caryophyllea</i> L.	Silver hairgrass
<i>Arthraxon hispidus</i> (Thunb.) Makino	Hairy jointgrass
<i>Bromus tectorum</i> L.	Drooping brome-grass
<i>Carex kobomugi</i> Ohwi	Japanese sedge
<i>Glyceria maxima</i> (Hartman) Holmburg	Reed mannagrass
<i>Luzula luzuloides</i> (Lam.) Dandy & Wilmott	Oakforest woodrush
<i>Microstegium vimineum</i> (Trin.) A. Camus	Japanese stilt grass
<i>Miscanthus sinensis</i> Anderss.	Eulalia
<i>Phalaris arundinacea</i> L.	Reed canary grass
<i>Phragmites australis</i> (Cav.) Trin. ex Steud.	Common reed
<i>Poa compressa</i> L.	Canada bluegrass

**Herbaceous**

<i>Aegopodium podagraria</i> L.	Goutweed
<i>Alliaria petiolata</i> (Bieb.) Cavara & Grande	Garlic mustard
<i>Allium vineale</i> L.	Wild garlic
<i>Anthriscus sylvestris</i> (L.) Hoffm.	Wild chervil
<i>Butomus umbellatus</i> L.	Flowering rush
<i>Cardamine impatiens</i> L.	Narrowleaf bittercress
<i>Centaurea biebersteinii</i> DC.	Spotted knapweed
<i>Chelidonium majus</i> L.	Celandine
<i>Cirsium arvense</i> (L.) Scop.	Canada thistle
<i>Cirsium palustre</i> (L.) Scop.	Marsh thistle
<i>Cynanchum louiseae</i> Kartesz & Gandhi	Black swallow-wort
<i>Cynanchum rossicum</i> (Kleo.) Barbarich	Pale swallow-wort
<i>Datura stramonium</i> L.	Jimsonweed
<i>Elsholtzia ciliata</i> (Thunb.) Hylander	Crested late-summer mint
<i>Epilobium hirsutum</i> L.	Hairy willow-herb
<i>Euphorbia cyparissias</i> L.	Cypress spurge
<i>Euphorbia esula</i> L.	Leafy spurge
<i>Froelichia gracilis</i> (Hook.) Moq.	Slender snake cotton
<i>Geranium thunbergii</i> Sieb. & Zucc. ex Lindl. & Paxton	Thunberg's geranium
<i>Glaucium flavum</i> Crantz	Yellow hornpoppy
<i>Glechoma hederacea</i> L.	Ground ivy
<i>Heracleum mantegazzianum</i> Sommier & Levier	Giant hogweed
<i>Hesperis matronalis</i> L.	Dame's rocket
<i>Humulus japonicus</i> Sieb. & Zucc.	Japanese hops
<i>Impatiens glandulifera</i> Royle	Ornamental jewelweed
<i>Iris pseudacorus</i> L.	Yellow iris
<i>Kochia scoparia</i> (L.) Schrader	Common kochia
<i>Lepidium latifolium</i> L.	Perennial pepperweed
<i>Lychnis flos-cuculi</i> L.	Ragged robin
<i>Lysimachia nummularia</i> L.	Moneywort



**Herbaceous**

<i>Lysimachia vulgaris</i> L.	Garden loosestrife
<i>Lythrum salicaria</i> L.	Purple loosestrife
<i>Myosotis scorpioides</i> L.	Forget-me-not
<i>Onopordum acanthium</i> L.	Scotch thistle
<i>Ornithogalum umbellatum</i> L.	Star-of-Bethlehem
<i>Polygonum caespitosum</i> Blume	Bristled knotweed
<i>Polygonum cuspidatum</i> Sieb. & Zucc.	Japanese knotweed
<i>Polygonum perfoliatum</i> L.	Mile-a-minute vine
<i>Polygonum sachalinense</i> F. Schmidt ex Maxim.	Giant knotweed
<i>Ranunculus ficaria</i> L.	Fig buttercup
<i>Ranunculus repens</i> L.	Creeping buttercup
<i>Rumex acetosella</i> L.	Sheep sorrel
<i>Senecio jacobaea</i> L.	Tansy ragwort
<i>Silphium perfoliatum</i> L.	Cup plant
<i>Tussilago farfara</i> L.	Coltsfoot
<i>Valeriana officinalis</i> L.	Garden heliotrope
<i>Veronica beccabunga</i> L.	European speedwell

**Shrub**

<i>Amorpha fruticosa</i> L.	False indigo
<i>Berberis thunbergii</i> DC.	Japanese barberry
<i>Berberis vulgaris</i> L.	Common barberry
<i>Cytisus scoparius</i> (L.) Link	Scotch broom
<i>Elaeagnus angustifolia</i> L.	Russian olive
<i>Elaeagnus 24mbellate</i> Thunb.	Autumn olive
<i>Euonymus alata</i> (Thunb.) Sieb.	Winged euonymus
<i>Frangula alnus</i> Mill.	Glossy buckthorn
<i>Hypericum prolificum</i> L.	Shrubby St. Johnswort
<i>Ligustrum obtusifolium</i> Sieb. & Zucc.	Border privet
<i>Ligustrum ovalifolium</i> Hassk.	California privet
<i>Ligustrum sinense</i> Lour.	Chinese privet
<i>Ligustrum vulgare</i> L.	European privet
<i>Lonicera x bella</i> Zabel	Bell's honeysuckle
<i>Lonicera maackii</i> (Rupr.) Herder	Amur honeysuckle
<i>Lonicera morrowii</i> A. Gray	Morrow's honeysuckle
<i>Lonicera tatarica</i> L.	Tatarian honeysuckle
<i>Lonicera xylosteum</i> L.	Dwarf honeysuckle
<i>Rhamnus cathartica</i> L.	Common buckthorn
<i>Rosa multiflora</i> Thunb. Ex Murr.	Multiflora rose
<i>Rosa rugosa</i> Thunb.	Rugosa rose
<i>Rubus phoenicolasius</i> Maxim.	Wineberry

**Tree**

<i>Acer ginnala</i> Maxim.	Amur maple
<i>Acer platanoides</i> L.	Norway maple
<i>Acer pseudoplatanus</i> L.	Sycamore maple
<i>Ailanthus altissima</i> (Mill.) Swingle	Tree-of-heaven
<i>Alnus glutinosa</i> (L.) Gaertner	European black alder
<i>Paulownia tomentosa</i> (Thunb.) Sieb. & Zucc.	Princess tree
<i>Populus alba</i> L.	White poplar
<i>Robinia pseudoacacia</i> L.	Black locust

**Woody Vine**

<i>Ampelopsis brevipedunculata</i> (Maxim.) Trautv.	Porcelainberry
<i>Celastrus orbiculatus</i> Thunb.	Oriental bittersweet

**Woody Vine**

*Lonicera japonica* Thunb.

*Pueraria montana* var. *lobata* (Willd.)

*Solanum dulcamara* L.

Japanese honeysuckle

Kudzu

Bittersweet nightshade

[Derivation: Ord. No. 09-02, effective 3/19/2009; Ord. No. 12-10, eff. 10/19/2012]

**SECTION 9-622      LANDSCAPING**

1. The existing landscape shall be preserved in its natural state wherever possible. No landscaping installed on any site shall include plants that are listed as being an invasive species in Section 9-621 of this Ordinance unless the Planning Board determines that the species is not an invasive species in Maine. Side and rear yards on lots in non-residential districts which abut a residential district shall be landscaped, in consultation with the Code Enforcement Officer, to provide a visual screen between districts.
2. Parking lots in non-residential districts shall be landscaped, in consultation with the Code Enforcement Officer, with a buffer along all lot lines abutting residential properties.

[Derivation: Section 5.19, 1989 Zoning Ordinance; Ord. No. 09-02, eff. 3/19/2009; Ord. No. 15-09, eff. 10/23/2015]

**SECTION 9-623      LOT SIZE CALCULATIONS**

1. Land within the street right of way shall not be considered as part of a lot for the purpose of meeting the area requirements of this Chapter even though the owner may have title to such land.
2. No open space requirement for one building may be used as part of the open space requirement for any other building.
3. Land below the normal high water mark shall not be considered as part of a lot for the purpose of meeting the area or setback requirements of this Chapter.

[Derivation: Section 5.20, 1989 Zoning Ordinance]

**SECTION 9-624      MANUFACTURED HOUSING**

1. No person, firm, corporation or other legal entity shall locate a manufactured home in the City, or move a manufactured home from one lot or parcel of land to another, without a permit from the Code Enforcement Officer. The Code Enforcement Officer shall issue the permit within 7 days of receipt of a written application and submission of proof that the manufactured home meets the requirements of this Chapter.
2. All manufactured housing located in the City shall be at least 14 feet in width, shall contain at least 750 feet of living space, shall have a pitched, shingled roof and siding

that is in conformance with the residential buildings in the vicinity, and shall have a permanent foundation or pad. Manufactured housing shall have a pitched, shingled roof with a pitch of 2 or more vertical units for every 12 horizontal units of measurement, and exterior siding that is residential in appearance. Each room in a manufactured housing unit shall be equipped with a window of a size and design to permit persons to escape from the structure during a fire. This requirement shall not apply to house trailers or mobile homes in the following categories:

- A. In the hands of dealers as stock in trade, so long as said house trailers and mobile homes remain unoccupied.
  - B. When stored temporarily in buildings or garages, or on private property if located so that such house trailer or mobile home is not visible from any public street or way.
  - C. Any individual mobile home owned and occupied by the owner thereof on or before May 17, 1965, so long as the ownership, location, and the mobile home remain unchanged.
3. Manufactured housing less than 20 feet wide in the City shall be restricted to the Rural Farm District. Manufactured housing more than 20 feet wide shall be considered single-family dwellings and shall be allowed in all areas of the City where single family dwellings are permitted exclusive of the Historic District, provided however, modular homes, as defined in Section 9-151(62)(B), of wood construction and consisting of two or more sections, shall be permitted in the Historic District. Manufactured housing of all other types, including those types defined in Section 9-151(62)(A), shall be prohibited in the Historic District.
  4. No person, firm, corporation or other legal entity shall locate an older mobile home, trailer, or manufactured home which fails to meet the requirements of Subsection 2, above. No house trailer or mobile home shall be exhibited or offered for sale for commercial purposes in any mobile home park or in any residential district.
  5. Manufactured homes and trailers which fail to meet the standards set forth in Subsection 2, above, which were lawfully established prior to the effective date of this Chapter, shall be considered non-conforming structures and may continue and may be maintained, repaired, improved, and expanded. No non-conforming structure may be replaced by another non-conforming structure but may be replaced by a manufactured home that meets the requirements of this Chapter and if permitted in such District.

[Derivation: Section 5.21, 1989 Zoning Ordinance]

**SECTION 9-625      MOBILE HOME PARKS**

1.    Permit Requirement. No person shall construct, maintain and/or operate any mobile home park in the City of Hallowell unless such person shall first obtain a permit issued by the Code Enforcement Officer and obtain approval of the Planning Board.
  - A.    The Code Enforcement Officer, upon written application of any person, may issue or renew mobile home park permits to any person upon compliance with the provisions of this Chapter. The fee shall be one hundred (\$100) renewable annually on the first day of the year after the permit is approved. The fee for renewal of a permit that has expired thirty (30) days or more prior to renewal application shall be \$300.00.
  - B.    Initial construction applications shall be made to the Planning Board and the Code Enforcement Officer and shall be accompanied by a set of plans drawn to scale showing the following information:
    - (1)    The area and dimensions of the tract of land and its location with respect to existing property.
    - (2)    The maximum number, location and size of all mobile home spaces.
    - (3)    The location of any existing buildings and all proposed structures.
    - (4)    The location and width of roadways and walkways; grading and drainage.
2.    Standards. Mobile Home Parks shall comply with the following minimum requirements, prior to issuance of a license:
  - A.    Location. The park shall be located on a well-drained site property graded to insure rapid drainage and freedom from stagnant pools of water. The park shall not be located near swamps or other potential breeding places for insects and rodents, or on land which is exposed to noise, smoke, fumes and odors.
  - B.    Access. The park shall have at least one paved road with unobstructed access to a public street or highway with a right-of-way of not less than fifty (50) feet and a pavement of not less than twenty (20) feet.
  - C.    Service Streets. The park shall be provided with service streets with well-drained, stabilized or paved surfaces maintained in good repair, and well-lighted at night. The pavement shall be constructed in accordance with the regulations of the State Manufactured Housing Board.
  - D.    Size of Park. The minimum lot size, side yards, and frontage within mobile home parks shall be the maximum permitted by State law. The bounds of each mobile home space shall be clearly marked, and the space shall be

surfaced or seeded to provide adequate drainage beneath and adjacent to any mobile home parked thereon.

- E. Individual Mobile Home Spaces. Each mobile home space shall be provided with:
- (1) A continuous supply of safe and sanitary water.
  - (2) A connection to an adequate sewage disposal system.
  - (3) An electrical power service connection of not less than sixty (60) ampere capacity.
  - (4) A reinforced concrete slab not less than nine (9) inches thick, eight (8) feet wide and fifty (50) feet long, but in no event shall such slab be smaller than the floor area of the mobile home, placed on a gravel or crushed stone sub-base not less than one (1) foot in depth. The top of such slab shall be not less than three (3) inches above the surrounding grade, and the top surface shall be crowned to prevent the collection of water. Each Mobile Home shall be anchored to the concrete slab at no less than six (6) points so as to withstand a wind velocity of sixty (60) knots.
- F. Motor Vehicle Parking Space. Not less than four hundred fifty (450) square feet of motor vehicle parking space shall be provided in every mobile home park for each individual mobile home space and all such parking spaces shall have a well-drained, stabilized or paved surface, maintained in good repair.
- G. Service Area. Not less than one hundred and fifty (150) linear feet of laundry drying space shall be provided in every mobile home park for each four (4) individual mobile home spaces. Such laundry drying spaces shall not be located between the street and the mobile homes or between individual mobile homes, but shall be so located as to be as inconspicuous as possible from the adjacent numbered routes and City streets. Such spaces shall have a well-drained stabilized or paved surface, maintained in good repair.
- H. Playground Area. A playground area containing not less than one hundred (100) square feet of play area for each individual mobile home space shall be provided and restricted exclusively to playground use, and such areas shall be protected from streets and parking areas, and shall have a well-drained stabilized or paved surface, maintained in good repair.
- I. Trash Disposal. There shall be a centralized rubbish collection facility, which shall be enclosed by a wooden or masonry screen at least four (4) feet in height, and which shall be protected by a roof and door. The facility shall be kept in a sanitary condition at all times. Rubbish shall be removed from the park no less than once per week.

- J. Mobile Home Storage. No mobile home or trailer shall be stored or exhibited for sale for commercial purposes within a mobile home park.
  - K. Parking of Mobile Homes. In areas served by public sewer, no mobile home shall be parked less than ten (10) feet from the side of any individual mobile home space and there shall be not less than twenty (20) feet between any two (2) mobile homes. In areas not served by public sewer, no mobile home shall be parked less than twenty (20) feet from the side of any individual mobile home space and there shall be not less than forty (40) feet between any two (2) mobile homes. No mobile home shall be parked less than one hundred (100) feet from any residential building located on any adjacent lot, nor less than twenty-five (25) feet from the right-of-way of any public street or highway.
3. Preemption by State regulation. To the extent that State statute provides that regulations of the Manufactured Housing Board preempt municipal ordinances, and the regulations are in conflict with provisions in this section, such regulations shall apply. Notwithstanding any provision of this section, the requirements of State statute with respect to mobile home parks shall apply.

[Derivation: Section 5.22, 1989 Zoning Ordinance]

**SECTION 9-626**      MULTI-FAMILY AND TWO-FAMILY DWELLING UNITS

- 1. New Construction. New two-family and multi-family dwelling units shall meet all of the following requirements:
  - A. No parking area shall be located between the buildings and the street, nor shall any parking area be located within the required yard area set-backs, except as provided in Section 9-631(1), Driveway. Parking area design and the number of parking spaces shall be in compliance with the parking requirements of this Chapter.
  - B. All dwelling units in a multi-family building shall have a minimum net habitable floor space of 650 square feet, exclusive of balconies, stairways, hallways, or other common space.
- 2. Conversion of Existing Single-Family Dwellings. The Planning Board may approve, as a Conditional Use, the conversion of an existing single-family dwelling to a two-family dwelling or duplex or multi-family units in any zone where that use is allowed if the proposed conversion will not meet the minimum land area or maximum density requirement for the proposed use after conversion, provided that the conversion complies with all of the requirements for new construction, and the following additional requirements:
  - A. The structure must contain at least 1,300 square feet gross floor area.

- B. There will be no external expansion of the structure, except for stairwells, decks, elevators, solariums, and entrance ways.
- C. The essential character of the structure shall not be changed.

[Derivation: Section 5.23, 1989 Zoning Ordinance; Ord. No. 12-11, eff. 10/19/2012]

**SECTION 9-627      NOISE**

- 1. Excessive noise at unreasonable hours shall be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness, or volume.
  - A. The maximum permissible sound pressure level of any continuance, regular or frequent source of sound produced by any activity regulated by this Ordinance shall be as established by the time period and type of land-use district listed below. Sound pressure levels shall be measured at all major lot lines at a height of at least four (4) feet above the ground.

Sound Pressure Level Limits Measured in dB(A)'s:

7:00 <sup>1</sup> am to 9:00 pm	70
9:00 pm to 7:00 <sup>1</sup> am	50

Note 1: Between April 1<sup>st</sup> and November 1<sup>st</sup> the daytime limit shall apply starting at 6:30 am.

- B. The levels specified may be exceeded by 10 dBA for a single 15 minute period per day. Noise shall be measured by a meter set on the A-weighted response scale, slow response. The meter shall meet the American National Standards Institute (ANSI S1. 4-1961) "American Standard Specification for General Purpose Sound Level Meters".
- C. No person shall engage in construction activities on a site abutting any residential use between the hours of 9 p.m. and 7 a.m. or at any time on Sundays, that generates noise that exceeds the sound pressure level limits established for residential (other) districts.
- D. The following activities shall be exempt from these regulations:
  - (1) Noises created by construction and maintenance activities between 7 a.m. and 6 p.m.
  - (2) Noises created by farm equipment not exceeding the original manufacturer specifications between 7 a.m. and 6 p.m.
  - (3) The noises of safety signals, warning devices, and emergency pressure relief valves and any other emergency activity.
  - (4) Traffic noise on existing public roads, railways or airports.

- (5) Live outdoor music performances at bars and restaurants on the Friday prior to the Saturday of Old Hallowell Day, until 1:00 a.m. on the morning of Old Hallowell Day, and on the Saturday of Old Hallowell Day, until 1:00 a.m. on the following Sunday morning, with noise levels not to exceed 80 dBA, as approved by the City Council.
- (6) City Council-sanctioned outdoor music performances, with noise levels not to exceed 80 dBA, and
- (7) Other City Council-sanctioned public events.

[Derivation: Section 5.24, 1989 Zoning Ordinance; Ord. No. 12-11, eff. 10/19/2012, Ord. No. 17-03, effective 07/10/2017 (emergency); Ord. No. 18-10, effective 06/21/2018]

**SECTION 9-928      NON-HAZARDOUS SOLID WASTE DISPOSAL**

No land in any District shall be used for deposits of waste or refuse and during construction such waste shall be hauled at once to an appropriate disposal area.

[Derivation: Section 5.25, 1989 Zoning Ordinance]

**SECTION 9-629      PARKING AND LOADING STANDARDS**

- 1. The following minimum off-street parking requirements shall be provided and maintained in case of new construction, and expansions and changes of use which necessitate increased parking, except that these provisions shall not apply to commercial downtown properties in the area bounded by the Kennebec River on the east, the railroad overpass on the north, Temple and Chestnut Streets on the south, and the railroad tracks on the west. The commercial downtown property exemption shall not apply to new buildings or additions larger than 2,000 square feet to existing buildings, nor shall it apply to residential properties. In approving a Master Plan for a Planned Mixed-Use Development, the City Council, upon recommendation of the Planning Board, may modify these provisions if it finds that the actual demand for parking will be less than required by this section or that provisions will be made for the provision of common or shared parking that serves multiple uses. Any such modification shall apply to the subsequent approval and permitting of a development or project that is in conformance with the approved Master Plan. Each space shall be a minimum of 9 feet wide by 18 feet long. Such parking shall be provided and maintained within two hundred fifty (250) feet from the main entrance of the establishment.
  - A. Dwellings, Mobile Homes: (see Section 9-631.2)
  - B. High Schools and Colleges: 5 per each classroom.
  - C. Hospitals, Nursing Homes, Health Clinics: 1 per 3 beds.
  - D. Industries: 1 per 800 square feet floor area.



- E. Motels, Hotels, Bed and Breakfast: 1 per each sleeping room.
  - F. Restaurants: 1 per each 3 seats.
  - G. Retail Stores: 1 per 200 square feet of floor area.
  - H. Roadside Stands: 1 per 100 square feet of floor area.
  - I. Dairybars and Take-out Restaurants: Minimum of 5.
  - J. Schools, except High Schools and Colleges: 2 per each classroom.
  - K. Offices (non-retail): 1 per 300 square feet floor area.
  - L. Fraternal Organizations and Nonprofit Clubs: 1 per 100 square feet.
  - M. Theaters, Churches: 1 per each 6 seats.
- 2. No off-street parking area shall have more than two openings onto the same street, each opening not to exceed twenty-six (26) feet in width, and with a maximum of 300 feet between openings.
  - 3. Parking areas and driveways shall be designed so as to avoid backing onto collector and arterial streets as defined in the Comprehensive Plan. These shall include: Water Street; Central Street; Middle Street south of Winthrop Street; Second Street; Maple Street; and Winthrop Street.
  - 4. Loading facilities shall be located entirely on the same lot as the building or use to be served so that trucks, trailers, and containers shall not be located for loading or storage upon any City Street.
  - 5. All new buildings for commercial or industrial uses erected after the effective date of this section shall provide space with access to a public street as specified below for the loading and unloading of vehicles.
    - A. Retail business: One space 12 feet by 30 feet with a minimum overhead clearance of 15 feet for each 5,000 square feet of floor space or fraction thereof.
    - B. Wholesale and industrial: One space 12 feet by 30 feet with a minimum overhead clearance of 15 feet for each 8,000 square feet of floor space or fraction thereof.
    - C. Bus and truck terminals: Sufficient space to accommodate the maximum number of buses or trucks that would be stored, loaded, and unloaded at the terminal at any one time.

[Derivation: Section 5.26, 1989 Zoning Ordinance; Ord. No. 11-03, eff. 8/18/2011; Ord. No. 12-11, eff. 10/19/2012]

**SECTION 9-630**      RECREATIONAL FACILITY

All recreational facilities shall meet the provisions below:

1. There shall be provided adequate off-street parking for the anticipated maximum attendance at any event.
2. Containers and facilities for rubbish collection and removal shall be provided.
3. Adequate screening, buffer areas, or landscape provisions shall be built, planted, or maintained, to protect adjacent residences from adverse noise, light, dust, smoke and visual impact.
4. The proposed use shall not create a traffic hazard. The Police Department shall review the location and site plans and provide its comments to the Planning Board prior to or at the public hearing.
5. Adequate sanitary facilities shall be provided.

[Derivation: Section 5.27, 1989 Zoning Ordinance]

**SECTION 9-631**      RESIDENTIAL USE

1. Driveway. Each lot shall be provided with a driveway not less than 10 feet in width. Neither boundary of the driveway shall be less than 5 feet from the adjoining property line.
2. Off-street Parking. Off-street parking shall be provided in the amount of 450 square feet per dwelling unit. This may be provided by driveway space, garage space, or parking space, or any combination thereof.
3. Minimum Floor Area. No dwelling shall be constructed having an area of less than 600 square feet of living space on the ground floor. "Living Space" shall mean actual enclosed space suitable for year-round occupancy and shall not include porches, patios and similar areas whether or not enclosed.

[Derivation: Section 5.28, 1989 Zoning Ordinance]

**SECTION 9-632**      RESTAURANTS

1. The application for a permit shall state the maximum seating capacity of the restaurant. Any expansion or enlargement over the stated capacity shall require a new permit.
2. Any restaurant located within 1000 feet of an existing public sewer line shall connect with the sewer system at the expense of the owners. When subsurface waste-water disposal is proposed, completed soil evaluation forms (HHE-200) shall be submitted. All proposed subsurface disposal systems shall meet the Main State Subsurface Wastewater Disposal rules.

3. For restaurants in new buildings, all parking and loading facilities shall be located to the side or rear of the building, and shall be screened from abutting residences within 200 feet. Screening shall be comprised of a continuous landscaped area not less than eight feet in width, containing evergreen shrubs, trees, fences, walls, berms, or any combination, forming a visual barrier not less than six feet in height.
4. Restroom facilities for the patrons shall be provided on the premises.

[Derivation: Section 5.29, 1989 Zoning Ordinance]

**SECTION 9-633**      RETAIL SALES OR SERVICES

No retail sales or services of food, beverages, or other items shall be offered or solicited except inside the building in which the retail sales or services are located except for: 1) restaurants which may offer on-premises consumption incidental to the operation of the restaurant, on a deck, porch, or equivalent structure, or in a garden, patio, or equivalent area; and 2) licensed seasonal cart vendors or victualers.

[Derivation: Section 5.30, 1989 Zoning Ordinance]

**SECTION 9-634**      SANDBLASTING

1. No person, owner, occupant or contractor shall sandblast any structure in the City without first obtaining a building permit.
2. No sandblasting shall be permitted within one hundred (100) feet of a public way or sidewalk except behind a protective cover over the structure or part being sandblasted. Protective covers shall be of non-flammable material and of sufficient strength and texture to prevent the escape of sand, dust and other particles onto or over public ways and sidewalks. There shall be filters to protect the public from exposure to the operations.
3. If any sand should escape onto any public way or sidewalk, said sandblasting shall cease immediately until the protective cover is tightly secured, and all sand is cleaned up outside the cover on the public way or sidewalk.
4. The City Manager shall have the authority to temporarily block off all or part of a public way or sidewalk in instances where a building is so close to a public way or sidewalk that there is insufficient room to erect a protective covering around a building without encroaching upon a public way or sidewalk.
5. All areas sandblasted that are of brick and mortar shall be covered with a protective sealer that will prevent deterioration of the brick and mortar, as a result of the hard exterior surface being removed or damaged from sandblasting.

[Derivation: Section 5.31, 1989 Zoning Ordinance]

**SECTION 9-635**      SANITARY PROVISIONS

The following standards shall apply to all new construction in the City of Hallowell.

1. All plumbing shall be connected to public collection and treatment facilities when such facilities are available as required by State Plumbing Rules.
2. When not serviced by the public sewage system, the approval of a building permit application shall be subject to presentation of a completed site evaluation form (HHE-200) which evidences adequate soil conditions for wastewater disposal.
3. For new construction, when two or more lots or buildings in different ownership share a common subsurface disposal system, the system shall be owned and maintained in common by an owner's association. Covenants in the deeds for each lot shall require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.

[Derivation: Section 5.32, 1989 Zoning Ordinance]

**SECTION 9-636**      SCHOOLS, COLLEGES, CHURCHES, FRATERNAL ORGANIZATIONS,  
AND NOT-FOR-PROFIT CLUBS

New public and private schools, colleges, churches, fraternal organizations, and not-for-profit clubs shall meet the provisions below.

1. A green strip, suitably landscaped, at least 20 feet wide shall be provided along all property lines, except where driveways enter and exit.
2. No building shall be closer than fifty feet from a property line.
3. When adjacent to residences within 200 feet, parking areas and outdoor activity areas shall be effectively screened from view by a continuous vegetative barrier or stockade fence not less than six feet in height.

[Derivation: Section 5.33, 1989 Zoning Ordinance]

**SECTION 9-637**      SIGNS

1. Approval of Signs Required. Except as provided in Subsection 8, no person shall erect or maintain any sign visible to the public from any public way or public property except with the prior approval of the Code Enforcement Officer or Planning Board as specified in Subsection 2, and after receipt of a permit from the Code Enforcement Officer. For purposes of this section, "sign" means any structure, display, logo, device or representation which is designed or used to advertise or call attention to any thing, person, business, activity or place, and all signs as defined in Section 9-151(101) of this Zoning Ordinance.
2. Approvals:
  - A. Approval of Code Enforcement Officer. Applications for approval by the

Code Enforcement Officer shall be submitted in such form as may be required by the Code Enforcement Officer and shall be accompanied by a fee of \$25. The Code Enforcement Officer shall approve permit applications which meet the following standards:

- (1) Lighting: All proposed signs in the Historic District shall be lit only by exterior means.
- (2) Size: All proposed signs in the Historic District shall be no greater than 16 square feet, and outside the Historic District shall be no greater than 30 square feet.
- (3) Height: All signs shall conform to the height restrictions in Subsections 4 and 10.
- (4) Paint: All proposed signs shall not contain fluorescent or phosphorescent paint.
- (5) Other: All proposed signs shall otherwise meet all other requirements of this section.

The Code Enforcement Officer shall deny applications for permits which fail to meet one or more of the above standards. An applicant may appeal the denial of a permit to the Planning Board within 30 days of such denial.

B. Approval of the Planning Board. The Planning Board may reverse the decision of the Code Enforcement Officer and approve signs which fail to meet one or more requirements of paragraph A, subparagraphs (1) through (5) above, provided that the following standards are met:

- (1) The Board shall approve a proposed sign in the Historic District if it determines that the size, shape, texture, color, manner of lighting, materials and lettering are harmonious with the architectural character and period and the aesthetic appearance of any building to which it may be affixed and/or to adjacent buildings, structures or areas to which it is visually related.
- (2) Proposed signs outside the Historic District shall be approved if the Board determines that factors such as safety to pedestrians, safety to vehicles and impedance to visibility from a traffic standpoint, as well as the other requirements of this Chapter have been adequately accounted for.
- (3) The Board shall approve proposed signs that are part of a Planned Mixed-Use Development if the Planning Board finds that the signs conform to the sign provisions of the approved Master Plan for the development.

C. Conditions. The Board may impose reasonable conditions and limitations on any applicant consistent with the purposes and intent of this Chapter.

3. Illumination.

- A. Permissible Lighting: Signs in the Historic District and residential zones may be illuminated only by steady, stationary, shielded light sources directed solely on the sign in such a manner as to not cause glare for motorists, pedestrians, or neighboring premises. Signs in all other districts may be either externally lit or may be illuminated internally.
- B. Prohibition: No persons shall erect or maintain any sign with lights or illumination that flash, move, rotate, blink, flicker or that vary in intensity.

4. Sign Limitations.

- A. No sign or portion of a sign structure shall exceed twenty (20) feet in height measured from the adjacent road surface.
- B. No sign shall be located within ten (10) feet of a street line or other lot line, except in the Downtown District, where no set-back requirement shall apply, and except where the sign is to be applied to an existing fence or building that is on or within 10 feet of the lot line.
- C. Except for directional signs permitted by the Maine Travelers Information Services Act, all signs shall relate to goods and services available on the premises on which the sign is located.
- D. In the residential districts, signs may not exceed five (5) square feet in size, and only shielded, non-glaring lights may be used for illumination.
- E. In business districts outside of the Historic District, only one free standing sign, no larger than thirty (30) feet in area on each side, shall be erected per building. Each occupancy of commercial buildings shall have not more than one sign attached to the buildings, no higher than the peak of the roof.

5. Other Signs Prohibited. No person shall erect or maintain within the Historic District and the Planning Board and Code Enforcement Officer shall not approve nor issue a permit for:

- A. Moving Signs: Signs with visible moving, revolving or rotating parts or visible movement of any description, except for so-called barber poles, or clocks whether achieved by electrical or mechanical means.
- B. Optical Illusions: Signs which create the effect of optical illusion.
- C. Roof Signs: Signs mounted wholly or in part on any roof or above the highest exterior point of any building.

- D. Fluorescent or Phosphorescent Painted Signs: Signs using any kind of paint which cause the sign to glow in the dark.

This section shall apply to all signs including those exempted under Subsection 8.

6. Maintenance or Discontinuance:

- A. Maintenance: All signs shall be painted and maintained in an attractive and safe fashion and consistent with the terms of any permit or approval given by the Planning Board or Code Enforcement Officer. In the event that any sign is not safely or appropriately maintained, the Code Enforcement Officer shall notify the owner thereof to undertake appropriate maintenance and repairs. If such maintenance or repairs are not completed within thirty days to the satisfaction of the Code Enforcement Officer, he may remove such sign in the manner provided by Subsection 7.
- B. Discontinued Business or Activity: In the event that the business or activity advertised by or related to any signs ceases operation for a period of one (1) year, the continued maintenance of such sign shall thereafter be illegal. The Code Enforcement Officer shall undertake removal of the sign in the manner provided by Subsection 7.

7. Removal of Unlawful Signs.

- A. Notice. The owner of any sign which was or is unlawfully erected or maintained after the effective date of this Chapter shall be in violation of this Chapter until the sign is removed. The owner of such sign shall remove the sign within thirty (30) days of receipt of a notice to remove, sent by certified mail, by the Code Enforcement Officer. If the identity of the owner is not known or reasonably ascertainable by the Code Enforcement Officer, the notice may be sent to the owner of the land on which the sign is located.
- B. Sign Removal. If the owner fails to remove the sign within thirty (30) days after receipt of the written notice provided for in paragraph A of this Subsection, the Code Enforcement Officer shall institute legal action in the name of the City to secure such removal.
- C. Signs in Public Ways. Any sign erected or maintained within the limits of any public right of way or on any public property within the compact sections of the City, as defined by the Maine Department of Transportation excluding the exceptions allowable in Subsection 8 may be immediately removed by the Code Enforcement Officer without notice, and the Code Enforcement Officer may recover the cost of removal from the owner of the sign.
- D. Lawful Signs. Lawful Signs which are in existence as of the effective date of this ordinance shall not be subject to the provisions of this Ordinance and shall not be subject to removal, providing that such signs shall be considered non-conforming and if located in the Historic District may be maintained only

until such time as the nature of the business changes, or the same may be replaced but not expanded within one (1) year after the accidental destruction or abandonment. If any such non-conforming signs are located outside of the Historic District, they may be maintained without limitation, provided that upon any destruction of the same, the same may be replaced but not expanded with one (1) year.

8. Exemptions. The following signs may be erected and maintained without the approval of the Planning Board or Code Enforcement Officer:
  - A. Governmental Bodies. Signs of a duly constituted governmental body;
  - B. Common Carriers. Signs on the rolling stock of common carriers or on registered and inspected motor vehicles, except those determined by the Code Enforcement Officer to be circumventing the intent of this Ordinance, including but not limited to, signs which are continuously or repeatedly in the same location;
  - C. Real Estate. Signs erected for the purpose of advertising the sale, lease or rental of real estate, provided, however, that no such sign shall exceed ten (10) square feet in size and that no person shall erect more than two (2) such signs on any parcel of land;
  - D. Temporary Sales. Temporary signs erected and maintained for a period of not more than forty-eight (48) hours to advertise sales of goods which are not ordinarily undertaken by the person so advertising as a regular course of business, including but not limited to so-called lawn sales and garage sales, provided, however, that no such sign shall exceed ten (10) square feet in size and that no person shall erect more than two (2) such signs on any parcel of land;
  - E. Inside Stores. Signs erected on the inside of commercial establishments, including, for example, on the inside of store windows, advertising the sale of goods or services. These signs must conform to the illumination requirements of subsection 3 above;
  - F. Public Events. Signs to be maintained for not more than three (3) weeks announcing an auction, public supper, lawn sale, fair, exposition, or any other public event, campaign, drive or like event of a public, civic philanthropic or religious organization. The date of this event shall be conspicuously posted on such signs;
  - G. Political. Signs erected for the purpose of promoting or opposing the election of a candidate for public office, a pending public referendum or other public policy matter; provided, however, that such sign shall be removed within seven (7) days after any election for which the sign was erected.



- H. Holiday Decorations. Temporary decorative materials in place for a holiday or celebration;
- I. Name Plates. Signs indicating the owner or occupant of a residential building, provided that such sign does not exceed two (2) square feet;
- J. No Trespassing Signs. Signs prohibiting hunting, fishing, or trespassing provided that such signs are not more than two (2) square feet in size.
- K. Home Operated Businesses, having no external commercial appearance. The nature of such business may be displayed on not more than two (2) appropriate signs having an area not greater than five (5) square feet. No sign shall be a neon type or any other type of internally lighted sign nor shall it use any fluorescent, phosphorescent or reflective paint that glows in the dark. Signs are permitted only for owners or occupants of properties for home products or services sold or produced on the premises.

Any sign exempt under this Section shall be nevertheless subject to the provisions of Subsections 3 and 5.

- 9. Sandwich Signs. The placing of sandwich signs within public ways are prohibited except as follows:
  - A. Such signs may only be placed on City sidewalks within the Downtown District in front of property owned, leased or rented by the sign owner.
  - B. No more than one third of the width of the sidewalk shall be used upon which to place the sign, nor shall the sign be placed in front of goods on display. A minimum of two thirds (2/3) of the sidewalk shall remain unencumbered at all times to allow the free passage of pedestrian traffic. In no event shall the sign block, impede or be placed upon any wheel chair ramp.
  - C. No sign shall be maintained upon a sidewalk during non-business hours, during a snowstorm or after a snowstorm prior to the removal of the snow by the City.
- 10. Extension Over Sidewalks and Public Ways.
  - A. Any sign erected on any building at a height of less than eight (8) feet above the ground level shall be placed flat against the building to which it is affixed and shall not extend more than six inches (6) over any sidewalk or public way.
  - B. Any sign erected on a building at a height of eight (8) feet or more above ground level may extend over a sidewalk but may not extend beyond the curb level, if any, nor extend over any public road.

11. Signs to be Securely Constructed and Fastened. All signs and any other awnings, shade, marquees or other structures extending over a sidewalk or public road or way shall be constructed in a structurally sound manner and if erected above ground level, shall be securely fastened or supported in a manner satisfactory to the Code Enforcement Officer to restrain swinging, oscillation or other movement that would endanger people or property. No such sign, awning, shade, marquee or structure shall unreasonably obstruct pedestrian or motor vehicle traffic on any sidewalk or public road or way.
12. Proof of Insurance. The Code Enforcement Officer shall not issue a permit under Subsection 2, above, for an on-premise sign until the owner files with him proof of having obtained public liability insurance covering property damage in the amount not less than five thousand dollars (\$5,000) and bodily injury in an amount not less than fifty thousand dollars (\$50,000). Such insurance shall thereafter be continually maintained by the owner of the sign. Any lapse in such coverage shall necessitate immediate removal of the sign by the owner.
13. Permit from Code Enforcement Officer. The Code Enforcement Officer shall issue a permit to erect a sign if he finds that the sign has the approval of the Planning Board or is exempt from such approval under Subsection 8, that the sign is to be constructed, erected and maintained in a safe and structurally sound manner, and is consistent with the provisions of this Ordinance.
14. Appeals. Decisions of the Planning Board pursuant to this section are subject to review for the same purposes and in the same manner as described in Subchapter X. A variance for a sign permit shall be available only for set-back requirements applicable to signs.

[Derivation: Section 5.34, 1989 Zoning Ordinance as amended 9/10/90 and 4/13/92; Ord. No. 11-03, Effective 8/18/2011; Ord. No. 12-11, eff. 10/19/2012; Ord. No. 15-07; eff. 07/23/2015]

#### **SECTION 9-638      STORM WATER RUN-OFF**

Storm water run-off shall be managed and directed via surface or subsurface drainage systems designed to accommodate the drainage flows based upon a twenty-five-year, twenty-four-hour storm event. Storm water retention practices shall be employed to minimize impacts on neighboring and downstream properties. In areas of aquifer recharge, Storm water infiltration (after separation of leachable, harmful substances) shall be required. Where retention/infiltration is unwarranted or unfeasible, off-site improvements to natural or manmade drainage systems may be necessary to increase capacity and prevent erosion at the developer's expense. The natural state of watercourses, swales or floodways shall be maintained. No stripping of land, building, construction, paving, or other disturbance of undeveloped land shall cause a significantly greater runoff than that which existed prior to development at any property line.

[Derivation: Section 5.35, 1989 Zoning Ordinance]

**SECTION 9-639**      SWIMMING POOLS

No person or firm shall begin construction of or erect a swimming pool without first obtaining a permit from the Planning Board. All such pools shall remain empty until the Code Enforcement Officer determines that the enclosure requirements of Subsection 1 below have been met. The Planning Board shall issue a permit only after determining from plans or specifications presented by the applicant that the proposed swimming pool will conform with the following requirements.

1.     Pools to be kept enclosed. Every swimming pool shall be enclosed by a fence or wall at least four (4) feet in height, with no openings larger than four (4) inches, and built so as to deter children. Any building or related structure may be included as part of the required enclosure. All gates and door openings through the enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely latched at all times when not in use.
  
2.     Set-Back Requirements. No swimming pool shall be constructed closer than ten (10) feet from the side or rear lot line, nor closer to the front line of any lot than would be permitted for buildings or other structures by other provisions of this Chapter. All mechanical equipment for the purposes of filtering, heating, pumping, cleaning, filling, draining or any other maintenance related activity shall not be located closer to a property line than the minimum yard set-backs of the zoning district in which the pool is located.

[Derivation: Section 5.36, 1989 Zoning Ordinance]

**SECTION 9-640**      TWO DWELLINGS ON ONE LOT

The distance between two dwelling units in separate structures on one lot or parcel, shall be at least equal to the minimum side yard set-back for the district in which the dwellings are to be located.

[Derivation: Section 5.37, 1989 Zoning Ordinance]

**SECTION 9-641**      TOWERS

No tower shall be constructed, erected, or enlarged unless application therefore has been reviewed and approved by the Planning Board in accordance with Subchapter VII, and is in compliance with all of the following criteria:

1.                    Setbacks:
  - A.     The tower drop zone, as defined below, shall be located entirely within a lot. In addition the minimum setback from a street right-of-way shall be 50 feet measured from the edge of the drop zone, and the minimum setback in all other cases shall be 25 feet measured from the edge of the drop zone. All tower parts, including guy wires, anchors and ancillary facilities shall be located within the drop zone.

[Derivation: Ordinance No.: 07-06, Eff. August 23, 2007]

- B. As used in this paragraph the term "drop zone" shall mean the area within a circle at ground level, the center of which is the vertical center of and the radius of which is equal to the height of the tower measured from natural ground level.
2. Site Security. A chain-link (security) fence or wall not less than eight (8) feet in height from the finished grade shall be provided around each tower. Access to the tower(s) shall be through a locked gate.
  3. Non-ionizing Electromagnetic Radiation (NIER):
    - A. Towers may not emit unsafe levels of non-ionizing electromagnetic radiation (NIER) levels beyond the tower sites boundaries;
    - B. NIER shall be at safe levels measured at the property lines of the site. The standard for emission levels shall be the federal or state NIER emission or measurement standard, whichever is more strict. Until such standard(s) are established, the NIER emissions shall not expose the general public to ambient radiation exceeding an equivalent plane-wave power density of 0.2 milliwatts per square centimeter (mW/cm<sup>2</sup>) at 30-300 megahertz (MHZ) frequency range averaged over a 0.1 hour period.
  4. Structural Integrity:
    - A. The use of de-icing material on towers may be required by the Planning Board.
    - B. All towers must be designed to withstand a wind velocity of at least 100 mph.
  5. Design and Visibility:
    - A. Towers shall be of a galvanized finish or painted gray above the surrounding tree line, and painted gray or green below the surrounding tree line unless other standards are required by the Federal Aviation Administration. In all cases, guyed towers shall be preferable to free standing structures.
    - B. Towers shall be designed and sited so as to avoid application of FAS lighting and painting requirements.
    - C. Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration; Ancillary facilities shall maximize use of building materials, colors and texture designed to blend with the natural surroundings.

6. Electronic Interference. Any electronic interference caused by a tower shall be corrected by the tower operator upon complaint.
7. Access and Parking. A driveway and parking facility shall be provided to assure adequate emergency and service access.
8. Site Plan. The application for a Conditional Use Permit under Subchapter VII shall in addition to all other requirements contained in Subchapter VII, require the submission to the Planning Board a completed visual environmental assessment on a form provided by the Code Enforcement Officer and a landscaping plan evidenced compliance with these standards. An environmental impact study may be ordered by the Planning Board if it deems such a study is necessary. Applicants must also show that all Federal Aviation Administration requirements have been complied with. In the case of new towers, the applicant shall submit a report demonstrating good faith efforts to secured share use from existing towers as well as documenting capacity for future shared use of the proposed tower.
9. Towers are specifically prohibited within the Historic and Shoreland overlay districts.
10. Removal. A tower must be dismantled and removed within twelve months after the tower is no longer in use.

[Derivation: Section 5.37-A, 1989 Zoning Ordinance as adopted 9/28/92; Ord. No. 12-11, eff. 10/19/2012]

**SECTION 9-642**      VISION CLEARANCE

In all zones except the Downtown District, no fence, wall, or sign shall be erected, and hedges, trees, or other growth shall be planted which may cause danger to traffic on a street or road by obstructing the view. Where essential for traffic safety a property owner may be required to keep vegetation, signs or other visual obstruction below three (3) feet in height in the required set-back according to the ASSHTO standards for vision clearance.

[Derivation: Section 5.38, 1989 Zoning Ordinance]

**SECTION 9-643**      WASTE FACILITIES

1. Definitions. All terms not expressly defined in this Section, including the terms “waste facility,” “solid waste,” “septage,” “handle,” “storage,” “transport,” “treatment,” “disposal,” “recycling” and “resource recovery,” shall have the same meaning as provided in 38 M.R.S.A. §1303-C. The terms “garbage” and “junk” shall have the same meaning as provided in Section 5-401 of this Code, except as otherwise provided herein. Waste facilities specifically include, but are not limited to, the following types of uses: solid waste landfills, junkyards, waste transfer or storage facilities, waste recovery or recycling facilities, and composing facilities containing more than 2,000 cu. Ft. of non-vegetative organic matter, but expressly excludes hazardous, biochemical or special waste handling facilities, tire processing and storage facilities, and Recycling Centers as defined in section 9-151(92).

2. Requirements. Any waste facility constructed, operated or maintained within the City must be approved in accordance with the standards provided under Subchapter VII of this Chapter. A permit issued by the Planning Board or the Code Enforcement Officer shall be expressly conditioned upon the following:
  - A. The owner or operator of the waste facility shall have obtained all permits and approvals required under State and Federal law, and shall comply and continue to comply, with all applicable State and Federal statutes and regulations relating to that facility.
  - B. The owner or operator of the waste facility shall have obtained all necessary licenses or permits required under applicable provisions of this Code, and shall comply and continue to comply with all such conditions and requirements of this Code.
  - C. A waste facility shall not be located within 500 feet of any water body or wetland, within 300 feet of a floodplain as shown on FEMA maps, or within 300 feet of the edge of a sand and gravel aquifer, designated by the Maine Geographical Survey.
  - D. A waste facility use shall not be located within 500 feet of an existing residential or school property line or residential district boundary line.
  - E. No obnoxious odors may be emitted from a waste facility.
  - F. A waste facility that provides for the outside storage of solid waste, including junkyards and landfills, but excluding compost facilities, shall at all times be completely screened from sight of persons on surrounding properties within a one-mile radius of the waste facility, including properties at higher elevations.
  - G. Transportation of waste or product to or from a waste facility shall, to the maximum extent possible, be routed over roads and highways that are not within the urban compact area of the City.
  - H. Adequate measures shall be taken to ensure that safe and healthful conditions are maintained during the operation of the waste facility and after the closure of the waste facility.

**SECTION 9-644**      WATERSHED PROTECTION

Within the Jimmy Pond watershed, as shown on the Official Zoning Map, the following activities shall be prohibited within 150 feet of a stream or drainage way: the spreading or storage of manure or other animal wastes; and the location, storage or discharge of any treated, untreated, or inadequately treated liquid, gaseous or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that run-off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness, or be harmful to human, animal, plant or aquatic life or marine navigation.

[Derivation: Section 5.39, 1989 Zoning Ordinance]

**SECTION 9-645**      BC DISTRICT STANDARDS

1.      Parking lots shall contain appropriate and effective tree buffer strips within at least every 125 feet of parking area.
2.      Access to commercial lots in the BC District(s) shall have only one entrance for each 300 feet of right of way (lot) frontage.
3.      The architectural design of commercial buildings in the BC District shall be compatible with adjacent and surrounding traditional rural structures and landscapes. Compatibility shall be determined by comparing the proposed construction to the visual presence of traditional rural structures on the landscape. Elements for review of compatibility include similarity of: height, massing, roof forms, window and door openings, roofing and siding materials, orientation of and connections between multiple buildings, placement of building(s) on the landscape, and use of local vegetation for landscaping.
4.      A landscaping plan must be provided as part of the site design. The landscape plan for the entire site must use landscape materials to integrate the various elements on site, and create a pleasing site character.
5.      Building placement: The site design should avoid creating a building surrounded by a parking lot. Buildings should be placed close to the street, in conformance with existing adjacent setbacks or code requirements which ever is more appropriate. Parking should be to the side, preferably to the back.

[Derivation: Ordinance No.: 03-13, Effective: September 18, 2003]

**SECTION 9-646**      CANNABIS-RELATED STANDARDS

1.      Setback Requirements for Cannabis Cultivation for Personal Use. Notwithstanding the setback requirements established in any other section of this Chapter, the minimum setback from any lot line for the outdoor cultivation of cannabis solely for personal use shall be fifty (50) linear feet.
2.      Setback Requirements for Cannabis-Related Businesses. Notwithstanding the setback requirements established by any other section of this Chapter, the minimum setback for cannabis business establishments (including, but not limited to, Cannabis Products Manufacturing Facilities, Cannabis Retail Stores, Cannabis Testing Facilities, and Indoor and Outdoor Cannabis Cultivation Facilities) shall be 1,000 linear feet from any lot line on which the business establishment is located to nearest the lot line of a public school, a private school, or a public recreational facility (including, but not limited to, public parks, ball fields, playgrounds, or other areas of public active or passive recreation, but not including the Kennebec River Rail Trail, Granite City Park, Vaughan Field, and the pocket park on the corner of Second and Union Streets).

[Derivation: Ord. No.: 18-15, eff. 11/23/2018]

**SUBCHAPTER VII - CONDITIONAL USE PERMITS**

**SECTION 9-701**      AUTHORIZATION

The Planning Board is hereby authorized to hear and decide upon applications for Conditional Use permits.

[Derivation: Section 6.1, 1989 Zoning Ordinance]

**SECTION 9-702**      POWERS AND DUTIES

The Planning Board shall hear and approve, approve with modifications or conditions, or disapprove all applications for Conditional Use permits. No Conditional Use permit may be granted unless specific provision for such Conditional Use is made in a particular District. The Planning Board may meet with an applicant on an informal basis prior to the submission of a formal application.

[Derivation: Section 6.2, 1989 Zoning Ordinance]

**SECTION 9-703**      ACTIVITIES REQUIRING CONDITIONAL USE PERMITS

A Conditional Use permit shall be required for any land use or activity which is classified as a "Conditional Use" in a particular District. A Conditional Use permit shall also be required for any increase or expansion of any existing Conditional Use, as defined below:

1.      Floor space increase of 25 percent or more within a ten year period, or
2.      New materials or processes not normally associated with the existing use.

No changes shall be made in any approved Conditional Use without approval of that change by the Planning Board. In cases where expansion will not change the existing use, or the exterior dimensions of any existing building, the Planning Board may pass upon the review procedure and waive the submission requirements in order that the project may be expedited. Waivers shall be issued in writing and shall state the reasons.

[Derivation: Section 6.3, 1989 Zoning Ordinance]

**SECTION 9-704**      APPLICATION PROCEDURE

1.      A person informed by the Code Enforcement Officer that he/she requires a Conditional Use permit shall file an application for the permit with the Code Enforcement Officer on forms provided for the purpose, together with a filing fee of twenty-five dollars (\$25) for Home Occupations and one hundred dollars (\$100) for all other Conditional Uses. All plans for Conditional Uses presented for approval under this section shall be drawn at a scale of fifty feet or less to the inch.



The Code Enforcement Officer shall review the application for completeness within five (5) business days of its receipt. The Code Enforcement Officer shall determine that the application is provisionally complete only if all of the required information set forth below has been submitted or the applicant has requested waivers for any required information not provided. Upon the completion of the application review, the Code Enforcement Officer shall notify the applicant in writing as to whether or not the application is provisionally complete. If the application is provisionally complete, the Code Enforcement Officer shall forward the application to the Planning Board and shall schedule it for the next available Planning Board meeting for consideration by the Board.

If the Code Enforcement Officer finds that the application is not provisionally complete, he/she shall notify the applicant in writing of the additional material that needs to be submitted for the application to be provisionally complete and to be considered by the Planning Board. Upon the receipt of additional information, the Code Enforcement Officer shall conduct another completeness review. This process shall be repeated, if necessary, until the Code Enforcement Officer finds that the application is provisionally complete.

The application for a Conditional Use permit shall include the information set forth below in Sections A through V unless the applicant is requesting, in writing, that the Planning Board waives specific submission requirements. The request for any waiver from the submission requirements shall state what specific submission is requested to be waived, why the applicant feels that the required information is not needed, and information for the Planning Board to evaluate the application and waiver request and determine if it conforms to the general standards of Section 9-721.

- A. The name and address of the applicant (or the authorized agent) plus the name of the proposed development, and a copy of the deed or other record of ownership.
- B. Total floor area, elevation of all structures, ground coverage, and location of each proposed building, structure, or addition.
- C. Perimeter survey of the parcel made and certified by a registered land surveyor licensed in Maine, relating to reference points, showing true north point, graphic scale, corners of the parcel, the date of the survey and the total acreage. The requirement for a perimeter survey may be waived if a deed clearly spells out the location of all lot lines such that they may easily be located on the ground
- D. All existing and proposed setback dimensions.
- E. The size, location, and direction and intensity of illumination of all major outdoor lighting apparatus and signs.

- F. The type, size and location of all incineration devices.
- G. The type, size and location of all machinery or equipment likely to generate appreciable noise at the lot lines.
- H. The location, type, and size of all existing and proposed catch basins, storm drainage facilities, streams and water courses, and all utilities, both above and below ground.
- I. An on-site soils investigation report by a Maine Department of Human Services licensed Site Evaluator (unless the site is to be served by public sewer). The report shall identify the types of soil, location of test pits, and proposed location and design for the subsurface disposal system.
- J. The amount and type of any raw, finished or waste materials to be stored outside of roofed buildings, including their physical and chemical properties, if appropriate.
- K. All existing contours and proposed finished grade elevations of the entire site, and the system of drainage proposed to be constructed. Contour intervals shall be specified by the Code Enforcement Officer subject to confirmation by the Planning Board.
- L. The location, type, and size of all curbs, sidewalks, driveways, fences, retaining walls, parking space areas, (including spaces and aisles) and the layout thereof, together with the dimensions.
- M. All landscaped areas and features, (including fencing, piers, and open spaces), and the size and type of plant material upon the premises in question.
- N. All existing or proposed rights-of-way, easements, and other legal restrictions which may affect the premises in question.
- O. The location, names, and widths of all existing and proposed streets abutting the premises in question.
- P. Plans of sewage disposal facilities, water supply systems, storm and surface water flows, and disposal of solid waste.
- Q. The property lines of all abutting and neighboring properties within two hundred feet of the proposed development, including those properties across the street, and waterways, together with the names and addresses of the owners as disclosed on the tax maps on file in the City Offices as of the date of the development plan review application.

- R. Any other information or data necessary for proper review, as specified by the Planning Board.
  - S. An appropriate place for the signatures of the Planning Board.
  - T. An application may be required to have an accompanying traffic engineering study, should the project be considered one of substantial magnitude. Should a traffic study be requested by the Planning Board, the following data shall be included:
    - (1) The estimated summer peak-hour traffic to be generated by the proposal.
    - (2) Existing traffic counts and volumes on surrounding roads.
    - (3) The capacity of surrounding roads and any improvements which may be necessary on such roads to accommodate anticipated traffic generation.
    - (4) The need for traffic signals and signs or other directional markers to regulate anticipated traffic.
  - U. A completed building permit application, which shall include written evidence of applicant's right, title or interest in the property to be developed.
  - V. The location of any flood plains as shown on the City's Flood Insurance Rate Maps.
2. Following the filing of a provisional application, and before taking action on the application, the Planning Board shall consider any requests for the waiver of the submission requirements and shall determine if the requested waiver(s) should be granted. If all requested waivers are granted, the Planning Board shall proceed with the consideration of the application. If any waivers are not granted, the Planning Board shall table consideration of the application until the information is received by the Board through the Code Enforcement Officer.
  3. Before taking action on an application, the Planning Board may hold a public hearing on the application within thirty days of its initial consideration by the Board.
  4. Within sixty days of the Planning Board voting that the application is complete if no public hearing is held, or within 30 days of the public hearing if a public hearing is held, the Planning Board shall reach a decision on a Conditional Use and shall inform, in writing, the applicant, the Code Enforcement Officer and City Council of its decision and its reasons therefore. This time period may be extended by written, mutual agreement of the Planning Board and applicant.

5. Upon notification of the decision of the Planning Board, the Code Enforcement Officer, as instructed, shall immediately issue, issue with conditions prescribed by the Planning Board, or deny a Conditional Use Permit.
6. A Conditional Use permit secured under the provisions of this Chapter by vote of the Planning Board shall terminate if construction is not significantly started within one year.
7. The Planning Board may require that an engineer, attorney or consultant review one or more aspects of an application for compliance with this Ordinance or to conduct independent studies or testing, and to advise the Board. It is intended that such review shall be requested only where there may be serious questions concerning methodologies, practices, opinions, or scientific principles presented by the applicant or its experts to meet its burden of proof. The engineer, attorney or consultant shall first establish the maximum cost of such review by written agreement with the City. The applicant shall then deposit with the City an amount equal to the full maximum cost, which the City shall place in an escrow account. The City shall pay the engineer, attorney or consultant from the escrow account and reimburse any remaining balance to the applicant, after final payment. Any interest accrued shall remain with the City.

[Derivation: Ord. No.: 07-02; Effective March 22, 2007]

8. Notwithstanding Subsection 1 of this Section, the application fee for a tower shall be \$50 plus \$10 per 10 feet of tower height or portion thereof plus \$10 per 100 square feet of accessory structures; and all plans shall be drawn on a scale of not less than 50 feet to the inch unless otherwise permitted by the Planning Board.

[Derivation: Section 6.4, 1989 Zoning Ordinance sub 6: Amended: Ord. No.: 01-10, effective July 19, 2001]

[Derivation: Ord. No.: 08-02; Effective March 20, 2008]

## **SECTION 9-705      TOWER DESIGN PLAN**

An application to construct, erect, or enlarge a tower shall contain, in addition to all other requirements of this Subchapter, a tower design plan, which shall include the following:

1. The location and dimensions of the tower, demarcation of the drop zone from the base of the tower (circle with radius equal to the height of the tower) and location and type of tower supporting structures;
2. An elevation of the tower (in scale) showing the relative size and number of antennas and any accessory structures that are proposed to be built;
3. The specific design of the tower including building materials selected, and pertinent technical, engineering, economic, and other factors influencing the final design;

4. The total anticipated capacity of the structure, including the number and types of antennas that can be accommodated;
5. Evidence of tower design structural integrity;
6. Failure factors of the tower and demonstration that the site and setbacks are of adequate size to contain debris;
7. Mitigation measures for ice and other hazards, including setbacks and de-icing equipment;
8. Demonstration that the height of the proposed tower is the minimum height necessary to accommodate the requirements of the use;
9. Evidence of the amount of non-ionizing electromagnetic radiation (NIER) emissions that will be experienced at the perimeter of the site;
10. A location map of the tower and site in respect to the Augusta Airport, indicating airport flight paths;
11. Evidence that the tower will not create a navigational hazard to aviation, or other hazard to the operation of the Augusta Airport;
12. Evidence that the planned equipment will not cause radio frequency (RF) interference to residential communications and other electronic equipment. Evidence that the planned equipment will not cause RF interference with other existing or planned equipment of this tower or surrounding towers.
13. Names and addresses of all property owners within 500 feet of the edge of the property line;
14. Boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time; and
15. Written evidence of compliance or plans for compliance with all standards contained in Sections 9-641 and 9-721.

[Derivation: Section 6.4-A, 1989 Zoning Ordinance as adopted 9/28/92]

**SECTION 9-706**      WASTE FACILITY PLAN

An application to construct, operate or maintain a waste facility as defined in section 9-643 shall contain, in addition to all other requirements of this section, all of the following:

1. Certification that the applicant has received, or will receive after Planning Board approval, all necessary permits and licenses from the municipal officers and any applicable State and Federal agencies.

2. Copies of all applications, plans and exhibits relating thereto submitted to any State or Federal agency or to the municipal officers with respect to the waste facility.
3. A detailed written description of all aspects of the operation of the waste facility.
4. A listing and description of all machinery, equipment and vehicles to be used on site.
5. A detailed description of on-site circulation patterns for loading and unloading of waste product.
6. A description of the proposed vehicle routes within the City with respect to waste and product to and from the waste facility.
7. A detailed written description of special operational controls, emergency power systems, liquid and leachate containment, and any other measures utilized to mitigate adverse impacts to the neighborhood and the environment.
8. Evidence, satisfactory to the Planning Board, of the applicant's financial ability to construct and operate the waste facility.
9. A written closure plan or plan for removal of all waste on the site in the event of termination of the operations of the waste facility for any reason.

[Derivation: Ord. No. 12-11, eff. 10/19/2012]

**SECTIONS 9-707 THROUGH 9-720 (RESERVED)**

**SECTION 9-721      GENERAL STANDARDS**

The Planning Board shall approve, approve with conditions, or deny all applications for a conditional use permit. The applicant shall have the burden of proving that his or her application is in compliance with the requirements of this Chapter and that none of the conditions listed below would result from the approval of the Conditional Use permit. Failure of the applicant to submit required information shall constitute a basis for denial without a review of the remainder of the application. After the submission of a complete application and a review of the required submissions, the Planning Board shall approve the application or approve it with conditions if the application meets the following standards:

1. The proposed use meets specific requirements set forth in this Chapter and would be in compliance with applicable State or federal laws;
2. The proposed use would not create fire safety hazards by providing adequate access to the site, or to the buildings on the site, for emergency vehicles;
3. The proposed exterior lighting would not create hazards to motorists traveling on adjacent public streets or is adequate for the safety of occupants or users of the site

- or would not damage the value and diminish the usability of adjacent properties;
4. The provisions for buffers and on-site landscaping provide adequate protection to neighboring properties from detrimental or unsightly features of the development;
  5. The proposed use would not have a significant, detrimental effect on the use and peaceful enjoyment of abutting property as the result of noise, vibrations, fumes, odor, dust, glare, hours of operation, or other causes;
  6. The provisions for vehicular loading and unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets would not create hazards to public safety;
  7. The proposed use would generate a volume of traffic that can reasonably be accommodated by the existing road network, or would not create unreasonable traffic hazards or would not exacerbate an existing traffic hazard, or would not create unreasonable traffic congestion;
  8. The proposed use would not have a significant, detrimental effect on the value of adjacent properties which could be avoided by reasonable modification of the proposal;
  9. The proposed use would not have an adverse impact on the privacy of the residents of the immediate area (within 500 feet) which could be avoided by reasonable modification of the proposal;
  10. The proposed use would be in compliance with Hallowell's Comprehensive Plan.
  11. The proposed use would not have an adverse impact on the community relative to architectural design, scale, bulk and building height, identity and historical character, or visual integrity, which could be avoided by reasonable modification of the proposal;
  12. The design of the site would not result in significant flood hazards or flood damage or would be in conformance with applicable flood hazard protection requirements;
  13. Adequate provision has been made for disposal of waste water or solid waste or for the prevention of ground or surface water contamination;
  14. Adequate provision has been made to control erosion or sedimentation.
  15. Adequate provision has been made to handle storm water run-off or other drainage problems on the site; and the proposed Development will not unduly burden off-site surface water systems.
  16. The proposed water supply would meet the demands of the proposed use for fire protection purposes.

17. Adequate provision has been made for the transportation, storage, and disposal of hazardous substances and materials as defined by State law;
18. The proposed use would not have an adverse impact on scenic vistas or on significant wildlife habitat which could be avoided by reasonable modification of the proposal;
19. When located in the Shoreland District or in the Resource Protection District, the proposed use would meet State shoreland zoning objectives, including:
  - A. the prevention and control of water pollution and sedimentation;
  - B. the control of building sites, placement of structures, and land use;
  - C. the protection of spawning grounds, fish, aquatic life, bird, and other wildlife habitat; and
  - D. the conservation of shore cover, visual as well as actual points of access to inland and coastal waters and natural beauty.

Approval of the Planning Board is dependent upon and limited to proposals and plans contained in the application, supporting documents and testimony provided by the applicant as well as oral agreements noted in the minutes between the Board and the applicant at the time of hearing and/or decision. Any variations from the plans, proposals, and supporting material, except de minimus changes, as determined by the Code Enforcement Officer, which do not affect approval standards, are subject to the review and approval of the Planning Board prior to implementation.

[Derivation: Section 6.5, 1989 Zoning Ordinance; Ord. No. 12-11, eff. 10/19/2012; Ord. No. 15-07, eff. 07/23/2015]

**SECTION 9-722**      CONDITIONS ATTACHED TO CONDITIONAL USES

The Planning Board may attach such conditions, in addition to those required elsewhere in this Ordinance, that would mitigate any adverse effects on adjoining or neighboring properties, which might otherwise result from the proposed use. These conditions may include, but are not limited to, specifications for: type of vegetation; increased setbacks and yards; specified sewage disposal and water supply facilities; landscaping and planting screens; periods of operation; operational controls; professional inspection and maintenance; sureties; deed restrictions; locations of piers, docks, parking and signs; type of construction; or any other conditions, restrictions, or safeguards that would uphold the spirit and intent of this Chapter.

[Derivation: Section 6.6, 1989 Zoning Ordinance]



**SECTION 9-723**      PERFORMANCE GUARANTEES

1.      At the time of approval of the application for a Conditional Use Permit, the Planning Board may require the applicant to tender a performance guarantee in the form of a certified check payable to the City, a letter of credit payable to the City, or a performance bond payable to the City issued by a financial institution or surety company acceptable to the Planning Board in an amount adequate to cover the total costs of all required improvements, taking into account the time-span of the performance guarantee and the effects of inflation upon costs. Required improvements may include but shall not be limited to monuments, street signs, streets, sidewalks, parking lots, water supply, sewerage disposal and storm drainage facilities and required landscaping. The conditions and amount of the certified check, letter of credit or bond shall be determined by the Planning Board with advice from the Code Enforcement Officer.
  
2.      Prior to the release of the check, letter of credit, or bond, or any part thereof, the Planning Board shall determine to its satisfaction that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested. Any interest accumulated on an escrow account shall be returned to the applicant after it has been determined that the proposed improvements meet all design and construction requirements.
  
3.      If, with respect to the performance guarantee, the Planning Board determines that any of the improvements have not been constructed in accordance with plans and specifications filed by the applicant, the Planning Board shall then notify the applicant, and take all necessary steps to preserve the City's rights.
  
4.      At least five (5) days prior to commencing construction of any required improvements, the applicant shall pay to the City an inspection fee equal to two (2%) percent of the cost of such improvements. The applicant shall notify the Code Enforcement Officer in writing of the time when he proposes to commence construction of the improvements, so that the Code Enforcement Officer can ensure that all municipal specifications and requirements are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities, required by the Board. If the inspection costs amount to less than the fee collected, the surplus shall be returned to the applicant when inspections are completed.

[Derivation: Section 6.7, 1989 Zoning Ordinance]

**SUBCHAPTER VIII – LAND SUBDIVISIONS**

[Derivation: Ordinance 12-05, Effective 4/19/2012]

**DIVISION A – GENERAL PROVISIONS**

**SECTION 9-801**      **PURPOSE**

The purposes of this subchapter are to:

1. Provide for the expeditious, equitable, and efficient review of proposed subdivisions;
2. Establish standards for the application of the approval criteria of the State Subdivision Law, found in 30-A M.R.S.A. § 4401 et seq.;
3. Assure that development in the City of Hallowell meets the goals and conforms to the policies of the adopted Comprehensive Plan;
4. Assure the comfort, convenience, safety, health, and welfare of the people of the City of Hallowell;
5. Protect the environment and conserve the natural and cultural resources identified in the adopted Comprehensive Plan as important to the community;
6. Assure that an adequate level of services and facilities is available to the residents of new subdivisions and that lots in subdivisions can support the proposed uses and structures;
7. Minimize the potential impacts from new subdivisions on neighboring properties and on the municipality; and
8. Promote the development of an economically sound and stable community.

**SECTION 9-802**      **AUTHORITY; TITLE**

1. This subchapter has been prepared in accordance with the provisions of 30-A M.R.S.A. § 4403.
2. This subchapter shall be known and may be cited as the "Subdivision Regulations of the City of Hallowell, Maine."

**SECTION 9-803      ADMINISTRATION; APPLICABILITY**

1. The Planning Board of the City of Hallowell, hereinafter called the "Board," shall administer this subchapter.
2. The provisions of this subchapter shall pertain to all land and buildings proposed for subdivision within the boundaries of the City of Hallowell.

**DIVISION B – PREAPPLICATION PROCEDURES**

**SECTION 9-804      PREAPPLICATION CONFERENCE**

Prior to submitting a formal application for subdivision review, the applicant or his/her representative must attend a preapplication conference with the Code Enforcement Officer (CEO). A preapplication conference is mandatory and an application will not be accepted for processing until a preapplication conference has been held. The preapplication conference shall be informal and informational in nature. There is no fee for a preapplication review, and such review shall not cause the plan to be a pending application or proceeding under Title 1 M.R.S.A. §302. No decision on the substance of the plan shall be made by the CEO at the preapplication conference.

**SECTION 9-805      PURPOSES OF PREAPPLICATION CONFERENCE**

The purposes of the preapplication conference are to:

1. Allow the staff to understand the nature of the proposed subdivision and the issues involved in the proposal,
2. Allow the applicant to understand the subdivision review process and required submissions,
3. Identify issues that need to be addressed in future submissions,
4. Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities,
5. Allow the Code Enforcement Officer to provisionally classify the project as a minor subdivision or major subdivision, and
6. Allow the Code Enforcement Officer to establish the contour interval to be used in submitting topographic information about the site.

**SECTION 9-806      SITE INSPECTION AND WAIVERS**

The Code Enforcement Officer may schedule a site inspection in conjunction with the

preapplication conference if deemed necessary and discuss any potential requests for waivers from the submission requirements.

**SECTION 9-807**      PREPARATION FOR THE PREAPPLICATION CONFERENCE

There are no formal submission requirements for a preapplication conference. However, the applicant should be prepared to discuss the following with the CEO:

1.      The proposed site, including its location, size, and general characteristics,
2.      The nature of the proposed subdivision,
3.      Any issues or questions about existing municipal regulations and their applicability to the project, and
4.      Any requests for waivers from the submission requirements and the basis for the request.

The applicant's presentation and written materials about the nature and scope of the project must allow the CEO to be able to provisionally classify the project as a minor subdivision or major subdivision in accordance with 9-808.

**SECTION 9-808**      CLASSIFICATION OF A SUBDIVISION

The Code Enforcement Officer shall be responsible for provisionally classifying a project as a minor subdivision or a major subdivision. This process will occur in conjunction with the preapplication conference. Within ten (10) business days of the preapplication conference and site inspection, the CEO shall tentatively classify the subdivision as a minor subdivision or a major subdivision. When the CEO provisionally classifies a project as a minor or major subdivision, he/she shall notify both the applicant and the Chair of the Planning Board in writing of the classification and the basis for determination. At the first meeting of the Planning Board at which the application is discussed, the Planning Board shall review the CEO's determination as to the classification of the subdivision and may either confirm or revise the classification based upon the information contained in the formal submission and advise the applicant of this determination. If the Planning Board revises the classification of a project, the processing of the application shall proceed under the revised classification at that meeting and any subsequent meetings of the board. If the Planning Board reclassifies a project as a major subdivision, processing of the application shall be suspended until the applicant has provided all of the information required for a major subdivision as set forth in Division D.

Projects and activities subject to subdivision review are classified as minor subdivisions or major subdivisions based upon the criteria of this section. Projects that are classified as minor subdivisions are subject to a simplified application and review process while major projects are required to provide more information about the activity and its impacts and are subject to a more extensive review process.

1. Any activity that meets the threshold requirements for Subdivision Review that will result in the creation of four (4) or fewer lots or dwelling units shall be classified as a Minor Subdivision and shall be subject to the procedures and standards for minor subdivisions except as provided for in 3. below.
2. Any activity that meets the threshold requirements for Subdivision Review that will result in the creation of five (5) or more lots or dwelling units shall be classified as a Major Subdivision and shall be subject to the procedures and standards for major subdivisions:
3. If a minor subdivision has been approved in the preceding five (5) years, any amendment to the approved subdivision or any re-subdivision of land that was part of the approved subdivision shall be classified as a major subdivision if the total number of lots created in any five (5) year will be five (5) or more.
4. An amendment to a previously approved and recorded subdivision shall be classified as a Minor Subdivision unless the revised subdivision will result in the creation of five (5) or more lots or is classified as a major subdivision based on 3. above.

**SECTION 9-809**      CONTOUR INTERVAL

Within ten (10) business days of the tentative classification of the project by the Code Enforcement Officer, the CEO shall inform the applicant in writing of the required contour interval on the preliminary plan, or final plan in the case of a minor subdivision. The applicant may appeal the CEO's determination to the Planning Board by filing a written request with the CEO. This request will be considered by the Planning Board at the next meeting at which the application is considered.

**SECTION 9-810**      (Reserved)

**DIVISION C – MINOR SUBDIVISIONS**

**SECTION 9-811**      GENERAL PROVISIONS

The Planning Board may require that a minor subdivision comply with some or all of the submission requirements for a major subdivision. The additional information may be required when the Board finds it necessary to decide if the criteria for approval from 30-A M.R.S.A. § 4404 or the standards from Division I. of these regulations have been met.

**SECTION 9-812**      MINOR SUBDIVISION PROCEDURES

1. Submission to Code Enforcement Officer. The applicant for approval of a minor subdivision shall prepare and submit a subdivision application, including the subdivision plan and supporting documentation to the CEO. The application must meet the submission requirements for minor subdivisions set forth in Section 9-813.

The CEO shall provide the applicant with a dated, written receipt for the application submission.

2. Provisional Review by the Code Enforcement Officer. The CEO shall review the application for completeness within ten (10) business days of receipt. The CEO shall provisionally determine that the application is complete only if all of the required information set forth in 9-813 has been submitted or the applicant has requested waivers for any required information not provided and provided information documenting the basis for the waiver request(s). Upon the completion of the application review, the CEO shall notify the applicant in writing as to whether or not the application is deemed to be provisionally complete. If the application is provisionally complete, the CEO shall forward the application to the Planning Board and shall schedule it for the next available Planning Board meeting in accordance with the established scheduling procedures for consideration by the Board. The CEO shall notify abutting property owners of the pending application in accordance with Section 9-184. The CEO shall also hand deliver or mail written notice of the pending application to the City Manager, Fire Chief, Police Chief, the Chair of the Conservation Commission, Superintendent of the Hallowell Water District, Superintendent of the Greater Augusta Utility District, and other interested parties.

If the CEO finds that the application is not complete, he/she shall notify the applicant in writing of the additional material that needs to be submitted by the applicant for the application to be provisionally complete and to be considered by the Planning Board. Upon the receipt of additional information, the CEO shall conduct another completeness review. This process shall be repeated, if necessary, until the CEO finds that the application is provisionally complete.

3. Initial Consideration by the Planning Board. At the first meeting at which the application is considered, the Planning Board shall review the application material and formally determine whether or not the submission is complete. The Board shall also consider and act on any requests for waivers of the submission requirements. If the application is determined to be incomplete or requested waivers are not granted, the Board shall notify the applicant and CEO in writing of this finding within five (5) business days of the meeting, shall specify the additional materials required to make the application complete and shall advise the applicant that the application will not be considered by the Board until the additional information is submitted to the CEO. These steps shall be repeated until the application is found to be complete by the Planning Board. The timeframes for the processing of the application shall begin when the board finds that the application is complete.
4. On-Site Inspection. The Planning Board may hold an on-site inspection of the site to review the existing conditions, field-verify the information submitted, and investigate the development proposal. The Board may conduct this visit either before or after the first meeting at which the application is considered. The Board may postpone the on-site inspection when the site is snow covered and the Board determines that snow cover makes a reasonable assessment of site conditions impossible. If an application is pending during a period when a site walk is delayed due to snow cover, the processing of the application may be suspended until the Board is able to

conduct an on-site inspection. Written notice of the on-site inspection shall be provided in accordance with Section 9-184.

5. Planning Board Action. Within forty-five (45) days of determining that the application is complete, the Planning Board shall decide whether to hold a public hearing on the application. The Board shall take final action on said application within sixty (60) days of finding it complete if a public hearing is not held. If a public hearing is held, the Planning Board shall take final action on the application within thirty (30) days of the public hearing. The Board shall act to deny, to approve, or to approve the application with conditions. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval. All time limits provided for in this section may be extended by mutual agreement of the applicant and Planning Board.

If any portion of subdivision is within a Special Flood Hazard Area, the Board shall impose a condition of approval that structures on any lot having a portion of its land within a Special Flood Hazard Area must be constructed in accordance with the floodplain management provisions of Section 9-536.

In issuing its decision, the Planning Board shall make written findings of fact establishing that the activities set forth in the application do or do not meet the standards of approval and other requirements of the City including any conditions of approval necessary to comply with the standards. The Board shall notify the applicant of the action of the Board in writing within five (5) business days of the meeting, including the findings of fact, and any conditions of approval.

6. Optional Public Hearing. The Planning Board is not required to hold a public hearing on an application for approval of a minor subdivision. The Board may, by formal vote, decide to hold a public hearing on an application if there is significant public interest in the project or if there are unresolved issues with respect to conformance with the approval standards. If a public hearing is held, the hearing shall be noticed and advertised in accordance with the provisions of Section 9-184.
7. Final Approval and Filing. Upon completion of the requirements of this Section and a vote of approval or approval with one or more conditions by the majority of the Planning Board, the application is approved. Subsequent to the approval by the Board, the applicant shall submit two reproducible, stable-based transparencies of the subdivision plan to the CEO, one to be recorded at the Registry of Deeds, the other to be filed at the municipal office. The plan shall contain any conditions of approval imposed by the Planning Board. The reproducible transparencies shall be embossed and printed with the seal of the individual responsible for preparation of the plan. The approved subdivision plan shall be signed by a majority of the members of the Board and filed with the CEO. In addition, a signed subdivision plan and decisions document setting forth the findings of fact including any conditions of approval shall be recorded by the applicant in the Kennebec County Registry of Deeds within sixty (60) days of the vote to approve the plan and evidence of such filing provided to the CEO. Any plan for which a plan and decision document is not filed within sixty (60) days of the date upon which such plan is approved and signed

by the Board shall become null and void. Prior to the expiration of the sixty (60) day period, the Planning Board, by vote, may extend the filing period for good cause.

No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised final plan is first submitted and the Board approves any modifications. The Board shall make findings that the revised plan meets the criteria of 30-A M.R.S.A. § 4404 and the standards of these regulations. In the event that a plan is recorded without complying with this requirement, it shall be considered null and void and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.

8. **Initiation of Construction.** Failure to initiate construction of the subdivision within five years of the date of approval and signing of the plan shall render the plan null and void unless the applicant has requested in writing and received an extension and has provided for the continuation of any performance guarantees for the period of the extension prior to the expiration of the five-year period. Upon determining that a subdivision's approval has expired under this subsection, the Board shall have a notice placed in the Registry of Deeds to that effect.
9. **Municipal Acceptance of Land or Facilities.** The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the City Council covering future deed and title dedication and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

**SECTION 9-813**      MINOR SUBDIVISION SUBMISSIONS

1. The final plan application for approval of a minor subdivision shall consist of the following items:
  - A. A fully executed and signed copy of the application for minor subdivision review (provided by the City).
  - B. A location map drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties and to allow the Board to locate the subdivision within the municipality. The location map shall show:
    - (1) Existing subdivisions in the proximity of the proposed subdivision.
    - (2) Locations and names of existing and proposed streets.



- (3) Boundaries and designations of zoning districts.
  - (4) An outline of the proposed subdivision and any remaining portion of the owner's property if the final plan submitted covers only a portion of the owner's entire contiguous holding.
  - C. The required application and development review fees.
  - D. A list of abutters and the owners of any other parcel entitled to receive public notice in accordance with 9-184, together with their mailing addresses.
  - E. The subdivision plan and supporting documentation consisting of 14 copies of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch and 14 copies of supporting documentation bound in a single report. Plans shall be no larger than 24 by 36 inches in size and shall have a margin of two inches outside of the border lines on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. In addition, one copy of the plan(s) reduced to a size of 11 by 17 inches shall be provided.
2. The subdivision plan and supporting documentation shall include at least the following information:
- A. Proposed name of the subdivision or identifying title, the name of the municipality, and the Assessor's map and lot numbers.
  - B. The names and addresses of the record owner, applicant, and individual or company who or which prepared the plan and adjoining property owners.
  - C. The date the plan was prepared, north point, and graphic map scale.
  - D. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
  - E. Evidence of right, title, or interest in the property.
  - F. A copy of the most recently recorded deed for the parcel and a copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
  - G. A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
  - H. A standard boundary survey of the parcel meeting the standards of Chapter 90 Standards of Practice of the rules of the Maine Board of Licensure for Professional Land Surveyors, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The

plan shall indicate the type of monument found or to be set at each lot corner.

- I. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features.
- J. The location of all rivers, streams and brooks, coastal and freshwater wetlands, and vernal pools within or adjacent to the proposed subdivision.
- K. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the one-hundred-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
- L. Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife. If any portion of the subdivision is located within an area designated as a critical natural area by the Maine Natural Areas Program, the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
- M. Contour lines at the interval specified by the Code Enforcement Officer showing elevations in relation to mean sea level.
- N. The location and size of existing and proposed sewers, water mains, culverts, and drainageways on or adjacent to the property to be subdivided.
- O. The location, names, and present widths of existing streets and highways and existing and proposed easements, building lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. In order to facilitate the addition of the subdivision into the municipal property records, this information shall also be submitted on a computer disc in a format compatible with the Assessor's records.
- P. An indication of the type of sewage disposal to be used in the subdivision.
  - (1) When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the Greater Augusta Utility District, stating that the District has the capacity to collect and treat the wastewater, shall be provided.
  - (2) When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, prepared by a licensed site evaluator, shall be provided. Test pit logs for all test pits

shall be provided. The location of all test pits dug on the site shall be shown on the subdivision plan or on a map at the same scale as the subdivision plan.

- Q. An indication of the type of water supply system(s) to be used in the subdivision.
    - (1) When water is to be supplied by public water supply, a written statement from the Hallowell Water District shall be submitted indicating that there is sufficient supply and pressure for the subdivision and that the District approves the plans for extensions where necessary. Where the District's supply line is to be extended, a written statement from the Fire Chief stating approval of the location of fire hydrants, if any, and a written statement from the District approving the design of the extension shall be submitted.
    - (2) When water is to be supplied by private wells, evidence of adequate groundwater supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
  - R. The width and location of any streets, public improvements or open space shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.
  - S. The location of any open space to be preserved and a description of proposed improvements and its management.
  - T. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public open spaces shown on the plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the applicant or lot owners are to be maintained, shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the City Council is satisfied with the legal sufficiency of the written offer to convey title shall be included.
  - U. The location and method of disposal for land clearing and construction debris.
3. The Board may require additional information, including but not limited to the following, to be submitted where it finds it necessary in order to determine whether the criteria of 30-A M.R.S.A. § 4404 are met:
- A. A hydrogeologic assessment prepared by a certified geologist or registered professional engineer experienced in hydrogeology.
    - (1) The Board may require a hydrogeologic assessment when the subdivision is not served by public sewer and:

- (a) Any part of the subdivision is located over a mapped sand and gravel aquifer;
    - (b) The subdivision has an average density of more than one dwelling unit per 100,000 square feet; or
    - (c) In other cases where site considerations or development design indicates greater potential of adverse impacts on groundwater quality, such as extensive areas of shallow to bedrock soils, cluster developments in which the average density is less than one dwelling unit per 100,000 square feet but the density of the developed portion is in excess of one dwelling unit per 80,000 square feet, or the use of shared or common subsurface wastewater disposal systems.
  - B. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from the most recent edition of the Trip Generation Manual published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.
  - C. A stormwater management plan prepared by a registered professional engineer in accordance with "Stormwater Management for Maine: BMP Technical Design Manual," published by the Maine Department of Environmental Protection (2006).
  - D. An erosion and sedimentation control plan prepared in accordance with "Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices," published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991.
  - E. Street plans meeting the requirements of the City if the subdivision will involve the construction or extension of a street. The Planning Board may determine the extent of the plans needed based on the scale and type of improvement.
4. The Planning Board may waive any of the submission requirements including the additional submission requirements based upon a written request of the applicant. Such request must be made at the time of the review of the initial review of the application for minor developments. A waiver of any submission requirement may be granted only if the Board finds that the information is not required to determine compliance with the approval standards and criteria.

**DIVISION D – MAJOR SUBDIVISIONS**

**SECTION 9-814      MAJOR SUBDIVISION APPROVAL PROCESS**

1. Three Step Review Process. The review process for a major subdivision is a three step process. Step one is the submission and review of a Site Inventory and Analysis. Upon the completion of the review of the Site Inventory and Analysis, the Planning Board will authorize the applicant to proceed to step two, the submission of a formal preliminary application and supporting documentation. The City will not accept or process an application for preliminary plan review of a major subdivision until a review of the Site Inventory and Analysis has been completed. Following the approval of the preliminary plan, the Planning Board will authorize the applicant to submit the final plan, step 3 in the process.
  
2. Step One – Site Inventory and Analysis
  - A. Submission of the Site Inventory and Analysis to the Code Enforcement Officer. The applicant shall prepare and submit a Site Inventory and Analysis and supporting documentation to the CEO. The materials must meet the submission requirements set forth in Section 9-815. The CEO shall provide the applicant with a dated, written receipt for the submission.
  
  - B. Provisional Review of the Site Inventory and Analysis by the Code Enforcement Officer. The CEO shall review the submission for completeness within ten (10) business days of receipt. The CEO shall provisionally determine that the submission is complete only if all of the required information set forth in 9-815 has been submitted or the applicant has requested waivers for any required information not provided and provided information documenting the basis for the waiver request(s). Upon the completion of the review, the CEO shall notify the applicant in writing as to whether or not the submission is deemed to be provisionally complete. If the submission is provisionally complete, the CEO shall forward the Site Inventory and Analysis to the Planning Board and shall schedule it for the next available Planning Board meeting in accordance with the established scheduling procedures for consideration by the Board. The CEO shall notify property owners of the pending project in accordance with Section 9-184. The CEO shall also hand deliver or mail written notice of the site inventory and analysis submission to the City Manager, Fire Chief, Police Chief, the Chair of the Conservation Commission, Superintendent of the Hallowell Water District, Superintendent of the Greater Augusta Utility District, and other interested parties.

If the CEO finds that the submission is not complete, he/she shall notify the applicant in writing of the additional material that needs to be submitted by the applicant for the Site Inventory and Analysis to be provisionally complete

and to be considered by the Planning Board. Upon the receipt of additional information, the CEO shall conduct another completeness review. This process shall be repeated, if necessary, until the CEO finds that the submission is provisionally complete.

- C. Consideration of the Site Inventory and Analysis by the Planning Board. At the first meeting at which the site inventory and analysis is considered, the Planning Board shall review the material and formally determine whether or not the submission is complete. The Board shall also consider and act on any requests for waivers of the submission requirements. If the submission is determined to be incomplete or requested waivers are not granted, the Board shall notify the applicant and CEO in writing of this finding within five (5) business days of the meeting, shall specify the additional materials required to make the Site Inventory and Analysis submission complete and shall advise the applicant that the project will not be considered by the Board until the additional information is submitted to the CEO. These steps shall be repeated until the application is found to be complete by the Planning Board. The timeframes for the processing of the site inventory and analysis shall begin when the board finds that the submission is complete.
- D. Review of the Site Inventory and Analysis. The Planning Board review of the Site Inventory and Analysis shall be informational and shall not result in any formal approval or disapproval of the project by the Planning Board. The Board shall review the submission to determine if the information provides a clear understanding of the lot's characteristics and its potential for subdivision and development. The outcome of the review process shall be a determination by the Board of the issues and constraints that must be addressed in the formal subdivision application. The Board shall also act on any requests for waivers from the application submission requirements. As part of the review of the Site Inventory and Analysis, the Planning Board may hold an on-site inspection of the site to review the existing conditions, field-verify the information submitted and investigate the development proposal. The Board may conduct this visit either before or after the first meeting at which the application is considered. The Board may postpone the on-site inspection when the site is snow covered and the Board determines that snow cover makes a reasonable assessment of site conditions impossible. If an application is pending during a period when a site walk is delayed due to snow cover, the processing of the application may be suspended until the Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided in accordance with Section 9-184. Within forty-five (45) days of the finding that the site inventory and analysis submission is complete, the Board shall complete its review of the submission, notify the applicant in writing of the outcome of its review, and, if appropriate, authorize the submission of the formal application.

3. Step Two – Submission of the Preliminary Plan

- A. Submission of Preliminary Plan Application to the Code Enforcement Officer. Upon completion of the review of the Site Inventory and Analysis, the applicant shall prepare and submit a preliminary plan application for a major subdivision to the CEO. The application must include the subdivision plan and supporting documentation that meets the submission requirements for a preliminary plan for major subdivision as set forth in Section 9-816. The CEO shall provide the applicant with a dated, written receipt for the application submission.
- B. Provisional Review of Application by the Code Enforcement Officer. The CEO shall review the application for completeness within ten (10) business days of receipt. The CEO shall provisionally determine that the application is complete only if all of the required information for preliminary plans for a major subdivision set forth in 9-816 has been submitted or the Planning Board has approved waivers for any required information not provided as part of the Site Inventory and Analysis review. Upon the completion of the application review, the CEO shall notify the applicant in writing as to whether or not the application is deemed to be provisionally complete. If the application is provisionally complete, the CEO shall forward the application to the Planning Board and shall schedule it for the next available Planning Board meeting in accordance with the established scheduling procedures for consideration by the Board. The CEO shall notify abutting property owners of the pending application in accordance with Section 9-184. The CEO shall also hand deliver or mail written notice of the pending application to the City Manager, Fire Chief, Police Chief, the Chair of the Conservation Commission, Superintendent of the Hallowell Water District, Superintendent of the Greater Augusta Utility District, and other interested parties.

If the CEO finds that the application is not complete, he/she shall notify the applicant in writing of the additional material that needs to be submitted by the applicant for the application to be provisionally complete and to be considered by the Planning Board. Upon the receipt of additional information, the CEO shall conduct another completeness review. This process shall be repeated, if necessary, until the CEO finds that the application is provisionally complete.

- C. Initial Consideration of the Application by the Planning Board. At the first meeting at which the preliminary plan application is considered, the Planning Board shall review the application material and formally determine whether or not the submission is complete. If the application is determined to be incomplete, the Board shall notify the applicant and CEO in writing of this finding within five (5) business days of the meeting, shall specify the additional materials required to make the application complete and shall advise the applicant that the application will not be considered by the Board until the additional information is submitted to the CEO. These steps shall be repeated until the application is found to be complete by the Planning Board.

- D. On-Site Inspection. The Planning Board may hold an on-site inspection of the site to review the existing conditions, field verify the information submitted, and investigate the development proposal. The Board may conduct this visit either before or after the first meeting at which the application is considered. The Board may postpone the on-site inspection when the site is snow covered and the Board determines that snow cover makes a reasonable assessment of site conditions impossible. If an application is pending during a period when a site walk is delayed due to snow cover, the processing of the application may be suspended until the Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided in accordance with Section 9-184.
- E. Public Hearing. The Planning Board shall hold a public hearing on an application for a major subdivision within forty-five (45) days of determining that the application is complete unless the requirement is waived. The Board may, by formal vote, decide not to hold a public hearing on an application if there is not significant public interest in the project or if there are no unresolved issues with respect to conformance with the approval standards. When a public hearing is held, the hearing shall be noticed and advertised in accordance with the provisions of Section 9-184.
- F. Planning Board Action. The Planning Board shall take action on the preliminary plan application within sixty (60) days of determining that the application is complete if a public hearing is not held on the application or within thirty (30) days of the public hearing if one is held. The Board shall indicate any changes to the preliminary plan that will need to be incorporated into the final plan to meet the approval criteria or questions that will need to be addressed in the final plan submission. All time limits provided for in this section may be extended by mutual agreement of the applicant and Planning Board.

The Board shall notify the applicant and all parties who requested to be notified of the action of the Board with respect to the preliminary plan in writing within five (5) business days of the meeting.

4. Step Three – Submission of the Final Plan

- A. Submission of Final Plan Application to the Code Enforcement Officer. Upon completion of the review of the preliminary plan, the applicant shall prepare and submit a final plan application for a major subdivision to the CEO. The application must include the subdivision plan and supporting documentation that meets the submission requirements for a final plan for major subdivision as set forth in Section 9-817. The CEO shall provide the applicant with a dated, written receipt for the application submission.



- B. Provisional Review of Application by the Code Enforcement Officer. The CEO shall review the application for completeness within ten (10) business days of receipt. The CEO shall provisionally determine that the application is complete only if all of the required information for final plans for a major subdivision set forth in 9-817 has been submitted or the Planning Board has approved waivers for any required information not provided. Upon the completion of the application review, the CEO shall notify the applicant in writing as to whether or not the application is deemed to be provisionally complete. If the application is provisionally complete, the CEO shall forward the application to the Planning Board and shall schedule it for the next available Planning Board meeting in accordance with the established scheduling procedures for consideration by the Board. The CEO shall notify abutting property owners of the pending application in accordance with Section 9-184. The CEO shall also hand deliver or mail written notice of the pending application to the City Manager, Fire Chief, Police Chief, the Chair of the Conservation Commission, Superintendent of the Hallowell Water District, Superintendent of the Greater Augusta Utility District, and other interested parties.

If the CEO finds that the application is not complete, he/she shall notify the applicant in writing of the additional material that needs to be submitted by the applicant for the application to be provisionally complete and to be considered by the Planning Board. Upon the receipt of additional information, the CEO shall conduct another completeness review. This process shall be repeated, if necessary, until the CEO finds that the application is provisionally complete.

- C. Initial Consideration of the Application by the Planning Board. At the first meeting at which the final plan application is considered, the Planning Board shall review the application material and formally determine whether or not the submission is complete. If the application is determined to be incomplete, the Board shall notify the applicant and CEO in writing of this finding within five (5) business days of the meeting, shall specify the additional materials required to make the application complete and shall advise the applicant that the application will not be considered by the Board until the additional information is submitted to the CEO. These steps shall be repeated until the application is found to be complete by the Planning Board.
- D. Planning Board Action. The Planning Board shall take action on the final plan application within sixty (60) days of determining that the application is complete. All time limits provided for in this section may be extended by mutual agreement of the applicant and Planning Board. In issuing its decision, the Planning Board shall make written findings of fact establishing that the activities set forth in the application do or do not meet the standards of approval and other requirements of the City including any conditions of approval necessary to comply with the standards. The Board shall notify the applicant and all parties who requested to be notified of the action of the Board in writing within five (5) business days of the meeting, including the

findings of fact, and any conditions of approval.

If any portion of subdivision is within a Special Flood Hazard Area, the Board shall impose a condition of approval that structures on any lot having a portion of its land within a Special Flood Hazard Area must be constructed in accordance with the floodplain management provisions of Section 9-536.

- E. Final Approval and Filing. Upon completion of the requirements of this Section and a vote of approval or approval with one or more conditions by the majority of the Planning Board, the application is approved. Subsequent to the approval by the Board, the applicant shall submit two reproducible, stable-based transparencies of the subdivision plan to the CEO, one to be recorded at the Registry of Deeds, the other to be filed at the municipal office. The plan shall contain any conditions of approval imposed by the Planning Board. The reproducible transparencies shall be embossed and printed with the seal of the individual responsible for preparation of the plan. The approved subdivision plan shall be signed by a majority of the members of the Board and filed with the CEO. In addition, a signed subdivision plan and decisions document setting forth the findings of fact including any conditions of approval shall be recorded by the applicant in the Kennebec County Registry of Deeds within sixty (60) days of the vote to approve the plan and evidence of such filing provided to the CEO. Any plan for which a plan and decision document is not filed within sixty (60) days of the date upon which such plan is approved and signed by the Board shall become null and void. Prior to the expiration of the sixty (60) day period, the Planning Board, by vote, may extend the filing period for good cause.

No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised final plan is first submitted and the Board approves any modifications. The Board shall make findings that the revised plan meets the criteria of 30-A M.R.S.A. § 4404 and the standards of these regulations. In the event that a plan is recorded without complying with this requirement, it shall be considered null and void and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.

- F. Initiation of Construction. Failure to initiate significant construction of the subdivision such as the construction of roads or the installation of utilities within five years of the date of approval and signing of the plan shall render the plan null and void unless the applicant has requested in writing and received an extension and has provided for the continuation of any performance guarantees for the period of the extension prior to the expiration of the five-year period. Upon determining that a subdivision's approval has expired under this subsection, the Board shall have a notice placed in the Registry of Deeds to that effect.

- G. **Municipal Acceptance of Land or Facilities.** The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the City Council covering future deed and title dedication and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

**SECTION 9-815**      **SITE INVENTORY AND ANALYSIS SUBMISSION REQUIREMENTS**

1. **Purpose of the Site Inventory and Analysis.** The site inventory and analysis is intended to provide both the applicant and the Planning Board and staff with a better understanding of the site and the opportunities and constraints imposed on its use by both the natural and built environment. It is anticipated that this analysis will result in a development plan that reflects the conditions of the lot and that the areas most suitable for the proposed use will be utilized while those that are not suitable or present significant constraints will be avoided to the maximum extent possible. Therefore, the submission requirements provide that the applicant submit basic information about the lot and an analysis of that information.
2. **Contents of the Site Inventory and Analysis Submission.** The site inventory and analysis submission must contain, at a minimum, the following information:
  - A. The names, addresses, and phone numbers of the record owner and the applicant.
  - B. The names and addresses of all consultants working on the project.
  - C. Evidence of right, title, or interest in the property.
  - D. Evidence of payment of the site inventory and analysis fee.
  - E. Fourteen (14) copies of an accurate scale inventory plan of the lot or the portion of the lot proposed for subdivision at a scale of not more than one hundred (100) feet to the inch showing as a minimum:
    - (1) The name of the development, north arrow, date and scale.
    - (2) The boundaries of the lot.
    - (3) The relationship of the lot to the surrounding area.

- (4) The topography of the lot at an appropriate contour interval depending on the nature of the use and character of the lot (in many instances, submittal of the U.S.G.S. 10' contours will be adequate);
  - (5) The major natural features of the lot and within five hundred (500) feet of the lot, including coastal and freshwater wetlands, vernal pools, streams, ponds, floodplains, groundwater aquifers, significant wildlife habitats and fisheries or other important natural features (if none, so state). This information may be based on available, published sources unless the Planning Board determines that field determination is needed to allow review of the opportunities and constraints of the lot.
  - (6) Existing buildings, structures, or other improvements on the lot (if none, so state).
  - (7) Existing restrictions or easements on the lot (if none, so state).
  - (8) The location and size of existing utilities or improvements servicing the lot (if none, so state).
  - (9) A Class D medium intensity soil survey.
- F. Fourteen (14) copies of a site analysis plan at the same scale as the inventory plan (see E above) highlighting the opportunities and constraints of the site. This plan should enable the Planning Board to determine: which portions of the lot are unsuitable for development or use; which portions of the lot are unsuitable for on-site sewage disposal if public sewerage is not available; which areas of the lot have development limitations (steep slopes, flat, soil constraints, wetlands, aquifers, wildlife habitat, fisheries, scenic vistas, floodplains, drainage, etc.) which must be addressed in the development plan; which areas may be subject to off-site conflicts or concerns (i.e., noise, lighting, traffic, etc.); and which areas are well suited to the proposed use.
- G. Fourteen (14) copies of a narrative describing the existing conditions of the lot, the proposed use and the constraints or opportunities created by the site. This submission should include any traffic studies, utility studies, market studies or other preliminary work that will assist the Planning Board in understanding the site and the proposed use.
- H. Any requests for waivers from the submission requirements for the preliminary plan review application.

**SECTION 9-816**      PRELIMINARY PLAN SUBMISSION REQUIREMENTS

The preliminary plan application shall consist of the following items:

1. A fully executed and signed copy of the application for preliminary major subdivision review (provided by the City).
2. A location map drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties and to allow the Board to locate the subdivision within the municipality. The location map shall show:
  - A. Existing subdivisions in the proximity of the proposed subdivision.
  - B. Locations and names of existing and proposed streets.
  - C. Boundaries and designations of zoning districts.
  - D. An outline of the proposed subdivision and any remaining portion of the owner's property if the preliminary plan submitted covers only a portion of the owner's entire contiguous holding.
3. The required application and development review fees.
4. A list of abutters and the owners of any other parcel entitled to receive public notice in accordance with 9-184, together with their mailing addresses.
5. The preliminary subdivision plan and supporting documentation consisting of 14 copies of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch and 14 copies of supporting documentation bound in a single report. Plans shall be no larger than 24 by 36 inches in size and shall have a margin of two inches outside of the border lines on the left side for binding and a one-inch margin outside the border along the remaining sides. In addition, one copy of the plan(s) reduced to a size of 11 by 17 inches shall be provided.
6. The preliminary plan and supporting documentation shall include at least the following information. The Board may require additional information to be submitted where it finds necessary in order to determine whether the criteria of 30-A M.R.S.A. § 4404 are met.
  - A. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's map and lot numbers.
  - B. The names and addresses of the record owner, applicant, and individual or company who or which prepared the plan and adjoining property owners.
  - C. The date the plan was prepared, north point, and graphic map scale.
  - D. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.

- E. Evidence of right, title or interest in the property.
- F. A copy of the most recently recorded deed for the parcel and a copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
- G. A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
- H. A standard boundary survey of the parcel meeting the standards of Chapter 90 Standards of Practice of the rules of the Maine Board of Licensure for Professional Land Surveyors, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by monuments.
- I. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features.
- J. A Class D medium-intensity soil survey unless the Planning board determines that a Class B high-intensity survey is needed as a result of the Site Inventory and Analysis.
- K. The location of all rivers, streams and brooks, coastal and freshwater wetlands and vernal pools within or adjacent to the proposed subdivision.
- L. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the one-hundred-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
- M. Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife. If any portion of the subdivision is located within an area designated as a unique natural area by the Maine Natural Areas Program, the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
- N. Contour lines at the interval specified by the CEO, showing elevations in relation to mean sea level.
- O. The location and size of existing and proposed sewers, water mains, culverts, and drainageways on or adjacent to the property to be subdivided.
- P. The location, names, and present widths of existing streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.

- Q. The location and width of all proposed streets, including a typical cross section of the streets and sidewalks and a preliminary center-line profile.
- R. The proposed lot lines with approximate dimensions and lot areas.
- S. An indication of the type of sewage disposal to be used in the subdivision.
  - (1) When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the Greater Augusta Utility District stating that the District has the capacity to collect and treat the wastewater shall be provided.
  - (2) When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, prepared by a licensed site evaluator or certified soil scientist, shall be provided. Test pit logs for all test pits shall be provided. The location of all test pits dug on the site shall be shown on the subdivision plan or on a map at the same scale as the subdivision plan.
- T. An indication of the type of water supply system(s) to be used in the subdivision.
  - (1) When water is to be supplied by public water supply, a written statement from the Hallowell Water District shall be submitted indicating that there is sufficient capacity for the subdivision and that the District approves the plans for extensions where necessary. Where the District's supply line is to be extended, a written statement from the Fire Chief stating approval of the location of fire hydrants, if any, and a written statement from the District approving the design of the extension shall be submitted.
  - (2) When water is to be supplied by private wells, evidence of adequate groundwater supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
- U. Provisions for the collection and management of stormwater in the form of a preliminary drainage plan.
- V. The width and location of any streets, public improvements or open space shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.
- W. The location of any open space to be preserved and a description of proposed ownership, improvement and management.
- X. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.

7. The Board may require additional information, including but not limited to the following, to be submitted where it finds it necessary in order to determine whether the preliminary plan is likely to result in a final plan that meets the criteria of 30-A M.R.S.A. § 4404:
  - A. A Class B high-intensity soil survey prepared by a certified soil scientist if the Site Inventory and Analysis identified the need for more detailed soils information. This soils survey may be for only a portion of the site.
  - B. A hydrogeologic assessment prepared by a certified geologist or registered professional engineer experienced in hydrogeology.
    - (1) The Board may require a hydrogeologic assessment when the subdivision is not served by public sewer and:
      - (a) Any part of the subdivision is located over a mapped sand and gravel aquifer;
      - (b) The subdivision has an average density of more than one dwelling unit per 100,000 square feet; or
      - (c) In other cases where site considerations or development design indicates greater potential of adverse impacts on groundwater quality, such as extensive areas of shallow to bedrock soils, cluster developments in which the average density is less than one dwelling unit per 100,000 square feet but the density of the developed portion is in excess of one dwelling unit per 80,000 square feet, or the use of shared or common subsurface wastewater disposal systems.
  - C. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from the most recent edition of the Trip Generation Manual published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.
  - D. A traffic impact analysis. The Board may require an analysis for projects involving 40 or more parking spaces or projected to generate more than 400 vehicle trips per day based upon the ITE Trip Generation Manual. The traffic impact analysis shall be prepared by a registered professional engineer with experience in traffic engineering. The analysis shall indicate the expected average daily vehicular trips, peak hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.



**SECTION 9-817**      **FINAL PLAN SUBMISSION REQUIREMENTS**

1.      Within twelve (12) months after the approval of the preliminary plan, the applicant shall submit an application for approval of the final plan. If the application for the final plan is not submitted within twelve (12) months after preliminary plan approval, the Board shall require resubmission of the preliminary plan, except as stipulated below. The final plan shall approximate the layout shown on the preliminary plan, plus any changes required by the Board. If an applicant cannot submit the final plan within twelve (12) months, the applicant may request an extension. Such a request for an extension to the filing deadline shall be submitted, in writing, to the CEO prior to the expiration of the filing period. In considering the request for an extension, the Board shall make findings that the applicant has made due progress in preparation of the final plan and in pursuing approval of the plans before other agencies and that municipal ordinances or regulations which may impact on the proposed development have not been amended.
  
2.      Prior to submittal of the final plan application, the following approvals shall be obtained in writing, where applicable and submitted with the application:
  - A.      Maine Department of Environmental Protection, under the Site Location of Development Act.
  - B.      Maine Department of Environmental Protection, under the Natural Resources Protection Act or if a stormwater management permit or a wastewater discharge license is needed.
  - C.      Maine Department of Human Services, if the applicant proposes to provide a public or community water system.
  - D.      Maine Department of Human Services, if an engineered subsurface wastewater disposal system(s) is to be utilized.
  - E.      United States Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
  
3.      The final plan application shall consist of the following items:
  - A.      A fully executed and signed copy of the application for final major subdivision review (provided by the City).
  - B.      The required application and development review fees.
  - C.      A performance guarantee in accordance with the provisions of Article XII assuring the construction of all street, utilities, and other improvements proposed as part of the final subdivision plan.

- D. The final subdivision plan and supporting documentation consisting of 14 copies of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch and 14 copies of supporting documentation bound in a single report. Plans shall be no larger than 24 by 36 inches in size and shall have a margin of two inches outside of the border lines on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. In addition, one copy of the plan(s) reduced to a size of 11 by 17 inches shall be provided.
4. The final subdivision plan and supporting documentation shall include at least the following information:
- A. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's map and lot numbers.
  - B. The names and addresses of the record owner, applicant, and individual or company who or which prepared the plan.
  - C. The date the plan was prepared, North point, and graphic map scale.
  - D. The location of any zoning boundaries affecting the subdivision.
  - E. If different than those submitted with the preliminary plan, a copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
  - F. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
  - G. The boundaries of any flood hazard areas and the one-hundred-year flood elevation as depicted on the municipality's Flood Insurance Rate Map shall be delineated on the plan.
  - H. An indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to the public sewerage system, a written statement from the Greater Augusta Utility District shall be submitted indicating that the District has reviewed and approved the sewerage design.
  - I. An indication of the type of water supply system(s) to be used in the subdivision. When water is to be supplied by the Hallowell Water District, a written statement from the District shall be submitted indicating that the District has reviewed and approved the water system design together with a written statement from the Fire Chief approving all hydrant locations or other fire protection measures deemed necessary.

- J. The location and size of existing and proposed sewers, water mains, culverts, and drainageways on or adjacent to the property to be subdivided.
- K. The location, names, and present widths of existing and proposed streets, highways, easements, buildings, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The location, bearing and length of street lines, lot lines and parcel boundary lines shall be certified by a registered land surveyor. The original reproducible plan shall be embossed and printed with the seal of the registered land surveyor and be signed by that individual.
- L. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public ways and open spaces shown on the plan and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If proposed streets and/or open spaces or other land is to be offered to the municipality, written evidence that the City Council is satisfied with the legal sufficiency of the written offer to convey title shall be included.
- M. Street plans meeting the requirements of the City.
- N. A stormwater management plan prepared by a registered professional engineer in accordance with "Stormwater Management for Maine: BMP Technical Design Manual," published by the Maine Department of Environmental Protection (2006). The Board may not waive submission of the stormwater management plan unless the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
- O. An erosion and sedimentation control plan prepared in accordance with "Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices," published by the Maine Department of Environmental Protection. The Board may not waive submission of the erosion and sedimentation control plan unless the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
- P. The width and location of any streets or public improvements or open space shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.

- Q. If the subdivision requires a stormwater permit from the Maine Department of Environmental Protection, a copy of the DEP application with all supporting materials and the permit shall be provided.
- R. A list of construction items, with cost estimates, that will be completed by the applicant prior to the sale of lots and evidence that the applicant has financial commitments or resources to cover these costs.
- S. The location and method of disposal for land clearing and construction debris.

### **DIVISION E – REVISIONS TO APPROVED PLANS**

#### **SECTION 9-818      PROCEDURE**

An application for a revision to a previously approved plan shall be submitted to the CEO. The CEO shall review the application and determine the procedure to be used in revising the plan. Minor changes that do not alter lot lines or the essential nature of the proposal or affect the approval criteria may be approved by the CEO by written endorsement of the changes on the approved plan. If the revision requires the approval of the Planning Board, the CEO shall place the application on the agenda of the Board in accordance with the procedures for a Minor Subdivision unless the change qualifies as a major subdivision.

#### **SECTION 9-819      SUBMISSIONS**

The applicant shall submit a copy of the approved plan as well as 14 copies of the proposed revisions. The application shall also include the appropriate supporting information to allow the Board to make a determination that the proposed revisions meet the standards of these regulations and the criteria of the statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the Registry of Deeds.

#### **SECTION 9-820      SCOPE OF REVIEW**

The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.

**DIVISION F – INSPECTIONS AND ENFORCEMENT**

**SECTION 9-821      INSPECTION OF REQUIRED IMPROVEMENTS**

1. After the recording of the approved plan in the Kennebec County Registry of Deeds and at least five days prior to commencing construction of required improvements, the subdivider or builder shall:
  - A. Notify the CEO and Public Works Department in writing of the time when (s)he proposes to commence construction of such improvements, so that the City can arrange for inspections to assure that all municipal specifications, requirements, and conditions of approval are met during the construction of required improvements and to assure the satisfactory completion of improvements and utilities required by the Board. The City may provide for the inspection of the improvements by the Department of Public Works or by an engineer hired by the City or by a combination of in-house and outside inspections depending on the nature and complexity of the improvements.
  - B. Deposit with the City an inspection fee in the amount of 3% of the estimated costs of the required improvements. These fees may be used by the City to defray the cost of inspections by the Department of Public Works and/or by an engineer hired by the City. Upon satisfactory completion of construction and cleanup, The City shall provide the subdivider with a statement itemizing the inspection costs. If there are funds remaining, the surplus shall be refunded to the subdivider or builder as appropriate.
2. The Department of Public Works or the engineer hired by the City shall inspect any road construction and other improvements at appropriate points in the construction including:
  - A. Upon completion of the excavation of the roadway and the preparation of the subgrade including any ditching.
  - B. During the installation of the road subbase including drainage improvements and structures.
  - C. During the paving of the road.
  - D. Upon the completion of the improvements.
  - E. Following loaming and seeding and cleanup.
3. If the road or other improvements are constructed in phases, each phase shall be inspected separately.

4. If the inspector finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, the inspector shall so report in writing to the CEO, Planning Board, and the subdivider and builder. The CEO shall take any steps necessary to assure compliance with the approved plans.
5. If at any time it appears necessary or desirable to modify the required improvements before or during the construction of the required improvements, the inspector is authorized to approve minor modifications due to unforeseen circumstances, such as encountering hidden outcrops of bedrock, natural springs, etc. The inspector shall issue any approval under this section in writing and shall transmit a copy of the approval to the CEO. Revised plans shall be filed with the City and endorsed by the CEO. For major modifications, the subdivider shall obtain permission from the Planning Board to modify the plans in accordance with Division D. Major modifications include, but are not limited to, changes such as the relocation of rights-of-way, revisions to property boundaries, or changes of grade by more than 1%.
6. Prior to the sale of the first lot, the subdivider shall provide the CEO with a letter from a registered land surveyor stating that all monumentation of the perimeter of the subdivision and of all proposed street rights-of-way as shown on the approved plan has been installed.
7. Upon completion of street construction and prior to a vote by the City Council to accept a street, a written certification signed by the City Manager shall be submitted to the City Council certifying that the proposed public way meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. The subdivider shall submit record drawings to the CEO prior to the City acceptance of any street.
8. The subdivider shall be required to maintain all improvements, provide for snow removal on streets and sidewalks, and pay for any street lighting until acceptance of the improvements by the municipality or control is placed with a lot owners' association. The subdivider shall file a performance guarantee with the City Manager upon completion of the public improvements in an amount and form acceptable to the City Council assuring that this obligation shall be met. The performance guarantee shall remain in force as long as the subdivider retains this maintenance responsibility.

**SECTION 9-822**

**VIOLATIONS AND PENALTIES**

1. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Planning Board in accordance with these regulations.
2. A person shall not convey or offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.

3. A person shall not sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.
4. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Board.
5. Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which requires a plan approved as provided in these regulations and recorded in the Registry of Deeds.
6. Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of 30-A M.R.S.A. § 4452 and as otherwise provided by law.

### **DIVISION G – GUARANTEE OF REQUIRED IMPROVEMENTS**

#### **SECTION 9-823      PERFORMANCE GUARANTEE**

As a precedent to final approval of any subdivision, the applicant shall provide a performance Guarantee to ensure the timely and proper construction of all improvements that are part of the approved plan for a minor subdivision or a major subdivision. The approved and signed subdivision plan shall not be released to the applicant until an appropriate performance guarantee has been approved by the City Manager or the City Manager has certified in writing that there are no improvements for which a guarantee is required.

1. Certified Check or Surety Bond. With the final plan, the subdivider shall submit either a certified check payable to the City of Hallowell or a faithful performance bond running to the City of Hallowell and issued by a surety company acceptable to the City Manager in an amount of money to be determined by the City Manager with the advice of the Mayor and the City Council. The check or bond shall be equal to the total costs of furnishing, installing, connecting and completing all of the street grading, paving, storm drainage and utilities specified in the approved plan, conditioned on the completion of all such grading, paving, storm drainage, water main, fire hydrant, sewer and street installations within two (2) years from the date of such check or bond. In establishing the amount of the guarantee, the City Manager may include the costs for professional review of the guarantee and an inflation factor if the improvements will not be completed prior to the sale of the first lot.
2. Use of the Guarantee. The performance guarantee is intended to ensure that the improvements that are part of the approved plan are constructed in accordance with that plan. If the improvements are not completed satisfactorily or within the required

time frame, the City may use the guarantee to complete or to redo the improvements to meet the requirements of the approved plan. The City Manager, with the approval of the Mayor and City Council, is authorized to take such action if warranted.

3. Release of Check or Bond. The City Manager with the approval of the Mayor and City Council shall release the performance guarantee upon satisfactory completion of the improvements called for in the approved plan. The Manager may release a portion of the funds or authorize a reduction in the amount of the bond based on the satisfactory completion of a portion of the work covered by the guarantee provided that there remains adequate funds to complete the remaining improvements. Before voting to release such check or bond, the Mayor and the City Council shall determine to their satisfaction in part by a written certification signed by the City Manager and by the Planning Board Chair that there have been submitted to them by the subdivider or his agent, written statements by:
  - A. The City Manager and/or a registered civil engineer retained by the City for this purpose stating that all improvements including the streets and storm drainage have been constructed and completed in conformance with the approved plan.
  - B. The water district, stating that the water mains and hydrants have been installed and are in place in conformance with the approved plan.
  - C. The sewer district, stating that the sewage system has been constructed and is in place in conformance with the approved plan.
  - D. A registered land surveyor or civil engineer, paid for by the subdivider, stating that all permanent bounds or monuments on street lines, the perimeter of the subdivision, and on lot lines have been installed and are accurately in place in the locations designated on the approved plan.
  
4. Conditional Agreement. The subdivider may substitute a properly executed conditional agreement with the City of Hallowell for the performance check or bond. Such agreement shall be endorsed in writing on the approved plan, and shall provide that the Board may approve the final plan or any part thereof on condition that no lot in such subdivision may be sold and that no permit shall be issued by the Code Enforcement Officer for any building on any lot on any street in such subdivision until:
  - A. It shall have been certified to the City Manager and the Board in the manner set forth in subsection 3. above, that all of the street and utility improvements required have been installed and completed at the expense of the subdivider in accordance with all applicable provisions of the Final Plan;
  - B. A certificate of compliance covering the lots and streets, or portions of streets involved, has been signed by the City Manager and the Board chair, and a copy of such certificate has been recorded with the Kennebec Registry of Deeds.



**DIVISION H – APPROVAL CRITERIA**

**SECTION 9-824      STATUTORY REVIEW CRITERIA**

State law establishes the criteria that the Planning Board must use in reviewing and approving subdivisions. When reviewing any application for either a minor or major subdivision, the Planning Board must find that the criteria as found in Title 30-A M.R.S.A. §4404 have been met. The state law sets out the following criteria as of 2011 but the Planning Board shall use the current state requirements as they may be amended from time to time even if the revised criteria have not been incorporated into the Town ordinance. In addition to these state criteria, the Planning Board must find that the subdivision will conform to the applicable provisions of the Zoning Ordinance. Division I sets out performance standards and Division J establishes design standards to guide the Planning Board in determining if an application meets the state review criteria. An application that conforms to the performance and design criteria is presumed to meet the statutory review criteria.

Before granting approval of a subdivision, the Planning Board must find that the proposed project:

1. Will not result in undue water or air pollution. In making this determination, it shall at least consider:
  - A. The elevation of the land above sea level and its relation to the flood plains;
  - B. The nature of soils and subsoils and their ability to adequately support waste disposal;
  - C. The slope of the land and its effect on effluents;
  - D. The availability of streams for disposal of effluents; and
  - E. The applicable State and local health and water resources rules and regulations;
2. Has sufficient water available for the reasonably foreseeable needs of the subdivision;
3. Will not cause an unreasonable burden on an existing water supply, if one is to be used;
4. Will not cause unreasonable soil erosion or reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;
5. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if

the proposed subdivision requires driveways or entrances onto a state or state aid highway, located outside the urban compact area of an urban compact municipality as defined by Title 23, section 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section;

6. Will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;
7. Will not cause an unreasonable burden on the municipality's ability to dispose of solid waste if municipal services are to be utilized;
8. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
9. Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the Planning Board may interpret these ordinances and plans;
10. The subdivider has adequate financial and technical capacity to meet the standards of this section;
11. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.
  - A. When lots in a subdivision have frontage on an outstanding river segment (the Kennebec River), the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.
    - (1) To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.
    - (2) The frontage and set-back provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under shoreland zoning, Title 38, chapter 3, subchapter I, article 2-B, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of section 4401, subsection 1, on September 23, 1983;

12. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;
13. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the applicant shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision or project plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;
14. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;
15. All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district;
16. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9;
17. The proposed subdivision will provide for adequate storm water management;
18. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;
19. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision;
20. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located; and
21. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, M.R.S.A section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Planning

Board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the Board may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If the Bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. If the Bureau notifies the Planning Board that it will not provide assistance, the Board may require a subdivision applicant to provide a determination certified by a licensed forester. For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, M.R.S.A section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership.

### **DIVISION I – PERFORMANCE STANDARDS**

#### **SECTION 9-825      APPLICABILITY OF PERFORMANCE STANDARDS**

The performance and design standards in this article are intended to clarify and expand upon the statutory review criteria found in Division H. In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance and the design standards of Division J and make findings that each has been met prior to the approval of a final plan. In all instances, the burden of proof shall be upon the applicant to present adequate information to indicate all performance and design standards and statutory criteria for approval have been or will be met.

#### **SECTION 9-826      POLLUTION**

1. The proposed subdivision shall not discharge wastewater to a water body without a license from the Maine Department of Environmental Protection.
2. Discharges of stormwater shall be treated to remove oil, grease, and sediment prior to discharge into surface water bodies.

#### **SECTION 9-827      SUFFICIENT WATER**

1. Water supply.
  - A. When practical, any major or minor subdivision shall make provisions for connection to the public water system if the Hallowell Water District indicates that it can provide water service with sufficient supply and pressure for the proposed use without the need for system-wide improvements. Unless the Planning Board determines that such connection is not financially viable in accordance with B, connection to the public water system is presumed to be practical if the subdivision meets any one of the following:

- (1) Is located within an area designated in the 2010 Comprehensive Plan as a growth area; or
- (2) Is located on a parcel that is adjacent to a public water main; or
- (3) Is located on a parcel the closest point of which is within three hundred (300) feet plus one hundred (100) feet per lot of an existing public water main as measured along the center line of public streets to the nearest point of the parcel.

B. The Planning Board may waive the requirement for connection to the public water system if it finds that such connection will not be financially viable. In reaching this determination, the Board must find that one of the following two criteria will be met:

- (1) The cost of extending a public water main to the nearest point of the area of the parcel proposed to be subdivided is one hundred percent (100%) or more of the projected cost of serving the subdivision with private wells including provisions for fire protection water supplies, or
- (2) The total projected cost for providing public water including any main extension, ledge removal, or need for a booster pump is more than two hundred percent (200%) of the projected total cost for serving the subdivision with private wells including provisions for fire protection water supplies.

If an applicant for approval of a subdivision in which connection to the public water system is presumed to be practical under A wants to seek a waiver from that requirement to utilize private water supplies, the applicant must submit a technical and financial analysis of installing public water service to and within the subdivision and the cost of providing private water service including provisions for fire protection water supplies. The analysis must be prepared by a professional engineer registered in the State of Maine. The applicant must provide a copy of the analysis to the Hallowell Water District at least ten (10) days prior to its submission to the City and request the District to review the analysis and provide comments to the applicant and the Planning Board.

- C. When a subdivision will be served by the public water system, the complete supply system within the subdivision, including fire hydrants, shall be installed at the expense of the applicant. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the Hallowell Water District and the Fire Chief. The system shall be designed by a professional engineer registered in the State of Maine.
- D. When a proposed subdivision will not be served by the public water system, water supply shall be from individual wells or a private community water system.

- (1) Individual wells shall be sited and constructed to prevent infiltration of surface water and contamination from subsurface wastewater disposal systems and other sources of potential contamination.
  - (2) Lot design shall permit placement of wells, subsurface wastewater disposal areas, and reserve sites for subsurface wastewater disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules.
  - (3) If a central water supply system is provided by the applicant, the location and protection of the source and the design, construction, and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A CMR 231).
  - (4) In areas where the Planning Board determines, based upon the written recommendation of the Fire Chief or his designee, that a reliable water supply for fire-fighting purposes is not available within 0.25 mile of the site, each residential unit shall be protected by a residential sprinkler system meeting NFPA standards. As an alternative to sprinklers, the Planning Board may require the subdivider to provide adequate fire protection water supply. Subdivisions shall provide adequate fire protection water supply in accordance with NFPA 1231. Acceptable methods include, but are not limited to, fire ponds with an approved dry hydrant and underground storage reservoirs with an approved dry hydrant. An easement shall be granted to the Town for access to and maintenance of dry hydrants or reservoirs where necessary.
2. Water quality. Water supplies shall meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water. If existing water quality contains contaminants in excess of the secondary drinking water standards in the Maine Rules Relating to Drinking Water, that fact shall be disclosed in a note on the plan to be recorded in the Registry of Deeds.

**SECTION 9-828**      IMPACT ON EXISTING WATER SUPPLIES

In meeting the standards of 9-827, a proposed subdivision shall not generate a demand on the source, treatment facilities, or distribution system of the Hallowell Water District beyond the capacity of those system components, considering improvements that are planned to be in place prior to occupancy of the subdivision. The applicant shall be responsible for paying the costs of improvements to the District's system as necessary to alleviate any deficiencies or expand the capacity of the system needed to service the subdivision.

**SECTION 9-829**      SOIL EROSION

1. The proposed subdivision shall prevent soil erosion from entering water bodies, wetlands, and adjacent properties.
2. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and cleanup stages.
3. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations unless the removal has received site plan approval.

**SECTION 9-830**      TRAFFIC CONDITIONS

1. At a minimum, provision shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to:
  - A. Safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision;
  - B. Avoid traffic congestion on any street; and
  - C. Provide safe and convenient circulation on adjacent public streets and within the subdivision.
2. More specifically, access and circulation shall also conform to the following standards:
  - A. The vehicular access to the subdivision shall be arranged to avoid generating significant additional through traffic on existing local, residential streets.
  - B. Any major subdivision with more than fifteen (15) lots shall either be located on an arterial or collector street or have at least two (2) points of access to an arterial or collector road unless the Planning Board determines that due to the unique characteristics or location of the site that two accesses are not required to provide for safe and convenient access to the subdivision.
  - C. Accesses that are expected to carry more than 100 passenger vehicle equivalent trips in the peak hour shall meet the minimum access permitting requirements of the Maine Department of Transportation "Rules and Regulations Pertaining to Traffic Movement Permits".
  - D. The street giving access to the subdivision and neighboring streets and intersections which can be expected to carry traffic generated by the subdivision shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. No subdivision shall reduce

the Level of Service (LOS) of streets or intersections neighboring the subdivision to a LOS of "E" or below, unless:

- (1) the comprehensive plan has indicated that Levels of Service "E" or "F" are acceptable for that street or intersection; or
- (2) the level of service of the road or intersection will be raised to D or above through transportation demand management techniques; or
- (3) the applicant provides evidence that it is not possible to raise the level of service of the road or intersection to D or above by road or intersection improvements or by transportation demand management techniques, but improvements will be made or transportation demand management techniques will be used such that the proposed development will not increase delay at a signalized or unsignalized intersection, or otherwise worsen the operational condition of the road or intersection in the horizon year; or
- (4) improvements cannot reasonably be made because the road or intersection is located in a central business district or because implementation of the improvements will adversely affect a historic site as defined in 06-096 CMR 375(11) (Preservation of Historic Sites) and transportation demand management techniques will be implemented to the fullest extent practical; or
- (5) the development is located in a designated growth area, in which case the applicant shall be entitled to an exception from the level of service mitigation requirements set forth under the General Standards in this Section. This exception applies even if part or all of the traffic impacts of the proposed development will occur outside the boundaries of the designated growth area. This exception does not exempt the development from meeting safety standards, and greater mitigation measures may be required than otherwise provided in this subsection if needed to address safety issues; or
- (6) in the case of unsignalized intersections, if traffic with the development in place would not meet the warrant criteria for signalization or turning lanes, as set forth in the Federal Highway Administration's "Manual on Uniform Traffic Control Devices," (1988), then the Planning Board may reduce the mitigation requirement for those measures so long as the resulting traffic conditions provide for safe traffic movement.

- E. Where site conditions allow, provision shall be made for the extension of streets to connect with nearby streets and to provide access to adjoining lots of similar existing or potential use. Such interconnected streets shall be designed to discourage use by through traffic.



3. Streets shall be named in accordance with City requirements. The developer shall either install street name, traffic safety, and control signs meeting City specifications or reimburse the City for the costs of their installation.
4. Following street construction, the developer or contractor shall conduct a thorough cleanup of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan and be suitably covered with fill and topsoil, limed, fertilized, and seeded and identified on the record drawings.

**SECTION 9-831      SEWAGE DISPOSAL**

1. Public System.
  - A. When practical, any major or minor subdivision shall make provisions for connection to the public sewer system if the Greater Augusta Utility District indicates that it can provide sewer service. Any subdivision that will create more than twenty (20) lots either by itself or cumulatively in conjunction with other subdivisions of the same lot of record existing as of April 1, 2012 must be served by the public sewer system. For subdivisions with twenty (20) or fewer lots, connection to the public sewer system is presumed to be practical if the subdivision meets any one of the following criteria unless the Planning Board determines that such connection is not financially viable in accordance with B,
    - (1) Is located within an area designated in the 2010 Comprehensive Plan as a growth area; or
    - (2) Is located on a parcel that is adjacent to a public sewer; or
    - (3) Is located on a parcel the closest point of which is within three hundred (300) feet plus one hundred (100) feet per lot of an existing public sewer as measured along a reasonable connection route to the nearest point of the parcel.
  - B. The Planning Board may waive the requirement for connection to the public sewer system for subdivisions of twenty (20) lots or fewer if it finds that such connection will not be financially viable. In reaching this determination, the Board must find that one of the following two criteria will be met:
    - (1) The cost of extending a public sewer main to the nearest point of the area of the parcel proposed to be subdivided is one hundred fifty percent (150%) or more of the projected cost of serving the subdivision with private on-site subsurface sewage disposal systems, or

- (2) The total projected cost for providing public sewerage including any main extension, ledge removal, or need for a pump station is more than two hundred percent (200%) of the projected total cost for serving the subdivision with private on-site subsurface sewage disposal systems.

If an applicant for approval of a subdivision in which connection to the public sewer system is presumed to be practical under A wants to seek a waiver from that requirement to utilize private subsurface sewage disposal, the applicant must submit a technical and financial analysis of extending public sewer service to the subdivision and the cost of providing private sewage disposal supplies. The analysis must be prepared by a professional engineer registered in the State of Maine. The costs for the private systems must be based on test pits done by a licensed soils evaluator and the installation of systems in full conformance with the State Plumbing Code without any variances. The applicant must provide a copy of the analysis to the Augusta Utility District at least ten (10) days prior to its submission to the City and request the District to review the analysis and provide comments to the applicant and the Planning Board.

- C. When a subdivision will be served by the public sewage system, the complete collection system within the subdivision, including manholes and pump stations, shall be installed at the expense of the applicant.
- D. The Greater Augusta Utility District shall certify that providing service to the proposed subdivision is within the capacity of the system's existing collection and treatment system or improvements planned to be complete prior to the construction of the subdivision.
- E. All components of the sanitary sewerage system must be designed by a professional engineer registered in the State of Maine. The Utility District shall review and approve the construction drawings for the sewerage system. The size and location of laterals, collectors, manholes, and pump stations shall be reviewed and approved in writing by the District. All components of the system shall be tested for full compliance with the design specifications and construction practices established by the District.
- F. The construction of sewer lines shall include the construction of laterals to the property line of each lot created.
- G. Upstream sewage flows shall be accommodated by an adequately sized system through the proposed subdivision for existing conditions and potential development in the upstream area or areas tributary to the proposed development.

2. Private systems.
  - A. When connection to the public sewage disposal system is not practical in accordance with 1.A., sewage disposal shall be provided by private subsurface wastewater disposal systems or a private treatment facility with surface discharge.
  - B. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine licensed site evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.
    - (1) The site evaluator shall certify in writing that all test pits which meet the requirements for a new system represent an area large enough for a disposal area on soils which meet the Disposal Rules.
    - (2) In no instance shall a disposal area be on a site which requires a new system variance from the Subsurface Wastewater Disposal Rules.

**SECTION 9-832**      SOLID WASTE

The proposed subdivision must provide for adequate disposal of solid wastes. All solid wastes must be disposed of at a licensed disposal facility having adequate capacity to accept the subdivision's wastes.

**SECTION 9-833**      IMPACT ON AESTHETICS, OPEN SPACES, HISTORIC AREAS, WILDLIFE HABITAT AND SHORELINE ACCESS

1. Retention of open spaces and natural, historic, or archaeological features.
  - A. If any portion of the subdivision is located within an area designated by the Comprehensive Plan as open space, that portion shall be reserved for open space preservation.
  - B. If any portion of the subdivision is located within an area designated as a unique natural area by the Maine Natural Areas Program, the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
  - C. If any portion of the subdivision is designated a site of historic, prehistoric, or archaeological importance by the Comprehensive Plan or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic, prehistoric, or archaeological resources shall be included in the plan.
2. Protection of significant wildlife habitat.
  - A. If any portion of a proposed major subdivision lies within the following areas,

the applicant shall demonstrate that there shall be no significant adverse impacts on the habitat and species it supports or that appropriate actions will be taken to mitigate the impacts either on-site or on another site:

- (1) Two hundred fifty (250) feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife as:
    - (a) Habitat for species appearing on the official state or federal lists of endangered or threatened species;
    - (b) High and moderate value waterfowl habitats, including nesting and feeding areas; or
    - (c) A high or moderate value deer wintering area or travel corridor; or
  - (2) Other important habitat areas identified in the Comprehensive Plan.
- B. A report prepared by a wildlife biologist with demonstrated experience with the wildlife resource being impacted shall be submitted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports.
3. Shoreline access. Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way or should be included in the open space with provisions made for continued public access.

**SECTION 9-834**      CONFORMANCE WITH OTHER REGULATIONS

All lots shall meet the minimum dimensional requirements of this chapter for the zoning district in which they are located. The proposed subdivision shall meet all applicable performance standards or design criteria including the Shoreland Zoning provisions, Floodplain Management provisions, and all other applicable land use regulations. If there is a conflict between the requirements of this chapter and any other ordinance or between the requirements of other ordinances, the more stringent requirement shall apply.

**SECTION 9-835**      FINANCIAL AND TECHNICAL CAPACITY

1. Financial capacity. The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of these regulations. When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determinations, the Board shall consider the proposed time frame for construction

and the effects of inflation.

2. Technical ability.
  - A. The applicant shall retain qualified contractors and consultants to supervise, construct, and inspect the required improvements in the proposed subdivision.
  - B. In determining the applicant's technical ability, the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals involving the applicant, consultants, contractors, or other agents of the applicant.

**SECTION 9-836**      IMPACT ON WATER QUALITY OR SHORELINE

The application shall demonstrate that the cutting or removal of vegetation along water bodies will not increase water temperature or result in shoreline erosion or sedimentation of water bodies.

**SECTION 9-837**      IMPACT ON GROUNDWATER QUALITY OR QUANTITY

1. Groundwater quality.
  - A. No subdivision shall increase any contaminant concentration in the groundwater to more than eighty percent (80%) of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the groundwater to more than the Secondary Drinking Water Standards.
  - B. If groundwater contains contaminants in excess of the primary standards and the subdivision is to be served by on-site groundwater supplies, the applicant shall demonstrate how water quality will be improved or treated.
  - C. If groundwater contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
  - D. If a hydrogeologic assessment is required to be submitted, the assessment shall contain at least the following information:
    - (1) A map showing the basic soil types.
    - (2) The depth to the water table at representative points throughout the subdivision.
    - (3) Drainage conditions throughout the subdivision.

- (4) Data on the existing groundwater quality, either from test wells in the subdivision or from existing wells on neighboring properties.
  - (5) An analysis and evaluation of the effect of the subdivision on groundwater resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post-development nitrate-nitrogen concentrations at any wells within the subdivision, or at the subdivision boundaries, or at a distance of 1,000 feet from potential contamination sources, whichever is a shortest distance.
  - (6) A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
- E. Projections of groundwater quality in a hydrogeologic assessment shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
  - F. If a hydrogeologic assessment identifies the locations of subsurface wastewater disposal systems and drinking water wells as necessary to meet the drinking water standards, the systems and wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce groundwater contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the final plan and as restrictions in the deeds to the affected lots. These restrictions shall be altered only with the approval of the Planning Board based upon an updated assessment of groundwater quality.
- 2. Groundwater quantity.
    - A. Groundwater withdrawals by a proposed subdivision shall not lower the water table beyond the boundaries of the subdivision.
    - B. A proposed subdivision shall not result in a lowering of the water table at the subdivision boundary by increasing runoff with a corresponding decrease in infiltration of precipitation.

**SECTION 9-838**      FLOODPLAIN MANAGEMENT

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency:

- 1. All public utilities and facilities, such as sewer, gas, electrical and water systems, shall be located and constructed to minimize or eliminate flood damages.

2. Adequate drainage shall be provided so as to reduce exposure to flood hazards.
3. The plan shall include a statement that structures in the subdivision shall be constructed in accordance with the applicable floodplain management provisions of Subchapter V, Division B – Floodplain Management District (FM). Such a restriction shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly state that the municipality will enforce the construction requirements, and that fact shall also be included in the deed or any other document previously described.

**SECTION 9-839**      IDENTIFICATION OF FRESHWATER WETLANDS, RIVERS, STREAMS, AND BROOKS

Freshwater wetlands, including forested wetlands, shall be identified and mapped in accordance with the 1987 Corps of Engineers Wetland Delineation Manual and the regional supplement, published by the United States Army Corps of Engineers. Any rivers, streams, or brooks within or abutting the proposed subdivision shall be shown on the plan.

**SECTION 9-840**      STORMWATER MANAGEMENT

1. Adequate provision shall be made for the management of the quantity and quality of all stormwater generated within the subdivision and any drained groundwater through a management system using practices equivalent to those described in "Stormwater Management for Maine: BMP Technical Design Manual," published by the Maine Department of Environmental Protection, (2006). The stormwater system shall utilize Low Impact Development BMPs as set out in Chapter 10 of the Manual or as approved by the Planning Board to the extent practical considering the location and soil conditions. The stormwater management system shall be designed to meet the following standards:
  - A. Quantity. Peak discharge rates shall be limited to the predevelopment levels for the two-year, ten-year, and twenty-five-year frequency, twenty-four-hour duration storm unless stormwater from the subdivision will drain directly into the Kennebec River.
  - B. Quality.
    - (1) Major subdivisions. Stormwater runoff in major subdivisions must conform to the State of Maine Chapter 500 Stormwater Standards and obtain a stormwater permit from the DEP if required.
    - (2) Minor subdivisions. Stormwater runoff in minor subdivisions must conform to the State of Maine Stormwater Quality Standards and obtain a permit from the DEP if the project is subject to the state standards. If a stormwater permit is not required, the stormwater shall

be treated by the use of Low Impact Development BMPs or other best management practices equivalent to those described in Chapter 10 of the DEP Manual.

2. Where necessary to achieve the above standards, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. Whenever elements of the storm drainage system are not within the right-of-way of a public street and the facilities will not be offered to the City for acceptance as public facilities, perpetual easements not less than 30 feet in width shall be provided to the municipality allowing maintenance and improvement of the system. If there are elements of the stormwater system serving more than one lot that require future maintenance to remain effective that are located outside of the right-of-way of a proposed public street, the Planning Board may require that the applicant offer to give these to the City with a condition of approval that the City be permitted to assess the lot owners on a pro rata basis for the costs of the future maintenance of these stormwater facilities. A note relative to this condition of approval shall appear on the approved plan and an indication of the condition of approval shall be placed in the deed of each lot subject to the condition. When an offer of dedication is required by the Planning Board, the applicant shall be responsible for the maintenance of these stormwater facilities until they are accepted by the City.

#### **SECTION 9-841      RECREATION AND OPEN SPACE AREAS**

The applicant shall be responsible for demonstrating that there are adequate recreational areas and open space to meet the needs of the residents of the subdivision. The Planning Board may approve a subdivision without any provision for recreational areas or open space if it determines, based upon the recommendation of the City Manager, that there are adequate recreation facilities and open space in the neighborhood to serve the proposed subdivision and other development that can be reasonably expected to occur in the neighborhood. If the Board determines that there are inadequate recreational facilities and open space to serve the proposed development, the provisions for recreational or open space use shall depend on the proposed lot sizes within the subdivision. If the average lot size is less than 20,000 square feet, the equivalent of an area equal to at least 10% of the total area of the subdivision shall be provided for recreation and open space. If the average lot size is 20,000 square feet or more, the equivalent of an area equal to at least 5% of the site shall be provided.

1. This requirement can be met through the following methods:
  - A. The applicant may propose to dedicate land to the City that is shown in the Comprehensive Plan or Open Space Plan as being desired for recreational or open use in accordance with Subsection 2; or
  - B. The applicant may propose to make a payment in lieu of dedication of land in accordance with Subsection 3.



2. If the applicant proposes to dedicate land:
  - A. The land proposed for dedication must be approved as being suitable for municipal recreation and/or open space use by the City Manager.
  - B. The land should provide for the expansion or connection of existing municipal recreation land or land restricted for conservation purposes or provide for interconnected networks of green space or wildlife habitat where feasible and should be consistent with the site inventory and analysis if one was conducted for the project.
  - C. The size of the area proposed to be dedicated shall be equal to or greater than the required area set forth above.
  - D. The final application submission shall contain the following:
    - (1) Evidence of the applicant's right, title, or interest in the land proposed to be dedicated.
    - (2) An offer of dedication.
  - E. Prior to the consideration of the dedication by the City Council, the applicant shall prepare, at his/her cost, the necessary deeds and other paperwork in form satisfactory to the City Manager.
3. If the applicant proposes to make a payment in lieu of dedication, the payment shall be calculated based on the percentage of land that would be required to be provided and the projected market value of that land in its predevelopment, unimproved state at the time of the subdivision as determined by the Municipal Tax Assessor. The payment in lieu of dedication shall be deposited into a municipal open space or outdoor recreation facility acquisition or improvement fund and may be used only for the purpose of acquiring, improving or developing open space or recreation facilities that will benefit the area of the community in which the proposed subdivision is located.

**SECTION 9-842**      PHOSPHORUS IMPACTS ON GREAT PONDS

There are no Great Ponds in Hallowell therefore this criterion does not apply.

**SECTION 9-843**      SPAGHETTI LOTS

Any lot that has shore frontage on a river, stream, brook, or great pond as defined by 38 M.R.S.A. § 480-B shall not have a ratio of lot depth to shore frontage greater than five to one.

**SECTION 9-844**      COMPLIANCE WITH TIMBER HARVESTING RULES

The Board shall ascertain that any timber harvested on the parcel being subdivided, has been harvested in compliance with rules adopted pursuant to Title 12, M.R.S.A section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Planning Board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the Board may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If the Bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. If the Bureau notifies the Planning Board that it will not provide assistance, the Board may require a subdivision applicant to provide a determination certified by a licensed forester. For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, M.R.S.A section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership.

**DIVISION J –DESIGN GUIDELINES**

**SECTION 9-845**      APPLICABILITY OF DESIGN GUIDELINES

This division provides design guidelines which, if followed, will result in meeting the appropriate performance standards of Division I. Compliance with these guidelines shall be considered evidence of meeting those standards. Proposed subdivisions not in compliance with the design guidelines of this article may be considered for approval, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s) and the statutory criteria. In all instances, the burden of proof shall be upon the applicant to present adequate information to demonstrate that all performance standards and statutory criteria for approval have been or will be met.

**SECTION 9-846**      OPEN SPACE PRESERVATION

1.      Open Space Development. All major subdivisions in rural areas are encouraged to be designed as open space developments in accordance with the provisions of Section 9-608 except as provided below. Minor subdivisions may be designed either utilizing the open space development approach, or by the traditional subdivision method with little or no common open space. Notwithstanding the provisions of 9-608, major subdivisions located in the Growth Area identified in the Comprehensive Plan may be developed as a conventional subdivision if the Planning Board finds that a conventional subdivision would be more appropriate and compatible with the established neighborhood given its location and the existing pattern of development in the immediate vicinity of the proposed subdivision. The purpose of these provisions is to allow for flexibility in the design of housing developments to allow for

the creation of open space which provides recreational opportunities or protects important natural features from the adverse impacts of development, provided that the net residential density shall be no greater than is permitted in the district in which the development is proposed. Notwithstanding provisions of the zoning ordinance relating to dimensional requirements, the Board, in reviewing and approving proposed residential subdivisions, may modify the provisions related to dimensional requirements to permit flexibility in approaches to housing and environmental design in accordance with the provisions of 9-608. This shall not be construed as granting variances to relieve hardship, and action of the Zoning Board of Appeals shall not be required.

2. Basic Standards for Open Space Developments.
  - A. Open Space Developments shall meet all requirements of Section 9-608 and these additional regulations.
  - B. Each building shall be an element of an overall plan for site development. Developments shall identify the general locations of buildings on the lots. The application shall illustrate the treatment of spaces, paths, roads, service and parking and in so doing shall take into consideration all requirements of this section and of other relevant sections of these regulations.
  - C. No building in the open space development shall be sited on slopes steeper than 25%, within fifty (50) feet of any water body or wetland, or on soil classified as being very poorly drained.
  - D. The Planning Board shall allow lots within open space developments to be reduced in lot area, street frontage and lot width below the minimum normally required by this ordinance in return for provision of common open space, as long as the maximum number of dwelling units is not exceeded, according to the calculations below.
  - E. In order to determine the maximum number of dwelling units permitted on a tract of land, the net residential acreage as determined in 6 shall be divided by seventy percent (70%) of the minimum lot size in the district in which it is located.
  - F. The net residential acreage shall be calculated by taking the total area of the lot and subtracting, in order, the following:
    - (1) 15% of the area of the lot to account for roads and parking.
    - (2) Portions of the lot shown to be in a floodway as designated in the Flood Boundary and Floodway Map prepared by the Federal Insurance Administration.
    - (3) Portions of the lot which have significant development limitations in

their natural state due to topographical, drainage or subsoil conditions such as, but not limited to:

- (a) Continuous areas of more than one acre with slopes greater than 25%.
  - (b) Wetlands and significant vernal pools.
  - (c) Portions of the lot subject to rights of way or easements that prevent their use as part of the development.
  - (d) Portions of the lot located in the Resource Protection District.
  - (e) Portions of the lot covered by surface waters.
- G. Unless the units will be connected to the public sewage collection and treatment system, no lot shall be smaller in area than 20,000 square feet.
- H. Every building lot that is reduced in area below the amount normally required shall be within 1,000 feet of the common land.
- I. No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development.
- J. Shore frontage for each lot or area of occupation, in the case of a condominium, shall not be reduced below the minimum normally required by the zoning ordinance.
- K. Where a cluster development abuts a body of water, a usable portion of the shoreline, as well as reasonable access to it, shall be a part of the common land.
- L. The common open space shall be owned and managed according to the standards of Section 9-608.
- M. The subdivider shall be responsible for the maintenance of the common open space and the other common facilities, until development sufficient to support the neighborhood association has taken place. or, alternatively, the objectives of clustering have been met. Such determination shall be made The transfer of responsibility shall occur only after review and approval by the Planning Board, upon request by the neighborhood association or the developer or subdivider.
3. Layout of Open Space Developments
- A. The layout of the open space development shall reflect the Site Inventory and Analysis.

- B. Those areas of the site identified as being unsuitable for development or having the highest natural resource value shall be given priority for inclusion in the common open space.
- C. The buildings should be clustered on the areas of the site with the fewest development limitations or conflicts.
- D. The location and design of the open space should focus on creating green networks that create connectivity with adjacent preserved open space, along natural features such as streams and ridgelines, or with significant wildlife habitat or travel corridors.

**SECTION 9-847**      SUFFICIENT WATER

- 1. Well location. Wells shall be able to be located on each lot in conformance with the required separation distances of the State of Maine including the State Plumbing Code.
- 2. Fire protection.
  - A. If fire hydrants connected to a public water supply system are provided, they shall be located in accordance with the standards of the Hallowell Water District and the Fire Department, and each location shall be approved in writing by the Fire Chief or his designee.
  - B. If fire hydrants are not provided and the Planning Board determines that a fire protection water supply is needed, each residential unit shall be protected by a residential sprinkler system meeting NFPA standards. As an alternative to sprinklers, the Planning Board may require the subdivider to provide adequate fire protection water supply. Subdivisions shall provide adequate fire protection water supply in accordance with NFPA 1231. Acceptable methods include, but are not limited to, fire ponds with an approved dry hydrant and underground storage reservoirs with an approved dry hydrant. An easement shall be granted to the Town for access to and maintenance of dry hydrants or reservoirs where necessary. If a water supply is provided, a minimum storage capacity of 10,000 gallons plus additional storage of 2,000 gallons per lot or principal building or such other amount as required by the Fire Chief shall be provided. Where fire ponds are proposed for water storage, the capacity of the pond shall be calculated based on the lowest projected water level less an equivalent of three feet of ice. A detailed plan of the required pond, dry hydrant, piping, and/or access road shall be submitted as part of the application. The CEO and Fire Chief shall approve the design of all storage facilities.
  - C. Hydrants or other provisions for fire protection water supply shall meet the specifications of the Fire Department and NFPA 1231. The design of hydrants shall be approved by the Fire Chief or his designee. The minimum

pipe size connecting dry hydrants to ponds or underground storage shall be six inches.

- D. Where a dry hydrant or other water source is not within the right-of-way of a proposed or existing public street, an easement shall be provided to the City for access to, maintenance, and use of the dry hydrant or reservoir. A suitable accessway to the hydrant or other water source shall be constructed by the applicant. It shall be built to standards approved by the CEO and the Fire Chief. Individual property owners and/or homeowner associations shall be responsible for the maintenance of the fire protection system.

**SECTION 9-848**      TRAFFIC CONDITIONS

- 1. Access control.
  - A. Where a subdivision abuts or contains an arterial or major street or a collector street as identified in Section 6-233, no new residential lot shall have vehicular access directly onto the street unless the Planning Board waives this requirement. This requirement shall be noted on the plan and in the deed of any lot adjacent to a principal arterial.
  - B. Where a lot has frontage on two or more streets, the access to the lot shall be provided across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. This restriction shall appear as a note on the plan and as a deed restriction for the affected lot.
- 2. Subdivision access design. Streets, private roads, or common drives that provide access to a subdivision shall conform to the following standards. If the street design and construction standards of Division B of Chapter 6 of the Code of ordinances conflict with the standards in this subsection, the standards of this section shall apply.
  - A. General. Access design shall be based on the estimated volume using the access classification defined below. Traffic volume estimates shall be as defined in the most recent edition of the Trip Generation Manual, published by the Institute of Transportation Engineers.
    - (1) Low-volume residential access: any access to a residential subdivision with 50 or fewer vehicle trips per day.
    - (2) High-volume residential access: any access to a residential subdivision with more than 50 vehicle trips per day.
    - (3) Commercial access: any street or drive providing access to a nonresidential use or subdivision or to a project with a mix of residential and nonresidential uses.

- B. Sight distances. Streets and other accesses shall be located and designed in profile and grading to provide adequate sight distance measured in each direction. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curbline or edge of shoulder, with the height of the eye 3.5 feet, to the top of an object 4.25 feet above the pavement. The required sight distances are listed by road width and for various posted speed limits.
- (1) Two-lane roads. A minimum sight distance of 10 feet for each mile per hour of posted speed limit shall be maintained or provided.
  - (2) Four-lane roads. The sight distances provided below shall be maintained or provided. These standards are based on passenger cars exiting from accesses onto four-lane roads and are designed to enable exiting vehicles:
    - (a) Upon turning left or right, to accelerate to the operating speed of the street without causing approaching vehicles to reduce speed by more than 10 miles per hour; and
    - (b) Upon turning left, to clear the near half of the street without conflicting with vehicles approaching from the left.

<b>Operating Speed (miles per hour)</b>	<b>Safe Sight Distance</b>	
	<b>Left (feet)</b>	<b>Right (feet)</b>
20	130	130
30	220	260
40	380	440
50	620	700

- C. Vertical alignment. Accesses shall be designed to prevent surface water from draining across the intersection. Accesses shall slope upward or downward from the gutter line at a maximum slope of 3% for at least 75 feet. Accesses shall be flat enough to prevent the dragging of any vehicle undercarriage.
- D. Access layout and design. The layout and design of the intersection of a proposed street or other access with an existing or proposed public street shall be appropriate for the anticipated use and traffic volume. Any access with a peak hour traffic volume of more than 100 passenger car equivalent trips shall be designed based on a site-specific traffic analysis prepared by a traffic engineer paid for by the applicant. Any access with 100 or fewer peak hour trips shall conform to the following standards:

- (1) Width. The width of the access shall be the minimum necessary to serve the proposed use and anticipated traffic volume. The width of the street or other access at the intersection or curb cut shall not exceed the following:
  - (a) Low-volume residential: 24 feet.
  - (b) High-volume residential: 24 feet.
  - (c) Commercial (two-way): 30 feet.
  - (d) Commercial (with median/divider): 20 feet each side.
- (2) Curb radii. Curb radii shall reflect the anticipated volume of use (as determined by the ITE Trip Generation Manual), the type of vehicles that will use the access, and the environment in which the access is located. Curb radii for residential accesses should be a maximum of 15 feet in growth areas and 20 feet in rural areas. Curb radii for commercial accesses should be a maximum of 30 feet in growth areas and a maximum of 40 feet in rural areas.
- (3) Planning Board modification. The Planning Board may allow greater access widths or larger curb radii if necessary for safety or to accommodate turning lanes or truck traffic.
- (4) Skew angle. The skew angle shall be as close to 90° as possible, but in no case shall the angle be less than 60°.

E. Access location and spacing.

- (1) Minimum corner clearance. Corner clearance shall be measured from the point of tangency of the corner to the point of tangency of the access. In general the maximum practical corner clearance should be provided based on site constraints. Minimum corner clearances are listed in the following table, based upon access volume and intersection type.

**Minimum Standards for Corner Clearance**

<b>Access Type</b>	<b>Minimum Corner Clearance (Dc)</b>	
	<b>Intersection Signalized (feet)</b>	<b>Intersection Unsignalized (feet)</b>
Low-volume residential	150	50
High-volume residential	150	50
Commercial	500	250



- (2) Access spacing. Accesses and street intersections on the same side of the street shall be separated from adjacent accesses, streets, and property lines as indicated in the following table in order to allow major through routes to effectively serve their primary function of conducting through traffic. This distance shall be measured from the access point of tangency to the access point of tangency for spacing between accesses and from the access point of tangency to a projection of the property line at the edge of the roadway for access spacing to the property line.

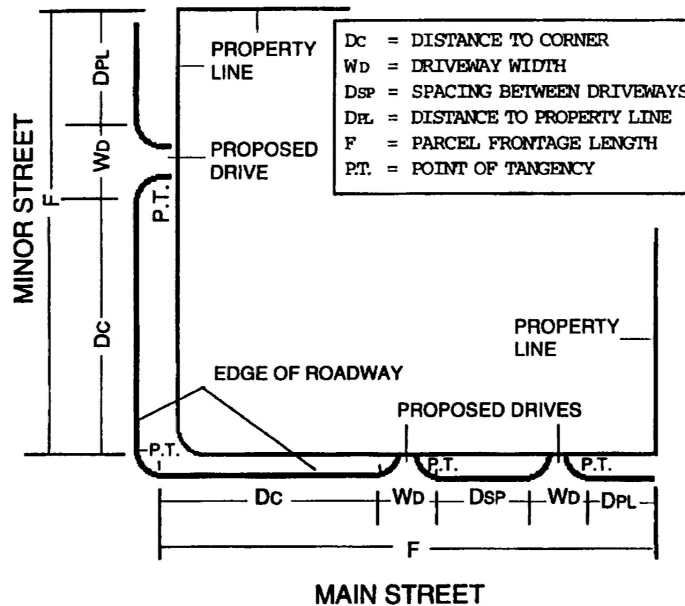
Access Type	Minimum Access Spacing				
	Minimum Spacing to Property Line (Dpl) <sup>1</sup> (feet)	Minimum Spacing to Adjacent Access by Access Type <sup>2</sup> (Dsp) <sup>3</sup>			
		Low Resident	High Resident	Comm w/o RT	Comm w/ RT
Low-volume residential	5	50	50	75	100
High-volume residential	10	50	75	100	150
Commercial (w/o RT) <sup>4</sup>	10	75	100	150	250
Commercial (w/RT) <sup>5</sup>	10	100	150	250	400

**NOTES:**

- <sup>1</sup> Dpl measured from point of tangency of access to projection of property line on roadway edge.
- <sup>2</sup> For two more accesses serving a single parcel, or from a proposed access from an existing access.
- <sup>3</sup> Dsp measured from point of tangency of access to point of tangency of adjacent access.
- <sup>4</sup> Access without right turn channelization.
- <sup>5</sup> Access with right turn channelization.

- F. Number of accesses. The layout of vehicular access to the subdivision shall accommodate an interconnected street network with multiple points of connection to the existing street system while minimizing the number of access points on to any street.

### Access Location and Spacing



G. Construction materials/paving.

- (1) All accesses entering a curbed street shall be curbed with materials matching the street curbing. Sloped curbing is required around all raised channelization islands or medians.
- (2) All accesses shall be paved with bituminous concrete pavement within the street right-of-way. All commercial accesses, regardless of access volume, shall be paved with bituminous concrete pavement or other paving material approved by the Department of Public Works within 30 feet of the street right-of-way.

3. Street design and construction standards.

A. General requirements.

- (1) The Board shall not approve any subdivision plan unless proposed local streets are designed in accordance with the specifications contained in these regulations. The standards of Division B – Street Construction Standards of Chapter 6 shall apply to the construction of arterial or collector streets. Approval of the final plan by the Board shall not be deemed to constitute or be evidence of acceptance by the City of any street or easement.

- (2) If any street construction is proposed, the applicant shall submit to the Board, as part of the final plan of a major subdivision or the plan for a minor subdivision, detailed construction drawings showing a plan view, profile, and typical cross section of the proposed streets and existing streets within 300 feet of any proposed intersections. The plan view shall be at a scale of one inch equals no more than 50 feet. The vertical scale of the profile shall be one inch equals no more than five feet. The plans shall include the following information:
  - (a) Date, scale, and North arrow, indicating magnetic or true North.
  - (b) Intersections of the proposed street with existing streets.
  - (c) Roadway and right-of-way limits, including edge of pavement, edge of shoulder, sidewalks, and curbs.
  - (d) Kind, size, location, material, profile, and cross section of all existing and proposed drainage structures and their location with respect to existing natural waterways and proposed drainageways.
  - (e) Complete curve data for all horizontal and vertical curves.
  - (f) Turning radii at all intersections.
  - (g) Center-line gradients.
  - (h) Size, type, and locations of all existing and proposed overhead and underground utilities, including but not limited to water, sewer, electricity, telephone, lighting, and cable television.
- (3) Where the applicant proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the Public Works Department or the Maine Department of Transportation, as appropriate.
- (4) Where the subdivision streets are to remain private roads, the following notes shall appear on the recorded plan:
  - (a) The City of Hallowell shall not be responsible for the maintenance, repair, plowing, or similar services for the private way(s) shown on this plan.
  - (b) Any private way shown on this plan shall not be accepted as a public street by the City of Hallowell unless the way complies with the standards for public streets (including right-

of-way width) existing at the time acceptance is requested.

B. Street design standards.

- (1) These design guidelines shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances associated with local streets. The standards of Division B of Chapter 6 shall govern the design of arterial or collector streets. These guidelines shall be met by all streets within a subdivision, unless the applicant can provide clear and convincing evidence that an alternate design is good engineering practice and will meet the performance standards of Division I.
- (2) Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the City.
- (3) Where a subdivision borders an existing narrow street (not meeting the right-of-way width requirements of the standards for streets in these regulations), or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment (Widening) Purposes." Land reserved for such purposes may not be included in computing lot area or setback requirements. When such widening or realignment is included in the City's capital investment plan, the reserve area shall not be included in any lot but shall be reserved to be acquired by the City or state.
- (4) Any subdivision with more than fifteen (15) or more lots shall have at least two street connections with existing public streets or streets on an approved subdivision plan for which performance guarantees have been filed and accepted that are classified as collectors or arterials unless the Planning Board determines that due to the unique characteristics or location of the site that two accesses are not needed for safe and convenient access to the subdivision. Any street with an average daily traffic of 200 trips or more shall have at least two street connections leading to existing public streets or streets on an approved subdivision plan for which performance guarantees have been filed and accepted.
- (5) The design of the street shall conform to the following design standards based on the street classification. The urban classifications shall apply in those areas designated as growth areas in the Comprehensive Plan. The rural classifications shall apply in those areas designated as rural in the Comprehensive Plan. The LID standards shall apply to a subdivision that is designed as a Low Impact Subdivision that meets the DEP LID stormwater management Best Management Practices and is designed as an open space

subdivision in accordance with the requirements of Section 9-846.

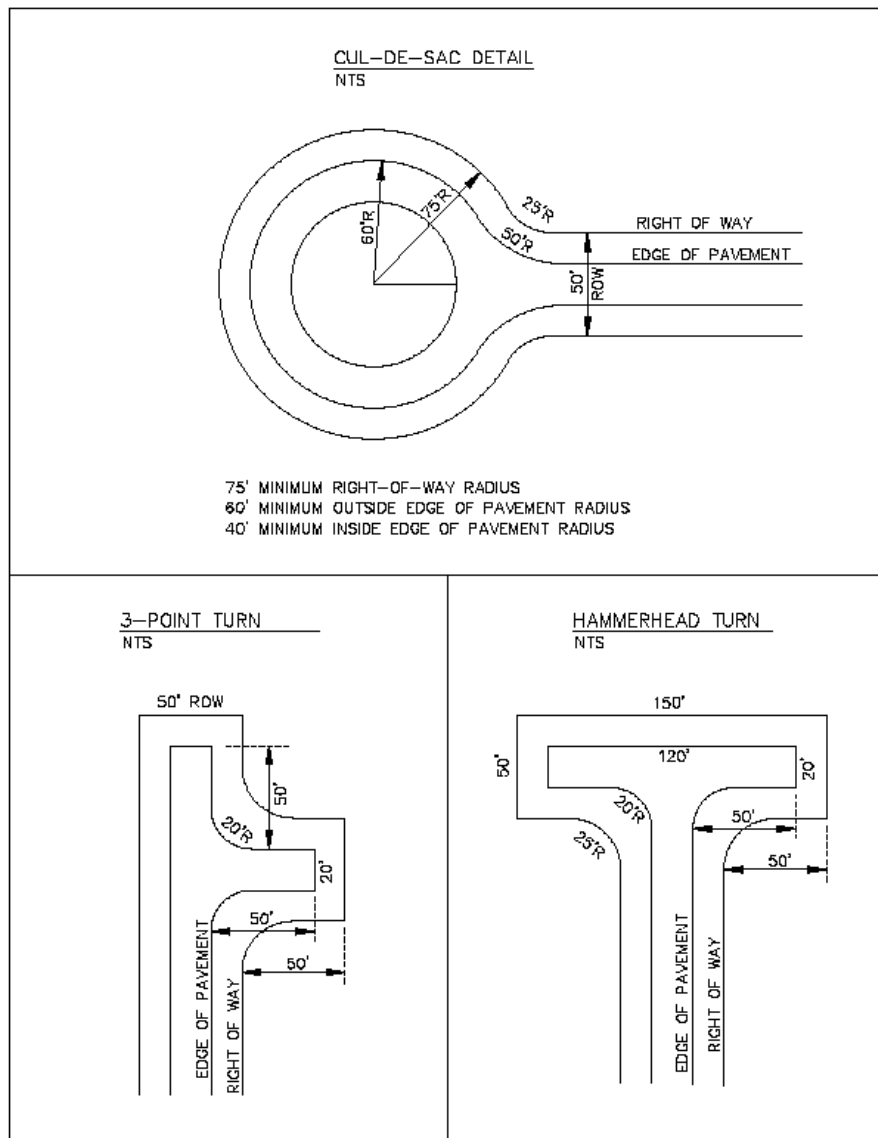
<b>Factor</b>	<b>Urban Local Street Public/Private</b>	<b>Rural Local Street Public/Private</b>	<b>LID Private</b>
R-O-W width	50'	50'	50'
Travelway width	24' (see Note 1)	20'	20'
Shoulder width	NA	4'	4'
Curb	Required (see Note 1)	None except where needed at intersections with existing streets	None except where needed at intersections with existing streets
Sidewalks	One side required – PB may require both sides if existing in the area	None	Provision for pedestrians required – can be sidewalk or path
Stormwater management	Closed system with detention (see Note 1)	Open ditches with detention	LID BMPs with infiltration
Dead ends	Allowed only if no other alternative – limited to a maximum of 15 lots per street	Allowed but discouraged – limited to a maximum of 15 lots per street	Allowed only if no other alternative – limited to a maximum of 15 lots per street
Access	Interconnected streets required unless no alternative and developments with more than 15 lots/units must have two connections to an arterial or collector street unless waived by Planning Board	Developments with more than 15 lots/units must have two connections to an arterial or collector street	Interconnected streets required unless no alternative and developments with more than 15 lots/units must have two connections to an arterial or collector street
Travelway surface	3.5" bituminous – 2.5" base – 1.0" surface	3.5" bituminous – 2.5" base – 1.0" surface	3.5" bituminous – 2.5" base – 1.0" surface

<b>Factor</b>	<b>Urban Local Street Public/Private</b>	<b>Rural Local Street Public/Private</b>	<b>LID Private</b>
Shoulder surface	NA	Compacted gravel	Compacted gravel
Sidewalk surface	Brick or 2" bituminous concrete	NA	NA
Curb Material	Vertical bituminous with sloped granite at street radii	NA except where needed at intersections with existing streets	NA
Curb radii	20' with collector streets & 15' with local streets	NA	NA
Maximum road grade	10% – PB may allow grade of up to 12% for distance of not more than 150' to address slope or soil conditions	10% – PB may allow grade of up to 12% for distance of not more than 150' to address slope or soil conditions	10% – PB may allow grade of up to 12% for distance of not more than 150' to address slope or soil conditions

Note 1: In those portions of the City where the urban standard would be required but are not directly served by the City's stormwater system, the Planning Board may approve the use of a road section that does not include curbing and/or an enclosed stormwater drainage system if the Planning Board finds that connection to the City system is not reasonable given the location and/or characteristics of the site. If curbing is not used, the width of the paved travelway may be reduced to 20' provided that 4' gravel shoulders are constructed.

- (6) The center line of the roadway shall be the center line of the right-of-way unless another alignment is approved by the Planning Board.
- (7) Dead end streets shall meet the design standards listed above. A dead end shall be terminated with a turning circle, hammer-head turn around, or three point turn around meeting the standards illustrated on the following page. The Board shall require the reservation of a twenty-foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a fifty-foot easement in line with the street to provide continuation of the road where future subdivision is possible. A dead-end street shall provide access to a maximum of 15 dwelling units (not including corner lots that gain their access from

another street).



- (8) Grades, intersections and sight distances.
- (a) Grades of all streets shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.
  - (b) All changes in grade shall be connected by vertical curves in order to provide the following minimum stopping sight distances based on the street design speed:

**Design Speed  
(miles per hour)**

	<b>20</b>	<b>25</b>	<b>30</b>	<b>35</b>
Stopping sight distance (feet)	125	150	200	250

- (c) Stopping sight distance shall be calculated with a height of eye at 3 1/2 feet and the height of object at two feet.
  - (d) Cross (four-cornered) street intersections shall be avoided insofar as possible, except as shown on the Comprehensive Plan or at other important traffic intersections.
- (9) Sidewalks. Sidewalks shall be installed within all subdivisions within areas designated as Growth Areas in the Comprehensive Plan. Sidewalks shall be provided on one side of the street. The Planning Board may require sidewalks on both side of the street where the established pattern in the adjacent area is sidewalks on both sides. The Planning Board waive the requirement for sidewalks if the Board finds that there are adequate alternative provisions for pedestrians outside of the right-of-way or that the scale of the project makes sidewalks unnecessary on one or both sides. Where installed, sidewalks shall meet these minimum requirements:
- (a) Location. Sidewalks shall be located adjacent to the curb.
  - (b) Sidewalk construction. Brick sidewalks shall be required in those areas where brick is the predominate material for existing sidewalks. In all other areas bituminous concrete sidewalks shall be provided. The Planning Board may approve the use of alternative materials with input from the Department of Public Works. The applicant shall be responsible for demonstrating that the alternative material is an acceptable equivalent. Handicapped access ramps shall be provided at all intersections and other pedestrian crossings.
- (10) Curbs shall be installed wherever a sidewalk is provided and in other areas as needed to control stormwater drainage or vehicle movement. The specified traveled way width shall be measured between the curbs.
- C. Street construction standards. Streets shall be constructed in accordance following requirements. For any aspect of construction not covered by these standards, the appropriate material and construction performance standards of the Maine Department of Transportation shall apply. The Planning Board



may waive or modify these standards with input from the Department of Public Works if it finds that the alternative will be equivalent.

- (1) Preparation.
  - (a) Before any clearing has started on the right-of-way, the side lines of the new road shall be staked or flagged at fifty-foot intervals.
  - (b) Before grading is started, the entire area within the right-of-way necessary for traveled way, shoulders, sidewalks, drainageways, and utilities shall be cleared of all stumps, roots, brush, and other objectionable material. All shallow ledge, large boulders and tree stumps shall be removed from the cleared area.
  - (c) All organic materials or other deleterious material shall be removed to a depth of two (2) feet below the subgrade of the roadway.
  - (d) Except in a ledge cut, side slopes shall be no steeper than a slope of one foot vertical to three feet horizontal unless approved by the Planning Board with input from the Department of Public Works and shall be graded, loamed, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan. When a slope greater than 1:3 is allowed, the slope shall be appropriately treated in a manner approved by the Public Works Department. Where a cut results in exposed ledge, a side slope no steeper than four feet vertical to one foot horizontal is permitted.
  - (e) All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.
- (2) Bases and pavement.
  - (a) Bases/subbase.
    - [1] The aggregate subbase course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three-inch-square mesh sieve shall meet the grading requirements of the following table. Aggregate for the subbase shall contain no particles of rock exceeding

six inches in any dimension.

**Aggregate Subbase Grading Requirements**

<b>Sieve Designation</b>	<b>Percentage by Weight Passing Square Mesh Sieves</b>
1/4 inch	25% to 70%
No. 40	0% to 30%
No. 200	0% to 7%

- [2] An aggregate base course shall be placed on top of the subbase course. The aggregate base course shall be screened or crushed gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three-inch-square mesh sieve shall meet the grading requirements of the following table. Aggregate for the base shall contain no particles of rock exceeding two inches in any dimension.

**Base Course Grading Requirements**

<b>Sieve Designation</b>	<b>Percentage by Weight Passing Square Mesh Sieves</b>
3/8 inch	45% to 70%
1/4 inch	30% to 55%
No. 50	0% to 20%
No. 200	0% to 5%

- (b) Pavement joints. Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line to form a neat, even, vertical joint.

- (c) Pavements.

- [1] Minimum standards for the base layer of pavement shall be the Maine Department of Transportation Specification 403.207 for Superpave mix 3/4 inch (18 millimeters) or an equivalent mix approved by the Department of Public Works. The pavement may be placed between April 15 and November 15, provided that the air temperature in the shade at the paving location is 35° F. or higher and the surface to be paved is not frozen or unreasonably wet.

[2] Minimum standards for the surface layer of pavement shall be the Maine Department of Transportation Specification 403.210 for Superpave mix 3/8 inch (9.5 millimeters) or an equivalent mix approved by the Department of Public Works. The pavement may be placed between April 15 and October 15, provided that the air temperature in the shade at the paving location is 50° F. or higher.

(d) Specifications

[1] The minimum thickness of material after reaching 95% of modified Proctor maximum density shall meet the specifications in the following table:

Street Materials	Local or Private LID
Aggregate subbase course (inches)	15
Screened or crushed aggregate base course (inches)	3
Hot bituminous pavement (inches)	
Total thickness	3.5
Surface course [MeDOT 403.210 Superpave Mix 3/8 inch (9.5mm)]	1.0
Base course [MeDOT 403.207 Superpave Mix 3/4 inch (19mm)]	2.5

**SECTION 9-849**      WILDLIFE HABITAT, RARE NATURAL AREAS OR PUBLIC ACCESS TO SHORELINE

1. Retention of natural or historic features.
  - A. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and no less than 25 feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes and significant wildlife habitat to be preserved, together with sufficient areas for trails, lookouts, etc., where necessary and appropriate.
  - B. Proposed subdivisions which include or are adjacent to buildings or sites on the National Register of Historic Places or which the Comprehensive Plan has identified as being of historical significance shall be designed in such a manner as to minimize the impacts on the historic features. When the historic features to be protected include buildings, the placement and the architectural design of new structures in the subdivision shall be compatible

with the historic structures. The Board shall seek the advice of the Maine Historic Preservation Commission in reviewing such plans.

2. Protection of significant wildlife habitat and important habitat areas. The following guidelines are designed to protect the significant wildlife resources identified in the municipality. The Board recognizes that wildlife management must take into account many site-specific variables. Applicants proposing to subdivide land within identified wildlife resources must consult with the Maine Department of Inland Fisheries and Wildlife or a qualified wildlife biologist and provide their written comments to the Board. The guidelines of this section shall apply to only those subdivisions which include significant wildlife habitat or resources.
  - A. Protection of habitat of endangered or threatened species.
    - (1) The habitat of species appearing on the official state or federal lists of endangered or threatened species shall be maintained as open space.
    - (2) Deed restrictions and notes on the plan shall reflect standards from the Department of Inland Fisheries and Wildlife for removal of vegetation within 250 feet of the habitat for species appearing on the list of endangered or threatened species unless the Department of Inland Fisheries and Wildlife has approved cutting of vegetation in writing.
  - B. Protection of waterfowl habitat.
    - (1) There shall be no cutting of vegetation within the strip of land extending 75 feet inland from the normal high-water mark of high and moderate value waterfowl habitats, including nesting and feeding areas.
    - (2) This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.
  - C. Protection of deer wintering areas. The report prepared by a wildlife biologist, selected or approved by the Board, shall include a management plan for deer wintering areas.
  - D. Protection of shoreland areas.
    - (1) All areas subject to shoreland zoning shall comply with the relevant standards.
    - (2) These restrictions shall appear as notes on the plan and as deed restrictions to the affected lots.

- E. If the proposed subdivision includes other important wildlife habitat as identified by the Department of Inland Fisheries and Wildlife, the restrictions on activities in and around these areas shall be reviewed by the Department or a qualified wildlife biologist and its or his comments presented in writing to the Board.

**SECTION 9-850**      STORMWATER MANAGEMENT DESIGN GUIDELINES

1. The design of best management practices shall be substantially equivalent to those described in "Stormwater Management for Maine: BMP Technical Design Manual," published by the Maine Department of Environmental Protection, 2006.
2. Drainage easements for existing watercourses or proposed drainageways shall be provided at least 30 feet wide, conforming substantially to the lines of existing natural drainage.
3. The minimum pipe size for any storm drainage pipe shall be 15 inches for driveway entrances and 18 inches for cross culverts. The minimum pipe size between drainage structures and at inlets and outfalls shall be determined by the Department of Public Works. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be bedded in a fine granular material reaching a minimum of six inches below the bottom of the pipe and extending to six inches above the top of the pipe. The material shall contain no stones larger than three inches, lumps of clay, or organic matter.
4. Catch basins shall be installed where necessary and when located within a street shall be located at the curbline.
5. Storm drainage construction standards.
  - A. Materials.
    - (1) Storm drainage pipes shall conform to the requirements of Maine Department of Transportation materials specifications Section 706 for nonmetallic pipe and Section 707 for metallic pipe. Bituminous-coated steel pipes shall not be used.
    - (2) Where the storm drainage pipe is to be covered by 10 feet or more of fill material, pipe material with a fifty-year life shall be used. These materials include concrete pipe, polymer coated galvanized corrugated steel pipe, polyvinyl chloride (PVC) pipe, and corrugated aluminum alloy pipe.
  - B. Pipe gauges. Metallic storm drainage pipe shall meet the thickness requirements of the following table, depending on pipe diameter.

**Culvert Size and Thicknesses Material**

<b>Inside Diameter (inches)</b>	<b>Galvanized CMP</b>	
	<b>Aluminum/Zinc Coated CMP</b>	<b>Aluminum Coated CMP Polymer Coated CMP</b>
15 to 24	14 ga.	16 ga.
30 to 36	12 ga.	14 ga.
42 to 54	10 ga.	12 ga.
60 to 72	8 ga.	10 ga.

- C. Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Board, after consultation with the municipal engineer.
  - D. Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of four-hundred-foot intervals.
6. Upon completion, each catch basin or manhole shall be cleaned of all accumulation of silt, debris or foreign matter and shall be kept clean until final acceptance.

**SECTION 9-851**      IMPACT ON WATER QUALITY OR SHORELINE

- 1. All areas subject to shoreland zoning shall comply with the relevant standards.
- 2. These restrictions shall appear as notes on the plan and as deed restrictions to the affected lots.

**SECTION 9-852**      BLOCKS

Within areas designated as Growth areas in the Comprehensive Plan, blocks shall be laid out to reflect the established street and block pattern of the City to the extent consistent with natural limitations. An interconnected street pattern must be maintained where feasible and dead-end streets should be avoided. Where street lengths exceed 1,000 feet between intersections with other streets, the Board may require a utility/pedestrian easement, at least 20 feet in width, to provide for underground utility crossings and/or a pedestrian pathway of at least five feet in width. Maintenance obligations of the easement shall be included in the written description of the easement.

**SECTION 9-853**      LOTS

- 1. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board based upon the criteria of the subdivision

statute at the time of the revision, the standards of the City's Subdivision Regulations then in effect, and any conditions placed on the original approval.

2. If a lot on one side of a stream, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.
3. Flag lots and other odd-shaped lots in which narrow strips of less than 25 feet in width are joined to other parcels in order to meet minimum lot size requirements are prohibited.

**SECTION 9-854**      UTILITIES

Utilities serving subdivisions in areas designated by the Comprehensive Plan as growth areas shall be installed underground. Utilities serving lots outside of growth areas with a street frontage of 125 feet or less shall also be installed underground. The Board may approve overhead utilities when the applicant provides evidence that the increased costs of underground utilities will raise the costs of the housing beyond the market in that location. When utilities are installed underground, the subdivider shall install appropriate signs indicating the location of such utilities.

**SECTION 9-855**      MONUMENTS

1. Granite monuments shall be set at all street intersections and points of curvature but no further than 750 feet apart along all street lines.
2. Granite monuments shall be a minimum of four inches square at the top and four feet in length and set in the ground at final grade level. If site conditions prohibit the installation of a four-foot monument, the Town Engineer may approve alternative provisions for permanent monumentation. After they are set, a drill hole two inches deep shall locate the point or points described above.
3. All subdivision boundary corners and angle points, as well as all lot boundary corners and angle points, shall be marked by suitable monumentation, as required by the Maine Board of Registration of Land Surveyors.

**SUBCHAPTER VIIIA – SITE PLAN REVIEW**

[Subchapter Derivation: Ord. No. 09-08, effective 7/23/2009]

**SECTION 9-861**      PURPOSE

The site plan review provisions set forth in this subchapter are intended to protect the public health and safety, promote the general welfare of the community, and conserve the environment by assuring that nonresidential and multifamily residential construction is designed and developed in a manner which assures that adequate provisions are made for traffic safety and access; emergency access; water supply; sewage disposal; management of stormwater, erosion, and sedimentation; protection of the groundwater; protection of the environment, wildlife habitat, fisheries, and unique natural areas; protection of historic and archaeological resources; minimizing the adverse impacts of the activity on adjacent properties; and fitting the project harmoniously into the fabric of the City.

These site plan review provisions operate in conjunction with all other applicable provisions of the City's ordinances that apply to the construction, alteration, or enlargement of a building, the installation of paving or other impervious surfaces, or the change of use of a property for non-residential, multifamily residential, or mixed-use purposes.

**SECTION 9-862**      APPLICABILITY

1.      Activities Requiring Site Plan Approval. Except as provided in subsection 2, the construction of a new building, the alteration or enlargement of an existing building, the installation of paving or other impervious surfaces, or the change of use of the property involving the use of a lot for non-residential, multifamily residential, or mixed-use purposes is subject to site plan review by the Planning Board if one or more of the criteria listed in paragraphs A through J is met.

A person who has right, title, or interest in a lot of land to which site plan review applies must obtain site plan approval prior to commencing any of the following activities on the lot, obtaining a building or plumbing permit for the activities, or undertaking any alteration or improvement of the lot including grubbing, excavation, or grading.

- A.      The activity, in conjunction with any other activities on the property after the effective date of this subchapter, will cumulatively increase the amount of impervious surface by more than ten thousand (10,000) square feet, or
- B.      The activity, in conjunction with any other activities on the property after the effective date of this subchapter, will cumulatively disturb more than three (3) acres of the lot, or
- C.      The activity, in conjunction with any other activities on the property after the effective date of this subchapter, will cumulatively result in fifty (50) or more additional vehicle trips per day based upon the current version of the ITE Trip



Generation Manual or information on the trip generation rates of comparable facilities prepared by a qualified traffic engineer, or

- D. The activity will involve the continuing use of large, commercial vehicles as defined by the State of Maine as an integral part of the non-residential or business use of the property or to make deliveries to or from the property outside of normal business hours, or
  - E. The activity is a nonresidential use that regularly will be open for business or use before 6 AM or after 8 PM, or
  - F. The activity will involve the servicing or repair of motor vehicles, recreational vehicles, boats, or heavy equipment, or
  - G. The activity is a nonresidential use that will regularly display, store, or process materials, equipment, or motor vehicles including products for sale or rent in outdoor, uncovered locations, or
  - H. The activity will involve the provision of drive-up or drive-through service in which the customer can remain in the vehicle while receiving the service or making the transaction, or
  - I. The activity will involve the construction or enlargement of a building or other impervious surface that will be located within seventy-five (75) feet of the upland edge of a wetland that has been previously mapped or that is shown on a published map of wetlands, including the National Wetlands Inventory (NWI) map or a City wetlands map, or within seventy-five (75) feet of the channel of a stream meeting the state definition of a stream in the Natural Resources Protection Act or that is shown on a City streams map or on a U.S.G.S map as a perennial stream, or
  - J. The activity is part of a Planned Mixed-Use Development approved in accordance with Section 9-387.
2. Activities That Do Not Require Site Plan Approval. The following activities do not require site plan approval. Certain of these activities will, however, require the owner to obtain a building permit, plumbing permit, or other state or local approvals:
- A. The construction, placement, alteration, or enlargement of a single family or two-family dwelling, or a single manufactured housing or mobile home dwelling on an individually owned lot, including accessory buildings and structures.
  - B. Farming.
  - C. Timber harvesting and forest management activities.

[Derivation: Ord. No. 11-03, effective 8/18/2011]

**SECTION 9-863**      REVIEW AND APPROVAL AUTHORITY

The Planning Board is authorized to review and act on all site plans for development requiring site plan review under this subchapter. The Planning Board may act to approve, disapprove, or approve the project with conditions.

**SECTION 9-864**      PREAPPLICATION CONFERENCE

Prior to submitting a formal application, the applicant or his/her representative may request a preapplication conference with the Code Enforcement Officer. A preapplication conference is optional but is strongly advised. The preapplication conference shall be informal and informational in nature. There is no fee for a preapplication review, and such review shall not cause the plan to be a pending application or proceeding under Title 1 M.R.S.A. §302. No decision on the substance of the plan shall be made by the Code Enforcement Officer at the preapplication conference.

1.    Purpose. The purposes of the preapplication conference are to:
  - A.    Allow the Staff to understand the nature of the proposed use and the issues involved in the proposal,
  - B.    Allow the applicant to understand the development review process and required submissions,
  - C.    Identify issues that need to be addressed in future submissions, and
  - D.    Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities.
  - E.    Allow the Code Enforcement Officer to provisionally classify the project as a minor development or major development.
  
2.    Related Actions. The Code Enforcement Officer may schedule a site inspection in conjunction with the preapplication conference if deemed necessary and discuss any potential requests for waivers from the submission requirements subject to the standard of 9-869.5.
  
3.    Preparation for the Preapplication Conference. There are no formal submission requirements for a preapplication conference. However, the applicant should be prepared to discuss the following with the Code Enforcement Officer:
  - A.    The proposed site, including its location, size, and general characteristics,
  - B.    The nature of the proposed use and potential development,
  - C.    Any issues or questions about existing municipal regulations and their applicability to the project, and

- D. Any requests for waivers from the submission requirements and the basis for the request with respect to 9-869.5

The applicant's presentation and written materials about the nature and scope of the project must allow the Code Enforcement Officer to be able to provisionally classify the project as a minor development or major development in accordance with 9-865.

[Derivation: Ord. No. 13-09, effective 10/17/2013]

**SECTION 9-865**      CLASSIFICATION OF PROJECTS

Projects and activities subject to site plan review are classified as minor developments or major developments based upon the criteria of this section. Projects that are classified as minor developments are subject to a simplified application and review process while major projects are required to provide more information about the activity and its impacts and are subject to a more extensive review process.

1. Classification of a Project. The Code Enforcement Officer shall be responsible for provisionally classifying a project or activity as a minor or major development. This can occur in conjunction with a preapplication conference or as a separate action but must occur prior to the submission of the formal application for site plan review. When the Code Enforcement Officer provisionally classifies a project as a minor or major development, he/she shall notify both the applicant and the Chair of the Planning Board in writing of the classification and the basis for determination. At the first meeting of the Planning Board at which the application is discussed, the Planning Board shall review the Code Enforcement Officer's determination as to the classification of the application and may either confirm or revise the classification based upon the information contained in the application.
2. Revision of the Classification by the Planning Board. If the Planning Board revises the classification of a project, the processing of the application shall proceed under the revised classification at that meeting and any subsequent meetings of the board. If the Planning Board reclassifies a project as a major development, processing of the application shall be suspended until the applicant has provided all of the information required for a major development as set forth in Section 9-869.
3. Minor and Major Developments. Any activity that meets the threshold requirements of Section 9-862 for Site Plan Review shall be classified as a Minor Development and shall be subject to the procedures and standards for minor developments unless the activity meets one of the following in which case it shall be classified as a Major Development and shall be subject to the procedures and standards for major developments:
  - A. The activity, in conjunction with any other activities on the property after the effective date of this subchapter, will cumulatively increase the amount of impervious surface by more than twenty thousand (20,000) square feet, or

- B. The activity, in conjunction with any other activities on the property after the effective date of this subchapter, will cumulatively disturb more than five (5) acres of the lot, or
- C. The activity, in conjunction with any other activities on the property after the effective date of this subchapter, will cumulatively result in one hundred (100) or more additional vehicle trips per day based upon the current version of the ITE Trip Generation Manual or information on the trip generation rates of comparable facilities prepared by a qualified traffic engineer.

[Derivation: Ord. No. 13-09, effective 10/17/2013]

**SECTION 9-866**      APPLICATION SUBMISSION AND REVIEW PROCEDURES FOR MINOR DEVELOPMENTS

1. Submission to Code Enforcement Officer. The applicant for site plan review of a minor development shall prepare and submit a site plan review application, including the development plan and supporting documentation to the Code Enforcement Officer. The application must meet the submission requirements for minor developments set forth in Section 9-869. The Code Enforcement Officer shall provide the applicant with a dated, written receipt for the application submission.
2. Provisional Review by the Code Enforcement Officer. The Code Enforcement Officer shall review the application for completeness within five (5) business days of receipt. The Code Enforcement Officer shall provisionally determine that the application is complete only if all of the required information set forth in 9-869 has been submitted or the applicant has requested waivers for any required information not provided and provided information documenting the basis for the waiver request(s) in accordance with 9-869.5. Upon the completion of the application review, the Code Enforcement Officer shall notify the applicant in writing as to whether or not the application is deemed to be provisionally complete. If the application is provisionally complete, the Code Enforcement Officer shall forward the application to the Planning Board and shall schedule it for the next available Planning Board meeting for consideration by the Board. The Code Enforcement Officer shall notify abutting property owners of the pending application in accordance with Section 9-184. The Code Enforcement officer shall also deliver written notice of the pending application to the City Manager, Fire Chief, Police Chief, the Chair of the Conservation Commission, Superintendent of the Hallowell Water District, Superintendent of the Greater Augusta Utility District, and other interested parties.

If the Code Enforcement Officer finds that the application is not complete, he/she shall notify the applicant in writing of the additional material that needs to be submitted by the applicant for the application to be provisionally complete and to be considered by the Planning Board. Upon the receipt of additional information, the Code Enforcement Officer shall conduct another completeness review. This process shall be repeated, if necessary, until the Code Enforcement Officer finds that the application is provisionally complete.

3. Initial Consideration by the Planning Board. At the first meeting at which the application is considered, the Planning Board shall review the application material and formally determine whether or not the submission is complete. The Board shall also consider and act on any requests for waivers of the submission requirements in accordance with 9-869.5. If the application is determined to be incomplete or requested waivers are not granted, the Board shall notify the applicant and Code Enforcement Officer in writing of this finding, shall specify the additional materials required to make the application complete and shall advise the applicant that the application will not be considered by the Board until the additional information is submitted to the Code Enforcement Officer. These steps shall be repeated until the application is found to be complete by the Planning Board. The timeframes for the processing of the application shall begin when the board finds that the application is complete.
4. On-Site Inspection. The Planning Board may hold an on-site inspection of the site to review the existing conditions, field verify the information submitted, and investigate the development proposal. The Board may conduct this visit either before or after the first meeting at which the application is considered. The Board may decide not to hold an on-site inspection when the site is snow covered. If an application is pending during a period when there is snow cover, the processing of the application may be suspended until the Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided to all parties entitled to notice under Section 9-184.
5. Planning Board Action. Within forty-five (45) days of determining that the application is complete, the Planning Board shall either hold a public hearing on the application or take final action on said application if a public hearing is not held. If a public hearing is held, the Planning Board shall take final action on the application within forty-five (45) days of the public hearing. The Board shall act to deny, to approve, or to approve the application with conditions. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval. All time limits provided for in this section may be extended by mutual agreement of the applicant and Planning Board.

In issuing its decision, the Planning Board shall make written findings of fact establishing that the activities set forth in the application do or do not meet the standards of approval and other requirements of the City including any conditions of approval necessary to comply with the standards. The Board shall notify the applicant of the action of the Board, including the findings of fact, and any conditions of approval. This requirement can be met through the distribution of minutes of the meeting containing the findings of fact and decision of the Board.

6. Optional Public Hearing. The Planning Board is not required to hold a public hearing on an application for a minor development. The Board may, by formal vote, decide to hold a public hearing on an application if there is significant public interest in the project or if there are unresolved issues with respect to conformance with the approval standards. If a public hearing is held, the hearing shall be noticed and

advertised in accordance with the provisions of Section 9-184.

7. Final Approval and Filing. Upon completion of the requirements of this Section and a vote of approval or approval with one or more conditions by the majority of the Planning Board, the application is approved and the site plan shall be signed by a majority of the members of the Board and filed with the Code Enforcement Officer.

[Derivation: Ord. No. 13-09, effective 10/17/2013]

**SECTION 9-867**      APPLICATION SUBMISSION AND REVIEW PROCEDURES FOR MAJOR DEVELOPMENTS

1. Two Step Review Process. Site Plan Review for a major development is a two step process. Step one is the submission and review of a Site Inventory and Analysis. Upon the completion of the review of the Site Inventory and Analysis, the Planning Board will authorize the applicant to proceed to step two, the submission of a formal application and supporting documentation. The City will not accept or process an application for site plan review of a major development until a review of the Site Inventory and Analysis has been completed.
2. Step One – Site Inventory and Analysis
  - A. Submission of the Site Inventory and Analysis to the Code Enforcement Officer. The applicant shall prepare and submit a Site Inventory and Analysis and supporting documentation to the Code Enforcement Officer. The materials must meet the submission requirements set forth in Section 9-869. The Code Enforcement Officer shall provide the applicant with a dated, written receipt for the submission.
  - B. Provisional Review of the Site Inventory and Analysis by the Code Enforcement Officer. The Code Enforcement Officer shall review the submission for completeness within five (5) business days of receipt. The Code Enforcement Officer shall provisionally determine that the submission is complete only if all of the required information set forth in 9-869 has been submitted or the applicant has requested waivers for any required information not provided and provided information documenting the basis for the waiver request(s) in accordance with 9-869.5. Upon the completion of the review, the Code Enforcement Officer shall notify the applicant in writing as to whether or not the submission is deemed to be provisionally complete. If the submission is provisionally complete, the Code Enforcement Officer shall forward the Site Inventory and Analysis to the Planning Board and shall schedule it for the next available Planning Board meeting for consideration by the Board. The Code Enforcement Officer shall notify property owners of the pending project in accordance with Section 9-184. The Code Enforcement officer shall also deliver written notice of the site inventory and analysis submission to the City Manager, Fire Chief, Police Chief, the Chair of the Conservation Commission, Superintendent of the Hallowell Water

District, Superintendent of the Greater Augusta Utility District, and other interested parties.

If the Code Enforcement Officer finds that the submission is not complete, he/she shall notify the applicant in writing of the additional material that needs to be submitted by the applicant for the Site Inventory and Analysis to be provisionally complete and to be considered by the Planning Board. Upon the receipt of additional information, the Code Enforcement Officer shall conduct another completeness review. This process shall be repeated, if necessary, until the Code Enforcement Officer finds that the submission is provisionally complete.

- C. Consideration of the Site Inventory and Analysis by the Planning Board. At the first meeting at which the site inventory and analysis is considered, the Planning Board shall review the material and formally determine whether or not the submission is complete. The Board shall also consider and act on any requests for waivers of the submission requirements in accordance with 9-865.5. If the submission is determined to be incomplete or requested waivers are not granted, the Board shall notify the applicant and Code Enforcement Officer in writing of this finding, shall specify the additional materials required to make the Site Inventory and Analysis submission complete and shall advise the applicant that the project will not be considered by the Board until the additional information is submitted to the Code Enforcement Officer. These steps shall be repeated until the application is found to be complete by the Planning Board. The timeframes for the processing of the site inventory and analysis shall begin when the board finds that the submission is complete.
- D. Review of the Site Inventory and Analysis. The Planning Board review of the Site Inventory and Analysis shall be informational and shall not result in any formal approval or disapproval of the project by the Planning Board. The Board shall review the submission to determine if the information provides a clear understanding of the lot's characteristics and its potential for use and development. The outcome of the review process shall be a determination by the Board of the issues and constraints that must be addressed in the formal site plan review application. The Board shall also act on any requests for waivers from the application submission requirements. As part of the review of the Site Inventory and Analysis, the Planning Board may hold an on-site inspection of the site to review the existing conditions, field verify the information submitted and investigate the development proposal. The Board may conduct this visit either before or after the first meeting at which the application is considered. The Board may decide not to hold an on-site inspection when the site is snow covered. If an application is pending during a period when there is snow cover, the Planning Board may suspend consideration of the submission until the Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided to all parties that received notice under subsection B. Within forty-five (45) days of

the finding that the site inventory and analysis submission is complete, the Board shall complete its review of the submission, notify the applicant in writing of the outcome of its review, and, if appropriate, authorize the submission of the formal application.

3. Step Two – Submission of the Application

A. Submission of Application to the Code Enforcement Officer. Upon completion of the review of the Site Inventory and Analysis, the applicant shall prepare and submit a site plan review application for a major development to the Code Enforcement Officer. The application must include the development plan and supporting documentation that meets the submission requirements for major developments as set forth in Section 9-869. The Code Enforcement Officer shall provide the applicant with a dated, written receipt for the application submission.

B. Provisional Review of Application by the Code Enforcement Officer. The Code Enforcement Officer shall review the application for completeness within five (5) business days of receipt. The Code Enforcement Officer shall provisionally determine that the application is complete only if all of the required information for major developments set forth in 9-869 has been submitted or the Planning Board has approved waivers for any required information not provided as part of the Site Inventory and Analysis review. Upon the completion of the application review, the Code Enforcement Officer shall notify the applicant in writing as to whether or not the application is deemed to be provisionally complete. If the application is provisionally complete, the Code Enforcement Officer shall forward the application to the Planning Board and shall schedule it for the next available Planning Board meeting for consideration by the Board. The Code Enforcement Officer shall notify abutting property owners of the pending application in accordance with Section 9-184. The Code Enforcement Officer shall also deliver written notice of the pending application to the City Manager, Fire Chief, Police Chief, the Chair of the Conservation Commission, Superintendent of the Hallowell Water District, Superintendent of the Greater Augusta Utility District, and other interested parties.

If the Code Enforcement Officer finds that the application is not complete, he/she shall notify the applicant in writing of the additional material that needs to be submitted by the applicant for the application to be provisionally complete and to be considered by the Planning Board. Upon the receipt of additional information, the Code Enforcement Officer shall conduct another completeness review. This process shall be repeated, if necessary, until the Code Enforcement Officer finds that the application is provisionally complete.

C. Initial Consideration of the Application by the Planning Board. At the first meeting at which the application is considered, the Planning Board shall review the application material and formally determine whether or not the



submission is complete. If the application is determined to be incomplete, the Board shall notify the applicant and Code Enforcement Officer in writing of this finding, shall specify the additional materials required to make the application complete and shall advise the applicant that the application will not be considered by the Board until the additional information is submitted to the Code Enforcement Officer. These steps shall be repeated until the application is found to be complete by the Planning Board. The Board shall also consider and act on any requests for waivers of the submission requirements in accordance with 9-869.5.

- D. On-Site Inspection. The Planning Board may hold an on-site inspection of the site to review the existing conditions, field verify the information submitted, and investigate the development proposal. The Board may conduct this visit either before or after the first meeting at which the application is considered. The Board may decide not to hold an on-site inspection when the site is snow covered. If an application is pending during a period when there is snow cover, the processing of the application may be suspended until the Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided to all parties who received notice under subsection B.
- E. Public Hearing. The Planning Board shall hold a public hearing on an application for a major development within forty-five (45) days of determining that the application is complete unless the requirement is waived. The Board may, by formal vote, decide not to hold a public hearing on an application if there is not significant public interest in the project or if there are no unresolved issues with respect to conformance with the approval standards. When a public hearing is held, the hearing shall be noticed and advertised in accordance with the provisions of Section 9-184.
- F. Planning Board Action. The Planning Board shall take final action on said application within forty-five (45) days of determining that the application is complete if a public hearing is not held on the application or within forty-five (45) days of the public hearing if one is held. The Board shall act to deny, to approve, or to approve the application with conditions. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval. All time limits provided for in this section may be extended by mutual agreement of the applicant and Planning Board.

In issuing its decision, the Planning Board shall make written findings of fact establishing that the activities set forth in the application do or do not meet the standards of approval and other requirements of the City including any conditions of approval necessary to comply with the standards. The Board shall notify the applicant and all parties who requested to be notified of the action of the Board, including the findings of fact, and any conditions of approval. This requirement can be met through the distribution of minutes of the meeting containing the findings of fact and decision of the Board.

- G. Final Approval and Filing. Upon completion of the requirements of this Section and a vote of approval or approval with one or more conditions by the majority of the Planning Board, the application is approved and the site plan shall be signed by a majority of the members of the Board and filed with the Code Enforcement Officer. In addition, a signed decisions document setting forth the findings of fact including any conditions of approval shall be recorded in the Kennebec County Registry of Deeds within sixty (60) days of the vote to approve the plan and evidence of such filing provided to the Code Enforcement Officer. Any plan for which a decision document is not filed within sixty (60) days of the date upon which such plan is approved and signed by the Board shall become null and void. Prior to the expiration of the sixty (60) day period, the Planning Board, by vote, may extend the filing period for good cause.

[Derivation: Ord. No. 13-09, effective 10/17/2013]

**SECTION 9-868**      FEES

1. Application Fee. An application for site plan review must be accompanied by an application fee. This fee is intended to cover the cost of the City's administrative processing of the application, including notification, advertising, mailings, and similar costs. The fee shall not be refundable. This application fee shall be paid to the Code Enforcement Officer prior to consideration of the application, and evidence of payment of the fee shall be included with the application.
2. Site Inventory and Analysis Review Fee. The submission of a site inventory and analysis must be accompanied by a site inventory and analysis review fee. This fee is intended to cover the cost of the City's administrative processing of the submission. The fee shall not be refundable. This fee shall be paid to the Code Enforcement Officer, and evidence of payment of the fee shall be included with the submission.
3. Technical Review Fee. In addition to the application fee, the applicant for site plan review may also be required to pay a technical review fee to defray the City's legal and technical costs of the application review. The Planning Board shall review the complexity of the application and the need for outside assistance to review the application and determine if a technical review fee is required. This determination shall occur at the meeting at which the board determines if the application is complete. If the board determines that outside assistance is needed, the board with the assistance of the CEO shall determine the estimated cost of the review services and the amount of the technical review fee. This fee must be paid to the Code Enforcement Officer prior to the City retaining the review assistance and shall be deposited in the Development Review Trust Account, which shall be separate and distinct from all other municipal accounts. The Planning Board may suspend processing of the application and the related time frames for action if the technical review fee is not paid in a timely manner that will allow the board's review to be

completed within the establish time limits.

The technical review fee may be used by the Planning Board at its discretion, or the staff at the direction of the Planning Board, to pay reasonable costs incurred by the City, which relate directly to the review of the application pursuant to the review criteria. Such services may include, but need not be limited to, consulting, engineering or other professional fees, attorney fees, and appraisal fees. The municipality shall provide the applicant, upon written request, with an accounting of his or her account and shall refund all of the remaining monies, including accrued interest, in the account after the payment by the City of all costs related to the review. Such payment of remaining monies shall be made no later than sixty (60) days after the approval of the application, denial of the application, or approval with condition of the application. Such refund shall be accompanied by a final accounting of expenditures from the fund. The monies in such fund shall not be used by the Board for any enforcement purposes nor shall the applicant be liable for costs incurred by or costs of services contracted for by the Board which exceeds the amount deposited to the trust account unless the applicant has agreed to pay the additional costs prior to their being incurred and the agreement is documented in the project file.

4. Establishment of Fees. The City Council may, from time to time and after consultation with the Board, establish the appropriate application fees and site inventory and analysis review fees following posting of the proposed schedule of fees and public hearing.

#### **SECTION 9-869      SUBMISSION REQUIREMENTS**

1. Applicability. The requirements of this section apply to applications for site plan review for both minor developments and major developments. Projects or activities that are classified as major developments must also provide, as part of step one of the review process, the information set forth in 9-870 2. Contents of the Site Inventory and Analysis Submission. As part of step two of the review process, applications for major developments must also include the additional information set forth 9-870 3. Additional Information to be Provided as Part of the Formal Application for Major Developments.
2. Application Form. Applications for site plan review must be submitted on application forms provided by the City. The completed application form, evidence of payment of the required fees, and the required plans and related information must be submitted to the Code Enforcement Officer. The application must include an index that clearly shows where the information that addresses each of the submission requirements and the approval standards of 9-871 can be found. Applications for major developments will not be accepted for review until the review of the site inventory and analysis is completed.
3. Required Information. All applications for site plan review must contain the following exhibits and information, unless specifically waived by the Planning Board:

- A. A signed application for development review.
- B. Evidence of payment of the application fee.
- C. Fourteen (14) copies of written materials plus fourteen (14) sets of one or more maps or drawings containing the information listed below. The written materials must be contained in a bound or stapled report. The maps or drawings must be at a scale sufficient to allow review of the items listed under approval criteria, but in no case shall they be more than one hundred (100) feet to the inch for that portion of the tract of land being proposed for development:
- D. The following general information:
  - (1) Record owner's name, address, and phone number and applicant's name, address and phone number, if different.
  - (2) The location of all required building setbacks, yards, and buffers.
  - (3) Names and addresses of all abutters as defined by 9-184.
  - (4) Sketch map showing general location of the lot within the municipality based upon a reduction of the tax maps including the name of the street on which the lot is located.
  - (5) Boundaries of all contiguous property under the total or partial control of the owner and/or applicant regardless of whether all or part is being developed at this time.
  - (6) The tax map and lot number of the lot or lots on which the project is to be located.
  - (7) A copy of the deed to the property, an option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant.
  - (8) The name, registration number and seal of the person who prepared the plan, if applicable.
- E. The following information about the existing conditions on the lot or portion of the lot proposed for use or development:
  - (1) Zoning classification(s), including overlay and/or subdistricts, of the property and the location of zoning district boundaries if the property is located in two (2) or more zoning districts or subdistricts or abuts a different district.

- (2) The bearings and length of all property lines of the property to be developed and the source of this information. The Planning Board may waive this requirement for a boundary survey when sufficient information is available to establish, on the ground, all property boundaries.
- (3) The location and size of any existing sewer and water mains, culverts and drains, on-site sewage disposal systems, wells, underground tanks or installations, and power and telephone lines and poles on the property to be developed and on abutting streets or land that may serve the development and an assessment of their adequacy and condition to meet the needs of the proposed use. Appropriate elevations must be provided as necessary to determine the direction of surface water flow.
- (4) The location, names, and present widths of existing public and/or private streets and rights-of-way within or adjacent to the proposed development.
- (5) The location, dimensions, and ground floor elevation of all existing buildings on the lot.
- (6) The location and dimensions of existing driveways, parking and loading areas, walkways, and sidewalks on or immediately adjacent to the lot.
- (7) The location of intersecting roads or driveways within two hundred (200) feet of the lot.
- (8) The location of open water, drainage courses, wetlands, significant vernal pools, stonewalls, graveyards, fences, stands of trees, and other important or unique natural areas and site features, including but not limited to, floodplains, deer wintering areas, significant wildlife habitats, fisheries, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features. This information may be based on available, published sources unless the Planning Board determines that field determination is needed to allow review of the proposal.
- (9) The direction of existing surface water drainage across the site.
- (10) The location, front view, dimensions, and means of lighting of existing signs.
- (11) The location and dimensions of any existing easements and copies of existing covenants or deed restrictions.

- (12) The location of the nearest fire hydrant, dry hydrant or other water supply for fire protection.

F. The following information about the proposed use and development activity:

- (1) A general description of the proposed use or activity.
- (2) Estimated demand for water supply and sewage disposal, together with the location and dimensions of all provisions for water supply and wastewater disposal, and evidence of their adequacy for the proposed use, including soils test pit data if on-site sewage disposal is proposed.
- (3) The direction of proposed surface water drainage across the site, and from the site, with an assessment of impacts on downstream properties.
- (4) Provisions for handling all solid wastes, including hazardous and special wastes, and the location and proposed screening of any on-site collection or storage facilities.
- (5) The location, dimensions, and materials to be used in the construction of proposed driveways, parking and loading areas, and walkways and any changes in traffic flow onto or off-site.
- (6) Proposed landscaping and buffering.
- (7) The location, dimensions, and ground floor elevation of all proposed buildings or building expansion proposed on the lot.
- (8) The location, front view, materials, and dimensions of proposed signs.
- (9) The location and type of exterior lighting.
- (10) The location of all utilities, including fire protection systems.
- (11) An estimate of the peak hour and daily traffic to be generated by the project.
- (12) Stormwater calculations, erosion and sedimentation control measures, and water quality and/or phosphorous export management provisions, if the project requires a stormwater permit from the Maine Department of Environmental Protection or if the Planning Board determines that such information is necessary based upon the scale of the project or the existing conditions in the vicinity of the project.

- G. The estimated value of the development activity subject to site plan review upon completion of construction.
- 4. Approval Block. Space must be provided on the plan drawing for the signatures of the Planning Board and the date, together with the following words, "Approved: City of Hallowell Planning Board".
- 5. Waiver of the Submission Requirements. The Planning Board may waive any of the submission requirements including the additional submission requirements for major developments set forth in SECTION 9-870 based upon a written request of the applicant. Such request must be made at the time of the review of the Site Inventory and Analysis for major developments or at the initial review of the application for minor developments. A waiver of any submission requirement may be granted only if the Board finds that the information is not required to determine compliance with the approval standards and criteria.

[Derivation: Ord. No. 13-09, effective 10/17/2013]

**SECTION 9-870**      ADDITIONAL SUBMISSION REQUIREMENTS FOR MAJOR DEVELOPMENTS

- 1. Purpose of the Site Inventory and Analysis. The site inventory and analysis is intended to provide both the applicant and the Planning Board and staff with a better understanding of the site and the opportunities and constraints imposed on its use by both the natural and built environment. It is anticipated that this analysis will result in a development plan that reflects the conditions of the lot and that the areas most suitable for the proposed use will be utilized while those that are not suitable or present significant constraints will be avoided to the maximum extent possible. Therefore, the submission requirements provide that the applicant submit basic information about the lot and an analysis of that information.
- 2. Contents of the Site Inventory and Analysis Submission. The site inventory and analysis submission must contain, at a minimum, the following information:
  - A. The names, addresses, and phone numbers of the record owner and the applicant.
  - B. The names and addresses of all consultants working on the project.
  - C. Evidence of right, title, or interest in the property.
  - D. Evidence of payment of the site inventory and analysis fee.
  - E. Fourteen (14) copies of an accurate scale inventory plan of the lot or the portion of the lot proposed for use or development at a scale of not more than one hundred (100) feet to the inch showing as a minimum:

- (1) The name of the development, north arrow, date and scale.
  - (2) The boundaries of the lot.
  - (3) The relationship of the lot to the surrounding area.
  - (4) The topography of the lot at an appropriate contour interval depending on the nature of the use and character of the lot (in many instances, submittal of the U.S.G.S. 10' contours will be adequate);
  - (5) The major natural features of the lot and within one thousand (1,000) feet of the lot, including wetlands, streams, ponds, floodplains, groundwater aquifers, significant wildlife habitats and fisheries or other important natural features (if none, so state). This information may be based on available, published sources unless the Planning Board determines that field determination is needed to allow review of the opportunities and constraints of the lot.
  - (6) Existing buildings, structures, or other improvements on the lot (if none, so state).
  - (7) Existing restrictions or easements on the lot (if none, so state).
  - (8) The location and size of existing utilities or improvements servicing the lot (if none, so state).
  - (9) A class B high intensity soil survey if any portion of the lot is located in a resource protection district or mapped wetland, otherwise a class D medium intensity soil survey.
- F. Fourteen (14) copies of a site analysis plan at the same scale as the inventory plan (see E. above) highlighting the opportunities and constraints of the site. This plan should enable the Planning Board to determine: which portions of the lot are unsuitable for development or use; which portions of the lot are unsuitable for on-site sewage disposal if public sewerage is not available; which areas of the lot have development limitations (steep slopes, flat, soil constraints, wetlands, aquifers, wildlife habitat, fisheries, scenic vistas, floodplains, drainage, etc.) which must be addressed in the development plan; which areas may be subject to off-site conflicts or concerns (i.e., noise, lighting, traffic, etc.); and which areas are well suited to the proposed use.
- G. Fourteen (14) copies of a narrative describing the existing conditions of the lot, the proposed use and the constraints or opportunities created by the site. This submission should include any traffic studies, utility studies, market studies or other preliminary work that will assist the Planning Board in



understanding the site and the proposed use.

- H. Any requests for waivers from the submission requirements for the formal site plan review application.

3. Additional Information to be Provided as Part of the Formal Application for Major Developments. In addition to the information required for all applications as set forth in 9-869, an application for a major development must contain the following additional information.

- A. A narrative and/or plan describing how the proposed development plan relates to the site inventory and analysis.
- B. A grading plan showing the existing and proposed topography of the lot at two (2) foot contour intervals or such other interval as the Planning Board may determine.
- C. A stormwater drainage and erosion control plan/program showing the following information if a stormwater permit is required from the Maine Department of Environmental Protection (DEP):
  - (1) The existing and proposed method of handling stormwater runoff.
  - (2) The direction of flow of the runoff, through the use of arrows.
  - (3) The location, elevation, and size of all stormwater facilities including catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers.
  - (4) Engineering calculations used to determine drainage requirements in accordance with the requirements of Chapter 500 and 502 of the DEP stormwater rules.
  - (5) Methods of controlling erosion and sedimentation during and after construction.
- D. A utility plan showing, in addition to provisions for water supply and wastewater disposal, the location and nature of electrical, communication, and any other utility services to be installed on the lot.
- E. A planting schedule keyed to the site plan indicating the general varieties and sizes of trees, shrubs, and other vegetation to be planted on the lot, as well as information pertaining to provisions that will be made to retain and protect existing trees, shrubs, and other vegetation.
- F. A traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service and safety of adjacent streets if a traffic

movement permit is required from the Maine Department of Transportation.

- G. Written statements from the Hallowell Water District as to the adequacy of the water supply in terms of quantity and pressure for both domestic and fire flows, and the Greater Augusta Utility District as to the capacity of the sewer system to accommodate additional wastewater if public water or sewerage will be utilized.

[Derivation: Ord. No. 13-09, effective 10/17/2013]

**SECTION 9-871      APPROVAL STANDARDS**

The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. All applications must demonstrate compliance with each of the basic standards unless conformance with a specific standard is waived by the Planning Board. The Planning Board may waive conformance with an individual standard by formal vote only if the board finds that the standard is not applicable to the project due to the scale of the project or its location in the City. Applications for approval of a major development must also demonstrate compliance with the additional standards. If the project is part of a Planned Mixed-Use Development for which the City Council has approved a Master Plan in accordance with Section 9-387, the Planning Board must also find that the project conforms to the approved Master Plan. If there is conflict between these standards and the approved Master Plan for a Planned Mixed-Use Development, the standards of the Master Plan shall govern. Where a standard or a portion of a standard applies to the "built-up area", that standard applies to lots that are within the Historic District of the City as defined in Section 9-552. The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of the applicable standards. In evaluating compliance with these criteria, the Planning Board may consider innovative or non-traditional approaches and technologies as long as the intent of the criteria is met. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

1.      Adequacy of the Road System Providing Vehicular Access to the Site

A.      Basic Standard

Vehicular access to the lot must be on streets or roads which have adequate capacity to safely and efficiently accommodate the additional traffic generated by the development considering the number of trips that will be generated by the project together with any traffic from adjacent uses that will pass through the site and the existing capacity of the streets or roads and the accident history of the roads and intersections.

B.      Additional Standards

For developments which generate fifty (50) or more peak hour trips based on

the latest edition of the Trip Generation Manual of the Institute of Traffic Engineers, intersections on major access routes to the site within one (1) mile of any entrance road which are functioning at a Level of Service of D or better prior to the development must function at a minimum at Level of Service D after development. If any such intersection is functioning at a Level of Service E or lower prior to the development, the project must not reduce the current level of service. This requirement may be waived by the Planning Board if the project is located within a growth area designated in the City's adopted Comprehensive Plan and the Board determines that the project will not have an unnecessary adverse impact on traffic flow or safety.

A development not meeting this requirement may be approved if the applicant demonstrates that:

- (1) A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard,
- (2) The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will assure the completion of the improvements with a financial guarantee acceptable to the municipality, or
- (3) The applicant will pay an impact fee that will be used to bring the level of access to this standard.

2. Vehicular Access into the Site

A. Basic Standard

Vehicular access to and from the development must be safe and convenient.

B. Additional Standards

- (1) Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.
- (2) Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.
- (3) The grade of any proposed drive or street must be not more than  $\pm 3\%$  for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.
- (4) The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service of D following development if the project will generate one thousand (1,000) or more vehicle trips per

twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.

- (5) Where a lot has frontage on two (2) or more streets or roads, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote shortcutting through the site.
- (6) Where it is necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.
- (7) Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
- (8) The following criteria shall be used to limit the number of driveways serving a proposed project:
  - a. No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two (2) way driveway onto a single street or road. Such driveway must be no greater than thirty (30) feet wide.
  - b. No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single street or road. The combined width of all accessways must not exceed sixty (60) feet.

3. Accessway Location and Spacing

A. Basic Standard

Accessways into or out of the lot must meet the following standards:

- (1) Private entrances/exits must be located at least fifty (50) feet from the closest unsignalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the accessway. This requirement may be reduced if the shape of the lot does not allow conformance with this standard.
- (2) Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

4. Natural Features

A. Basic Standard

The landscape must be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil, and by retaining existing vegetation. Extensive grading and filling must be avoided as far as possible. Projects that propose cuts or fills that change the topography over more than twenty percent (20%) of the lot area or cutting or filling that changes the grade more than ten (10) feet in any location on the lot must demonstrate that there is no practical alternative to the proposed cuts and/or fills including redesign of the proposed development and that the amount and depths of the cuts and fills is the minimum necessary to reasonably develop the lot.

5. Shoreland Relationship

A. Basic Standards

- (1) The development must not adversely affect the water quality or shoreline of any adjacent water body.
- (2) When a proposed development is immediately visible from the Kennebec River, the development must be designed so that it fits harmoniously into the visual environment when viewed from the water body. In predominantly natural environments, site clearing must be minimized, natural vegetation must be maintained adjacent to the shoreline to soften the appearance of the development, and vegetation must be retained or provided to minimize the visual intrusion of the development. In developed shoreland environments, the appearance of the new development when viewed from the water must be compatible with the existing visual character in terms of scale, massing, and height to the maximum extent possible. Storage and service areas must be screened or landscaped to minimize their visual impact.

6. Floodplain Management

A. Basic Standard

If any portion of the lot is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the lot must be consistent with the City's Floodplain management provisions.

7. Historic and Archeological Resources

A. Basic Standards

- (1) If any portion of the lot has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.
- (2) If the lot is located within the Historic District (see Subchapter V Division C), the project must conform to the requirements of that district.

8. Utilization of the Site

A. Basic Standard

The plan for the development must reflect the natural capabilities of the site to support development. If a Site Inventory and Analysis was prepared, the plan must be consistent with that analysis. Buildings, lots, and support facilities must be located in those portions of the lot that have the most suitable conditions for development. Environmentally sensitive areas, including but not limited to, wetlands, vernal pools, steep slopes greater than twenty-five (25) percent, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. Natural drainage areas must also be preserved to the maximum extent possible. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

9. Building Placement

A. Basic Standards

- (1) The site design must avoid creating a building surrounded by a parking lot. In the built-up area of the City, buildings should be placed close to the street, in conformance with existing, adjacent setbacks. Parking should be to the side or preferably in the back of the building.
- (2) In rural, uncongested areas buildings should be set well back from the road so as to conform to the rural character of the area. If the parking is in front of the building, a landscaped buffer between road and parking lot is to be provided in accordance with 9-622. Unused areas should be kept natural, as field, forest, wetland, etc.

- (3) Where two or more buildings are proposed, the buildings should be grouped and linked with sidewalks; tree planting should be used to provide shade and break up the scale of the site.
- (4) Parking areas must be separated from the building by a minimum of five (5) feet unless the Planning Board determines that such a separation is not needed due to the characteristics of the site or the proposed use. Plantings should be provided along the building edge, particularly where building facades consist of long or unbroken walls.

10. Setback and Alignment of Buildings

A. Basic Standard

In the built-up area of the City where there is a reasonably uniform relationship between the front walls of buildings and the street, new buildings must be placed on a lot in conformance with the established relationship. For buildings on corner lots, the setback relationship of both streets should be maintained. The creation of 'empty corners' should be avoided through the placement of the building and other site features.

11. Building Orientation

A. Basic Standards

- (1) The main entrance to the building should be oriented to the street unless the parking layout or the grouping of the buildings justifies another approach, and should be clearly identified as such through building and site design, landscaping, and/or signage.
- (2) At building entrance areas and drop-off areas, site furnishings such as benches and sitting walls and, if appropriate, bicycle racks are encouraged. Additional plantings may be desirable at these points to identify the building entrance and to complement the pedestrian activity at this point.
- (3) New buildings within the built-up area of the City should be compatible with the neighborhood such that they reflect the overall building bulk, square footage, dimensions, placement of the building on the lot, and rhythm of buildings and spaces along the street edge and minimize the visual impact on the neighborhood. The visual impact of a building shall be measured by its relationship to other buildings on the lot, design of the front of the building, and the rhythm of buildings and open spaces along the street.

12. Building Scale

A. Basic Standard

When large new buildings or structures are proposed in built-up areas where their scale (size) and other features may be significantly different from the pattern of development that already exists in the immediate neighborhood, care must be taken to design the new building or structure so that it is compatible with its neighbors. This may include making the building appear small, using traditional materials, styles and/or proportions.

13. Internal Vehicular Circulation

A. Basic Standard

The layout of the lot must provide for the safe movement of passenger, service, and emergency vehicles through the site.

B. Additional Standards

- (1) Nonresidential projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing for a minimum of WB (wheelbase)-40 vehicles.
- (2) Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).
- (3) The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.
- (4) All roadways must be designed to harmonize with the topographic and natural features of the lot insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

14. Parking Layout and Design

A. Basic Standards

- (1) Off-street parking must be provided in accordance with 9-629.



- (2) All parking spaces, access drives, and impervious surfaces must be located at least five (5) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within five (5) feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.
- (3) Parking areas for nonresidential uses must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles. Double stack parking may be permitted for resident parking in conjunction with residential uses if both spaces in the stack are assigned to the occupants of the same dwelling unit.
- (4) Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.
- (5) Within built-up areas, parking lots must be located to the side or rear of the building where possible given the size and shape of the parcel. Parking should not be located between the building and the street. The use of shared parking, shared driveways and the cross-connection of parking lots is encouraged.
- (6) In rural areas, smaller uses that may need public visibility from the street should be sited as close to the street as possible. In this case, not more than one (1) row of parking shall be allowed between the building and the street, with the balance of the parking located at the side and/or rear of the building. Larger scale uses and uses which do not require visibility from the road may be located further from the road with a landscaped buffer between the building and the street.
- (7) Landscaping around and within parking lots shades hot surfaces and visually "softens" the hard surface look of parking areas. Parking areas must be designed and landscaped to create a pedestrian-friendly environment. Parking lot landscaping must be provided in accordance with 9-622.

15. Pedestrian Access and Sidewalks

A. Basic Standards

- (1) The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This

system must connect the major building entrances/exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect with amenities such as parks or open space on or adjacent to the lot.

- (2) Where an existing or planned public sidewalk is interrupted by a proposed project driveway, the sidewalk material must continue to be maintained across the driveway, or the driveway must be painted to distinguish it as a sidewalk. Further, if street trees exist on an adjacent property, street trees must be planted, in a like manner, on the new site.

16. Design of Drive-Through Facilities

A. Basic Standard

Drive-through facilities are only allowed where they are specifically permitted by the zoning standards. Any use that provides drive-through service must be located and designed to minimize the impact on neighboring properties and traffic circulation. No drive-through facility shall be located in the area of the lot adjacent to a residential use or residential zone. Communication systems must not be audible on adjacent properties in residential use. Vehicular access to the drive-through shall be through a separate lane that prevents vehicle queuing within normal parking areas. Adequate queuing space must be provided to prevent any vehicles from having to wait on a public street, within the entry from the street, or within designated parking areas. The drive-through must not interfere with any sidewalk or bicycle path.

17. Landscaping

A. Basic Standard

Landscaping must be provided as part of site design and conform to the requirements of 9-622. Whenever the area between the street and the front of the building is used for parking or vehicle movement, a vegetated buffer strip must be established along the edge of the road right-of-way. The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the lot, and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development, and protect abutting properties. Landscaping may include plant materials such as trees, shrubs, groundcovers, perennials, and annuals, and

other materials such as rocks, water, sculpture, art, walls, fences, paving materials, and street furniture such as benches, kiosks, notice boards, and trash receptacles.

18. Buffering of Adjacent Uses

A. Basic Standard

Buffering - The development must provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of mechanical equipment and service and storage areas. The buffer may be provided by distance, landscaping, fencing, changes in grade, and/or a combination of these or other techniques.

B. Additional Standards

(1) Buffering must be designed to provide a year-round visual screen in order to minimize adverse impacts. It may consist of fencing, evergreens, berms, rocks, boulders, mounds, or a combination thereof.

(2) A development must provide sufficient buffering when topographical or other barriers do not provide reasonable screening and where there is a need to:

- a. shield neighboring properties from any adverse external effects of the development, or
- b. shield the development from the negative impacts of adjacent uses.

(3) The width of the buffer may vary depending on the treatment of the area. Within densely built-up areas, a buffer with dense plantings, fencing, or changes in grade may be as little as five (5) feet in width. A buffer with moderate levels of planting should be ten (10) feet to fifteen (15) feet in width. In suburban and rural settings, the width of the vegetated buffer should be increased to a minimum of twenty-five (25) feet. Areas adjacent to service, loading, or storage areas should be screened by dense planting, berms, fencing, or a combination thereof with a width of a minimum of five (5) feet.

19. Stormwater Management

A. Basic Standard

Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other

surfaces, through a stormwater drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties. The plan must conform to the requirements of 9-638.

B. Additional Standards

The provisions for stormwater management must conform to the stormwater management requirements of the Maine Department of Environmental Protection (Chapters 500 and 502).

20. Erosion Control

A. Basic Standards

(1) All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and/or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

(2) Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of 9-612 and the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices.

21. Groundwater Protection

A. Basic Standard

The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

22. Water Quality Protection

A. Basic Standard

All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.

23. Hazardous, Special, and Radioactive Materials

A. Basic Standard

The handling, storage, and use of all materials identified by the standards of a federal or state agency as hazardous, special or radioactive must be done in accordance with the standards of these agencies. No flammable or explosive liquids, solids or gases shall be stored in bulk above ground unless they are located at least seventy-five (75) feet from any lot line, or forty (40) feet in the case of underground storage. All materials must be stored in a manner and location which is in compliance with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state, and local regulations.

24. Water Supply

A. Basic Standard

The development must be provided with a system of water supply that provides each use with an adequate supply of water. If the lot is to be served by a public water supply or if it can be reasonably served by a public water supply, the development must be connected to the public system. Any lot that is within three hundred (300) feet as measured along the street of an existing public water main shall be deemed to be able to be served by the public water supply unless the applicant demonstrates that the public supply is inadequate or is prohibitively costly. If the project will be served by public water, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms with its design and construction standards, will not result in an undue burden on the source or distribution system, and will be installed in a manner adequate to provide needed domestic and fire protection flows.

25. Sewage Disposal

A. Basic Standard

The development must be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code.

(1) All sanitary sewage from new or expanded uses must be discharged into a public sewage collection and treatment system when such facilities are currently available or can reasonably be made available at the lot line and have adequate capacity to handle the projected waste generation.

(2) If the public collection system is not at the lot line, but can be extended in the public right-of-way, the collection system must be

extended by the owner and the new or expanded use connected to the public system. Such extension shall be required if the public system is within three hundred (300) feet of a new use and the system has adequate capacity to accommodate the additional flow. The Planning Board may waive this requirement if the use is already served by a properly functioning subsurface disposal system that is properly sized for the projected flows, provided that connection to the public system must occur if and when the subsurface system needs to be replaced.

- (3) If the public system cannot serve or be extended to serve a new or expanded use, the sewage must be disposed of by an on-site sewage disposal system meeting the requirements of the Subsurface Wastewater Disposal Rules.
- (4) When two (2) or more lots or buildings in different ownership share the use of a common subsurface disposal system, the system must be owned and maintained in common by an owners' association. Covenants in the deeds for each lot must require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.
- (5) Industrial or commercial wastewater may be discharged to public sewers in such quantities and/or of such quality as to be compatible with sewage treatment operations. Such wastes may require pretreatment at the industrial or commercial site in order to render them amenable to public treatment processes. Pretreatment includes, but is not limited to, screening, grinding, sedimentation, pH adjustment, surface skimming, chemical oxidation and reduction and dilution. The pretreatment standards shall be determined by Greater Augusta Utility District.

26. Utilities

A. Basic Standard

The development must be provided with electrical, telephone, and communication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.

27. Solid Waste Management

A. Basic Standard

The proposed development must provide for adequate disposal of solid

wastes. All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.

28. Storage of Materials

A. Basic Standards

(1) Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public streets.

(2) All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it must be screened by fencing or landscaping and the requirements of 9-610.

(3) Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises must be provided and maintained in good condition.

29. Other Performance Standards

A. Basic Standard

The development must conform to all applicable performance standards of Subchapter VI. Projects located in the BC District must conform to the requirements of 9-645 if those requirements are more restrictive than the approval criteria of this section.

30. Capacity of the Applicant

A. Basic Standard

The applicant must demonstrate the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan and the ability to provide the financial guarantees provided for in 9-862.

[Derivation: Ord. No. 11-03, effective 8/18/2011; Ord. No. 13-09, effective 10/17/2013]

**SECTION 9-872**      POST APPROVAL ACTIVITIES

1.    Limitation of Approval. Construction of the improvements covered by any site plan approval must be substantially commenced within twelve (12) months of the date upon which the approval was granted. If construction has not been substantially commenced within the specified period, the approval is null and void. The applicant may request an extension of the approval deadline prior to the expiration of the period. The request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two (2), six (6) month extensions to the period if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.
  
2.    Incorporation of the Approved Plan in the Building Permit. The approved site plan must be included with the application for the building permit for the project and all construction activities must conform to the approved plan, including any conditions of approval and minor changes approved by the Code Enforcement Officer to address field conditions.
  
3.    Improvement Guarantee. The Planning Board, as a condition of approval of the site plan, may require that the applicant provide a financial guarantee of any or all off-site improvements:
  - A.    The Planning Board may require the posting of an improvement guarantee in such amount and form as is reasonably necessary to ensure the proper installation of all off-site improvements required as conditions of approval. The amount of the guarantee shall be determined by the Planning Board based on the estimated cost of the improvements covered by the guarantee. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the applicant.
  
  - B.    The guarantee must be approved by the City Manager as to its form and enforceability.
  
  - C.    The guarantee must be in force prior to the issuance of the building permit or any other permit for the activities covered by the approved site plan.
  
  - D.    Upon substantial completion of all required improvements, the developer must notify the Code Enforcement Officer of the completion or substantial completion of improvements. The Code Enforcement Officer or his/her designee shall inspect all improvements and shall file a report indicating either approval, partial approval, or rejection of such improvements with a statement of reasons for any rejection.
  
  - E.    The Code Enforcement Officer shall submit the inspection report to the Planning Board. The Planning Board shall approve, partially approve, or reject the improvements on the basis of the report.



- F. If the improvements are approved, the guarantee shall be released. Where partial approval is granted, the developer shall be released from liability only for that portion of the improvements approved.
4. Submission of Record Plan. Any project involving the construction of more than ten thousand (10,000) square feet of gross floor area or twenty-five thousand (25,000) square feet of impervious surface, must provide the Code Enforcement Officer with a set of construction plans showing the building(s) and site improvements as actually constructed on the site. These "record" plans must be submitted within thirty (30) days of the issuance of a certificate of occupancy for the project or occupancy of the building.
5. Minor Changes to an Approved Plan. Minor changes to an approved plan necessary to address field conditions may be approved by the Code Enforcement Officer provided that any change does not affect compliance with the standards or alter the essential nature of the proposal. Any change must be endorsed in writing on the approved plan by the Code Enforcement Officer.
6. Amendments to an Approved Plan. The approval of a site plan depends on and is limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any deviation from the plans, proposals, and supporting documents, except minor changes that do not affect approval standards, is subject to review and approval.

**SECTION 9-873**      APPEALS

Appeal of any actions taken by the Planning Board with respect to an application for a minor development shall be to the Hallowell Zoning Board of Appeals. Appeal of any actions taken by the Planning Board with respect to an application for a major development shall be to the Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B. Any such appeal must be filed within thirty (30) days of the date upon which the Planning Board voted to take action on the application. Any aggrieved party may appeal the action of the Planning Board.

[Derivation: Ord. No. 09-08, effective 7/23/2009; Ord. No. 12-11, eff. 10/19/2012]

**SUBCHAPTER IX - ENFORCEMENT**

**SECTION 9-901**      JURISDICTION

It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Chapter, and other provisions of this Code. The Code Enforcement Officer is authorized to enforce the laws set forth in 30 M.R.S.A. § 4452(5) and (6).

[Derivation: Section 8.3(A), 1989 Zoning Ordinance]

**SECTION 9-902**      VIOLATIONS

If the Code Enforcement Officer shall find that any of the provisions of this Code or any orders, permits or conditions of the Planning Board Board of Appeals of the Board are being violated, he shall notify by certified mail the person(s) responsible for such violation(s) indicating the nature of the violation(s) and the State regulations regarding fines, and order the action necessary to correct it. The Code Enforcement Officer shall order discontinuance of illegal use of land, buildings or structures or additions, alterations or structural changes; or discontinuance of any illegal activity and may for such purpose post stop orders in the manner provided in the Building Code.

[Derivation: Section 8.3(B), 1989 Zoning Ordinance]

**SECTION 9-903**      FINES

The penalties for violation of this Chapter shall be as prescribed in Title 30-A M.R.S.A. § 4452.

[Derivation: Section 8.3(C), 1989 Zoning Ordinance]

**SECTION 9-904**      ADMINISTRATIVE CONSENT AGREEMENT – SHORELAND ZONE

Upon recommendation of the Code Enforcement Officer, and opinion of the City Solicitor as to form and compliance with this Ordinance, certain violations of this Ordinance may be resolved by the execution of an Administrative Consent Agreement executed by the violator and the City Manager, with the approval of the City Council. An Administrative Consent Agreement shall require, unless the City Council expressly finds that the violation was the direct result of erroneous advice or approval by City officials based on facts fully and accurately presented, that:

1. The violation be corrected in all respects.
2. The violator admits to the violation.
3. The violator pay an appropriate monetary penalty of not less than \$100 and the City's legal costs.

[Derivation: Section 8.3(D), 1989 Zoning Ordinance; Ord. No.: 08-09, eff. 11/20/08]

**SECTION 9-905**      ADMINISTRATIVE CONSENT AGREEMENT – OUTSIDE OF SHORELAND ZONE

Upon recommendation of the Code Enforcement Officer, and opinion of the City Solicitor as to form and compliance with this Ordinance, certain violations of this Ordinance may be resolved by the execution of an Administrative Consent Agreement executed by the violator and the City Manager, with the approval of the City Council.

[Derivation: Ord. No.: 08-09, eff. 11/20/08]

**SUBCHAPTER X - APPEALS**

**SECTION 9-1001** (Reserved)

**SECTION 9-1002** POWERS AND DUTIES

The Board of Appeals, established under Section 2-901, shall have the following powers and duties:

1. Administrative Appeals. The Board of Appeals may, upon application of an aggrieved party, after review of the record, affirm, modify, or set aside a decision, order, rule or failure to act by the Code Enforcement Officer or the Planning Board in the administration of this Chapter, when it is alleged that there was an error of law or findings not supported by substantial evidence in the record, except as follows:
  - A. All enforcement actions taken by the Code Enforcement Officer pursuant to Subchapter IX, including stop orders and administrative consent agreements and all actions relating to the administration and enforcement of Subchapter VIII, may be appealed by an aggrieved party only to the Superior Court pursuant to Rule 80-B of the Maine Rules of Civil Procedure.
2. Variance Appeals. The Board shall hear and decide cases where an applicant seeks a relaxation of the dimensional requirements of the Ordinance for height, lot size, structure size, frontage and setback. Additional conditions and safeguards may be prescribed by the Board upon the applicant so as to minimize any adverse impact as a result of granting the variance. The burden of proof rests with the applicant to demonstrate that the conditions for a variance exist.

The Board of Appeals is prohibited from issuing a variance for a use that is not permitted by this Ordinance.

- A. Undue Hardship Variance. A variance may be granted by the Board for “undue hardship” which shall be interpreted only in strict compliance with all of the following criteria and with the criteria of Title 30-A M.R.S.A. §4353:
  1. That the land in question cannot yield a reasonable return unless a variance is granted.
  2. That the need for a variance is due to the unique circumstances of the property (not desired use or personal hardship) and not to the general conditions in the neighborhood.
  3. That the granting of a variance will not alter the essential condition of the locality.

4. That the hardship is not the result of action taken by the applicant or a prior owner.

B. Disability Variance. The Board may grant a variance to an owner of a dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The Board shall restrict any variance granted under this paragraph solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. For the purposes of this paragraph, a disability has the same meaning as a physical or mental handicap under 5 M.R.S.A. §4553 and the term “structures necessary for access to or egress from the dwelling” is defined to include, but is not limited to, ramps, lifts, railings, walls or roof systems necessary for the safety, accessibility or effectiveness of the dwelling.

C. Set-Back Variance for Single-Family Dwellings. The Board may grant a set-back variance for a single-family dwelling from a set-back requirement only when strict application of the set-back requirements of this Chapter to the petitioner and the petitioner’s property would cause undue hardship. The term “undue hardship” as used in this subsection means:

1. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
2. The granting of a variance will not alter the essential character of the locality;
3. The hardship is not the result of action taken by the applicant or a prior owner;
4. The granting of the variance will not substantially reduce or impair the use of abutting property; and
5. The granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

The Board is strictly limited to permitting a variance from a set-back requirement for a single-family dwelling that is the primary year-round residence of the petitioner. A variance under this paragraph may not exceed 20% of a set-back requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage.

A variance under this paragraph C may be granted only once per dwelling. The provisions of this paragraph C must be strictly construed by the Board.

- D. Practical Difficulty Variance from Dimensional Standards. The Board may grant a variance from the dimensional standards of this Chapter when strict application of the ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:
1. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
  2. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
  3. The practical difficulty is not the result of action taken by the applicant or a prior owner;
  4. No other feasible alternative to a variance is available to the applicant;
  5. The granting of a variance will not unreasonably adversely affect the natural environment; and
  6. The property is not located in whole or in part within shoreland areas as described in 38 M.R.S.A. §435.

As used in this paragraph, "dimensional standards" means and is limited to ordinance provisions relating to lot area, lot coverage, frontage and setback requirements.

As used in this paragraph, "practical difficulty" means that the strict application of the ordinance to the property precludes the ability of the petitioner to reasonably pursue and/or expand a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.

The provisions of this paragraph D must be strictly construed by the Board.

3. Board Review. In deciding any appeal the Board of Appeals may interpret the provisions of the Zoning Ordinance and related State statutes. The provisions of 30-A M.R.S.A. §2691(3) shall govern the procedures of the Board of Appeals with respect to its meetings, hearings, deliberations, and decisions.

[Derivation: Section 7.2, 1989 Zoning Ordinance]

[Derivation: Ordinance No. 06-06, Effective August 17, 2006]

**SECTION 9-1003**     APPEALS PROCEDURE

1.     Filing:

- A.     Administrative Appeals. In all cases, a person aggrieved by a decision of the Code Enforcement Officer or the Planning Board shall commence his appeal within 30 days after the decision is made. The appeal shall be filed with the Code Enforcement Officer on forms approved by the Board of Appeals.
- B.     Variance Requests. A request for a variance may be filed with the Code Enforcement Officer on forms approved by the Board of Appeals, only after a completed application for a building permit has been accepted by the Code Enforcement Officer.
- C.     Fees. A request for an administrative appeal or variance shall be accompanied by a fee set by the City Council plus the cost of public hearing notices to be published and mailed pursuant to this section as determined by the Code Enforcement Officer.
- D.     If the property is located within the Resources Protection District or Shoreland Overlay District, a copy of the variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the Code Enforcement Officer to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

2.     Review; Hearings

- A.     Administrative Appeals: The Board's review, on an appeal from a decision of the Code Enforcement Officer or Planning Board shall be limited to a review of the record that was the basis of the decision, and no additional factual matters may be considered. In the event the record of the Code Enforcement Officer or the Planning Board is determined by the Board to be inadequate for review, the Board may order that the matter be remanded to the applicable decision maker for completion. In any remand order, the Board shall provide written notice of the deficiencies in the record and shall specify a date by which a completed record shall be submitted to the Board. Such date shall be no less than 30 days and no more than 60 days from the date of the remand order. The Board may receive written briefs and hear oral argument from the parties or their designated representatives, but shall not receive or consider new evidence. Notice of the meeting at which an administrative appeal is considered shall be published in the manner provided in paragraph B(1) below.
- B.     Variance Request: The Board shall hold a public hearing on a request for

variance within 30 days after the receipt of a completed application that includes all required exhibits. At any hearing, a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause. Notice of hearing shall be made as follows:

- (1) Publication. The Code Enforcement Officer shall publish notice of the hearing at least 10 days in advance in the Kennebec Journal. The public notice shall contain, at a minimum, the name of the applicant, the location of the property in question, a description of the relief requested, and the date, time and place of the public hearing.
- (2) Mail Notification. The Board shall notify in writing the applicant, land owners of record within 200 feet of the applicant's property, the Planning Board, City Council, and City Solicitor at least 10 days in advance of the hearing by regular mail. The owners of property entitled to notice shall be considered to be those shown on the current City tax records. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Board.
- (3) [Repealed]
- (4) [Repealed]
- (5) [Repealed]
- (6) Code Enforcement Officer's Responsibility. The Code Enforcement Officer shall upon receipt of an application for variance or appeal, consult with the Chairman of the Board of Appeals, schedule a hearing, and cause the appropriate notices to be sent. The Code Enforcement officer shall attend all hearings and may present to the Board all plans, photographs, or other material he deems appropriate for an understanding of the appeal.
- (7) Written Notice. Written notice of the decision of the Board of Appeals shall be mailed or hand delivered to the appellant, appellant's representative, Planning Board, Code Enforcement Officer, City Council, and City Solicitor within 7 days after the decision is rendered.
- (8) Shoreland Zone. If the property is located within the Resources Protection District or Shoreland Overlay District, the Board shall cause written notice of its decision to be mailed or hand-delivered to the Department of Environmental Protection within seven (7) days of the Board's decision.



8. The Appeals Board may require that an engineer, attorney or consultant review one or more aspects of an application for compliance with this Ordinance or to conduct independent studies or testing, and to advise the Board. It is intended that such review shall be requested only where there may be serious questions concerning methodologies, practices, opinions, or scientific principles presented by the applicant or its experts to meet its burden of proof. The engineer, attorney or consultant shall first establish the maximum cost of such review by written agreement with the City. The applicant shall then deposit with the City an amount equal to the full maximum cost, which the City shall place in an escrow account. The City shall pay the engineer, attorney or consultant from the escrow account and reimburse any remaining balance to the applicant, after final payment. Any interest accrued shall remain with the City.

[Derivation: Section 7.3, 1989 Zoning Ordinance; Ord. No. 01-06, eff. 5/17/01; Ord. No. 07-03; eff. March 22, 2007; Ord. No. 11-02b, eff. 8/18/2011; Ord. No. 18-02, eff. 3/22/2018]

**CHAPTER 10**

**GENERAL ASSISTANCE**

[Chapter Derivation: Ord. No. 13-08, MMA GA Model Ordinance Sept. 2013, effective 9/7/2013 (emergency)]

**SUBCHAPTER 1 – GENERAL PROVISIONS**

**SECTION 10-101     STATEMENT OF POLICY**

The City of Hallowell administers a program of general assistance (GA) available to all persons who are eligible to receive assistance in accordance with the standards of eligibility as provided within this ordinance, Department of Health and Human Services (DHHS) GA policy and in 22 M.R.S.A. § 4301 et seq.

Every effort will be made to recognize the dignity of the applicant while encouraging self-reliance. The program will strive to help eligible persons achieve self-maintenance by promoting the work incentive. When possible, it will seek to alleviate needs other than financial through rehabilitative, preventive and protective services. The general assistance program will place no unreasonable restrictions on the personal rights of the applicant or recipient, nor will there be any unlawful discrimination based on sex, age, race, nationality, religion, sexual orientation or disability. The municipality is committed to including qualified individuals with disabilities, in municipal services, programs, and activities. As a result, the municipality will promote a GA program that when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. GA applicants with physical or mental disabilities that require a reasonable accommodation in order to access and/or utilize the municipal GA program are encouraged to provide the municipality with advance notice regarding the accommodation request.

The general assistance administrator will act promptly on all applications for assistance and requests for fair hearings. GA applicants will be provided information regarding their rights and responsibilities under the GA program. Within 24 hours after receipt of an application, the administrator will provide the applicant a written decision, whether or not assistance is granted, that will state the specific reasons for the decision. The administrator will also provide the applicant written notice that the applicant may appeal to the municipal fair hearing authority if dissatisfied with the decision. When an applicant is determined to be eligible, assistance appropriate to the need will be furnished within 24 hours after the completed application is submitted except when the administrator issues non-emergency assistance conditionally on the successful completion of a workfare assignment (see Section 10-506 of this ordinance).

The administrator will maintain complete and accurate records pertaining to each applicant and recipient. These records are confidential as a matter of law (see 22 MRSA §4306).

The administrator will post notice stating the day(s) and hours the administrator will be available. The administrator, or other designated person/entity, will be available to take applications in the event of an emergency at all other times. A copy of this ordinance and Maine General Assistance law will be readily available to any member of the public upon request. Notice to this effect will be posted.

[Derivation: Ord. No. 17-10, eff. 12/11/2017 (emergency)]

**SUBCHAPTER II – DEFINITIONS**

**SECTION 10-201**     COMMON MEANING OF WORDS

Unless otherwise apparent or defined, all words in this ordinance will have their common meaning.

**SECTION 10-202**     SPECIAL DEFINITIONS

1. Applicant. A person who has submitted, either directly or through an authorized representative, an application for general assistance or who has, in an emergency, requested assistance without first completing an application. In addition, all persons on whose behalf an authorized application has been submitted or on whose behalf benefits have been granted shall be considered applicants.
2. Application Form. A standardized form used by the general assistance administrator for the purpose of allowing a person to apply for general assistance and confirming the fact that a person has made application. The application form must be signed by the applicant to be considered complete.
3. Basic Necessities. Food, clothing, shelter, fuel, electricity, non-elective essential medical services as prescribed by a physician, nonprescription drugs, basic telephone service where it is necessary for medical reasons, property taxes when a tax lien placed on the property threatens the loss of the applicant's place of residence, and any other commodity or service determined essential by the municipality.

"Basic necessities" do not include:

- Phone bills
- Cable or satellite dish television
- Mail orders
- Vehicle payments
- Credit card debt\*\*
- Furniture
- Loan re-payments\*\*
- Cigarettes
- Alcohol
- Pet care costs
- Vacation costs
- Legal fees
- Key deposits
- Late fees
- Security deposits for rental property(except for those situations where no other permanent lodging is available unless a security deposit is paid, and a waiver, deferral or installment arrangement cannot be made between the landlord and tenant to satisfy the need for the immediate payment of the security deposit or payment in full) (22 M.R.S.A. § 4301(1)).

\*\*Repayments of loans or credit will be treated as having been spent on basic necessities when the applicant can provide verification of this fact.

4. Case Record. An official file containing application forms; correspondence; narrative records and all other communications pertaining to an applicant or recipient; written decisions regarding eligibility including reasons for those decisions as well as the types and amounts of assistance provided; and all records concerning an applicant's request for fair hearing and those fair hearing decisions.
5. Categorical Assistance. All state and federal income maintenance programs.
6. Claimant. A person who has requested a fair hearing.
7. Deficit. An applicant's deficit is the appropriate overall maximum level of assistance for the household as provided in Section 10-608 of this ordinance less the household income as calculated pursuant to Section 10-607 of this ordinance, provided such a calculation yields a positive number. If the household income is greater than the appropriate overall maximum level of assistance, the household has no deficit.
8. Disabled Person. A person who is presently unable to work or maintain a home due to a physical or mental disability that is verified by a physician or qualified mental health provider.
9. Dwelling Unit. A building or part thereof used for separate living quarters for one or more persons living as a single housekeeping unit (22 M.R.S.A. § 4301(2)).
10. Eligible Person. A person who is qualified to receive general assistance benefits from the municipality according to the standards of eligibility set forth in this ordinance, Maine General Assistance law (22 M.R.S.A. ch. 1161), and Maine Department of Health & Human Services regulations (10-144 C.M.R. ch. 323). If otherwise qualified, "Eligible Person" shall include U.S. citizens; non-U.S. citizens who are lawfully present in the United States as described in 8 U.S.C. § 1621(a)(1)-(3); and non-U.S. citizens who are pursuing a lawful process to apply for immigration relief. Assistance for non-citizens pursuing a lawful process for immigration relief shall not exceed 24 months beginning with assistance provided after July 1, 2015. "Eligible Person" does not include a fugitive from justice as defined in 15 M.R.S.A. § 201(4).
11. Emergency. Any life threatening situation or a situation beyond the control of the individual which, if not alleviated immediately, could reasonably be expected to pose a threat to the health or safety of a person At the municipality's option, a situation which is imminent and which may result in undue hardship or unnecessary cost to the individual or municipality if not resolved immediately. (22 M.R.S.A. § § 4301(4), 4308(2), 4310).
12. General Assistance Program. A service administered by a municipality for the immediate aid of persons who are unable to provide the basic necessities essential to maintain themselves or their families. A general assistance program provides a specific amount and type of aid for defined needs during a limited period of time and is not intended to be a continuing "grant-in-aid" or "categorical" welfare program. This definition shall not in any way lessen the responsibility of each municipality to provide general assistance to a person each time that the person is in need and is found to be otherwise eligible to receive general assistance (22 M.R.S.A. § 4301(5)).

13. General Assistance Administrator. A municipal official designated to receive applications, make decisions concerning an applicant's right to receive assistance, and prepare records and communications concerning assistance. He or she may be an elected overseer or an authorized agent such as a town manager, welfare director, or caseworker (22 M.R.S.A. § 4301(12)).

14. Household. "Household" means an individual or a group of individuals who share a dwelling unit. When an applicant shares a dwelling unit with one or more individuals, even when a landlord-tenant relationship may exist between individuals residing in the dwelling unit, eligible applicants may receive assistance for no more than their pro rata share of the actual costs of the shared basic needs of that household according to the maximum levels of assistance established in the municipal ordinance. The pro rata share is calculated by dividing the maximum level of assistance available to the entire household by the total number of household members. The income of household members not legally liable shall be considered as available to the applicant only when there is a pooling of income (22 M.R.S.A. § 4301(6)).

15. Income. "Income" means any form of income in cash or in kind received by the household including:

- Net remuneration for services performed
- Cash received on either secured or unsecured credit
- Payments received as an annuity, retirement or disability benefits
- Veterans' pensions and/or benefits
- Retirement accounts or benefits
- Workers' compensation
- Unemployment benefits
- Federal and/or state tax returns
- Benefits under any state or federal categorical assistance program such as, TANF,
- Supplemental Security Income, Social Security and any other payments from governmental sources (unless specifically prohibited by any law or regulation)
- Court ordered support payments, e.g., child support
- Income from pension or trust funds
- Household income from any other source, including relatives or unrelated household members
- Student loans
- Rental income

The following items shall not be considered as income or assets that must be liquidated for the purposes of deriving income:

- A) Real or personal income-producing property, tools of trade, governmental entitlement specifically treated as exempt assets by state or federal law;
- B) Actual work-related expenses, whether itemized or by standard deduction, such as taxes, retirement fund contributions, union dues, transportation costs to and from work, special equipment costs and child care expenses; or

- C) Earned income of children below the age of 18 years who are full-time students and who are not working full time.

In determining need, the period of time used as a basis for the calculation shall be a 30-day period commencing on the date of the application. This prospective calculation shall not disqualify an applicant who has exhausted income to purchase basic necessities, provided that the income does not exceed the income standards established by the municipality (22 M.R.S.A. § 4301(7)).

- D) Certain public benefit programs are specifically exempt from being counted as income for purposes of GA. These programs include:

- Food Stamps (7 USCS § 2017(b))
- Li-Heap (42 USCS § 8624)
- Family Development Accounts (22 M.R.S.A. § 3762)
- Americorp VISTA program benefits (42 USCS § 5044 (f))
- Property tax rebates issued under the Maine Property Tax Fairness Credit program, only so long as the money is spent on basic necessities. (22 M.R.S.A. § 4301(7))
- Aspire Support Service Payments (10-144 CMR Chapter 323)

16. Initial Applicant. A person who has not applied for assistance in this or any other municipality is considered an initial applicant.

17. Just Cause. A valid, verifiable reason that hinders an individual from complying with one or more conditions of eligibility or from attending a scheduled fair hearing (22 M.R.S.A. § § 4301(8), 4316-A(5)).

18. Lump Sum Payment. A one-time or typically nonrecurring sum of money issued to an applicant or recipient. Lump sum payment includes, but is not limited to, retroactive or settlement portions of social security benefits, workers' compensation payments, unemployment benefits, disability income, veterans' benefits, severance pay benefits, or money received from inheritances, lottery winnings, personal injury awards, property damage claims or divorce settlements. A lump sum payment includes only the amount of money available to the applicant after payment of required deductions has been made from the gross lump sum payment. A lump sum payment does not include conversion of a non-liquid resource to a liquid resource if the liquid resource has been used or is intended to be used to replace the converted resource or for other necessary expenses. (22 MRSA § 4301 (8-A)).

19. Material Fact. A material fact is a fact that necessarily has some bearing on the determination of an applicant's general assistance eligibility, and which would, if disclosed to the administrator, have some determinable effect on the calculation of eligibility or the issuance of a grant of assistance.

20. Maximum Levels of Assistance. The amount of financial assistance for a commodity or service as established in Section 10-608 of this ordinance or the actual cost of any such basic necessity, whichever is less.
21. Misconduct. For purposes of the GA work requirement (see 22 MRSA §4316-A) misconduct shall have the same meaning as misconduct defined in 26 MRSA §1043 (23). (See Appendix I of this ordinance for the official definition of misconduct.) Generally, employees are guilty of misconduct when the employee violates his or her duties or obligations to the employer. Employees who engage in a pattern of irresponsible behavior to the detriment of the employer's interest may also be found guilty of misconduct.
22. Municipality. Any city, town or plantation administering a general assistance program.
23. Municipality of Responsibility. The municipality which is financially liable for the support of an eligible person at the time of application (22 M.R.S.A. § § 4301(9), 4307).
24. Need. The condition whereby a person's income, money, property, credit, assets or other resources available to provide basic necessities for the individual and the individual's family are less than the maximum levels of assistance (22 M.R.S.A. § § 4301(10), 4308).
25. Net General Assistance Costs. Those direct costs incurred by a municipality in providing assistance to eligible persons according to standards established by the municipal officers. These do not include the administrative expenses of the general assistance program (22 M.R.S.A. §§ 4301(11), 4311).
26. Period of Eligibility. The time for which a person has been granted assistance. The period of eligibility may vary depending on the type of assistance provided, however, in no event shall this period extend beyond one month (22 M.R.S.A. § 4309(1)).
27. Pooling of Income. "Pooling of income" means the financial relationship among household members who are not legally liable for mutual support in which there occurs any commingling of funds or sharing of income or expenses. Municipalities may by ordinance establish as a rebuttable presumption that persons sharing the same dwelling unit are pooling their income. Applicants who are requesting that the determination of eligibility be calculated as though one or more household members are not pooling their income have the burden of rebutting the presumed pooling of income.
28. Real Estate. Any land, buildings, homes, mobile homes and any other things affixed to the land (22 M.R.S.A. § 4301(13))
29. Recipient. A person who has applied for and is currently receiving general assistance.
- 29A. Registered Domestic Partner. An individual registered as the domestic partner of the applicant pursuant to 22 M.R.S.A. § 2710.



30. Repeat Applicants. All applicants for general assistance that are not initial applicants are repeat applicants. For purposes of this ordinance repeat and subsequent shall have the same meaning.
31. Resident. A person who is physically present in a municipality with the intention of remaining in that municipality in order to maintain or establish a home and who has no other residence. A person who applies for assistance in a municipality who is not a resident of that municipality or any other municipality is the responsibility of the municipality where the person first applies. That municipality must take an application and grant assistance to the applicant if he/she is eligible, until he/she establishes a new residence in another municipality (22 M.R.S.A. § 4307).
32. Resources. Resources include any program, service, or other sources of support which are an alternative to or supplement for general assistance. There are two kinds of resources: “available” and “potential”. Potential resources are programs, services, non-liquid assets, or trusts that typically require people to apply in writing and/or wait a period of time before eligibility is determined or the potential income is released.

Potential resources include but are not limited to any state or federal assistance program, employment benefits, governmental or private pension program, available trust funds, support from legally liable relatives, child support payments, and jointly held resources where the applicant or recipient share may be available to the individual (22 M.R.S.A. § 4317). Potential resources include the TANF (previously known as AFDC) program, Food Stamps, fuel assistance (HEAP), subsidized housing, and similar programs.

Available resources include resources which are immediately available to the applicant or which can be conveniently secured by the applicant without delay, such as cash on hand or in bank accounts, assets for which there is an immediate and available market, or support from relatives which is being made available at the time of application and for which the applicant does not have to take any unreasonable steps to secure (e.g., relocation beyond the immediate region). At the discretion of the GA administrator a necessary minimum balance required by a financial institution in order to obtain free checking or in order to maintain the account shall not be considered an available resource.

The municipal GA administrator reserves the right to inform GA clients of services, commodities or facilities made available by private organizations or charities. Although GA applicants/recipients may be informed of the existence of a charitable resource and/or organization, GA eligibility shall not be based or conditioned on the use of a private charitable resource(s).

33. 30-Day Need. An applicant’s 30-day need is the sum of the household’s prospective 30-day costs, from the date of application, for the various basic necessities. For the purpose of this calculation, the 30-day cost for any basic need shall be the household’s actual 30-day cost for the basic necessity or the maximum 30-day cost for the basic necessity as established by this ordinance, whichever is less.

34. Unforeseen Repeat Applicants. Are repeat applicants who have not applied for assistance within the last twelve months and who have been regularly employed or receiving support from a public benefit or private source and who have unexpectedly become unemployed through no fault of their own or whose benefits (e.g., through an available resource) have ceased through no fault of their own.
35. Unmet Need. An applicant's unmet need is the household's 30-day need as established by Section 10-606 of the ordinance less the household income as calculated pursuant to Section 10-607 of this ordinance, provided such a calculation yields a positive number. If the household income is greater than the household's 30-day need, the household does not have an unmet need.
36. Work Requirements. Work requirements are those obligations the municipal administrator places on applicants for general assistance as directed and/or authorized by 22 M.R.S.A. § 4316-A to the extent such obligations ensure a continuing potential eligibility for general assistance when complied with, result in ineligibility when violated, and are not merely optional, discretionary, or advisory. Work requirements include registering for work, looking for work in good faith, accepting all suitable job offers, maintaining employment, performing workfare, and participating in training, educational, or rehabilitation programs that will assist the participant in securing employment.

[Derivation: Ord. No. 16-04, effective 10/12/2016 (emergency); Ord. No. 17-10, effective 12/11/2017 (emergency)]

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**SUBCHAPTER III – ADMINISTRATIVE RULES AND REGULATIONS**

The following are rules and regulations for the administration of general assistance.

**SECTION 10-301      CONFIDENTIALITY OF INFORMATION**

Case records and all other information relating to an applicant or recipient of general assistance are confidential and will not be disclosed to the general public, unless the applicant or recipient states in writing what information is to be released (22 M.R.S.A. § 4306).

1. Release of Information. Applicants, recipients and their legal representatives have the right to review their case records. No record will be released to a third party, however, unless the administrator receives a consent form signed by the applicant expressly authorizing the release of his or her records to the specified parties. Whenever the administrator releases any information, he/she will make a notation in the applicant's file stating to whom the record was released and the date. The administrator may charge a reasonable fee for the reproduction of any records when appropriate.
2. Information from Other Sources; Penalty. Information furnished to the municipality by the Department of Health and Human Services or any other agency or institution pursuant to 22 M.R.S.A. § 4314, is confidential. The general assistance administrator will also comply with laws relating to the confidentiality of vital statistic records such as those concerning birth, marriage and death. (22 M.R.S.A. § 2706).

Any representative of a financial institution or any employer of a general assistance applicant who, upon receipt of a written release signed by the depositor and a written request from the Administrator, refuses to provide necessary information to the administrator in order to verify an applicant's eligibility must state in writing the reason for the refusal. Effective November 1, 2017 national banks are also obligated to disclose deposit information to the Administrator upon receipt of a written request and release signed by the depositor. Additionally, effective November 1, 2017, when a municipality or its agents are acting in accordance with section 4313(2) to verify eligibility for funeral or cremation benefits, an officer of a financial institution must disclose the amount deposited upon receipt of a written request from the municipality or its agents and a notarized affidavit signed by the overseer of the municipality or its agents stating that the named depositor is deceased. Any such person who refuses to provide information, without just cause, may be subject to a civil penalty of not less than \$25 nor more than \$100. Any person, including the applicant, who knowingly and willfully makes a false representation of a material fact to the administrator is committing a Class E crime (22 M.R.S.A. § § 4314, 4315).

3. Misuse of Information. Misuse of any information relating to an applicant or recipient is a punishable offense (22 M.R.S.A. § 42(2)).

[Derivation: Ord. No. 17-10, eff. 12/11/2017 (emergency)]

**SECTION 10-302     MAINTENANCE OF RECORDS**

The general assistance administrator will keep complete and accurate general assistance records (22 M.R.S.A. § 4306). These records are necessary to:

- a) provide a valid basis of accounting for municipal expenditures;
- b) document and support decisions concerning an applicant or recipient; and
- c) ensure the availability of all relevant information in the event of a fair hearing or judicial review of a decision by the general assistance administrator.

1. Case Records. The administrator will establish and maintain a separate case record, either in paper format or digital format for each applicant or recipient. Each case record will include at least:

- household applications
- budget sheets
- information concerning the types and amounts of assistance provided
- narrative statements describing the nature of the emergency situation whenever general assistance is granted in amounts greater than the applicant's mathematical eligibility (i.e., deficit or unmet need, whichever is less)
- written decisions
- requests for fair hearings and the fair hearing authority decisions
- workfare participation records
- repayments to the municipality
- narrative writings documenting the need for general assistance, the results of home visits, collateral information, referrals, changes in status
- client authorization(s) for the release of GA information and/or reason(s) for the release of confidential information
- adjustments in aid, and suspension or termination of eligibility
- physician's documentation
- Supplemental Security Income (SSI) interim assistance reimbursement authorization forms
- vendor forms

Case records will not include information or material that is irrelevant to either the applicant's or recipient's application or the administrator's decisions.

2. Retention of Records. General assistance records shall be retained for a minimum of three full years. The three year period shall coincide with the State's fiscal year which begins July 1 and ends on the following June 30. Records may be destroyed after three years by one of the two preferred methods of destruction for confidential records, i.e., supervised shredding, burning or appropriate digital deletion/destruction process. In the event a client's records contain SSI reimbursement forms, the client's records should be maintained so that the municipality may seek reimbursement.

**SUBCHAPTER IV – APPLICATION PROCEDURE**

**SECTION 10-401     RIGHT TO APPLY**

1. Who May Apply. Anyone may apply for general assistance. The head of the family, any other responsible household member, or an authorized representative must apply in person, except in special emergency situations as provided in Section 10-409 of this ordinance or except when the applicant is a resident of an emergency shelter and the municipality has made an agreement with that emergency shelter to presume shelter residents to be eligible for general assistance (22 M.R.S.A. §4304(3)). In such cases, the administrator may require a representative to present a signed statement documenting that he/she is in fact authorized to apply for general assistance on behalf of the named applicant. The applicant or representative must complete a written application and any other required forms so that the administrator can determine eligibility (22 M.R.S.A. § § 4305, 4308). With notice, all members of the household receiving general assistance may be required to physically present themselves to the administrator. Note that fugitives from justice are ineligible for general assistance.
2. Application Via Telephone. When a person has an emergency but is unable to apply in person due to illness, disability, lack of child care, lack of transportation or other good cause, and he/she cannot send an authorized representative, the administrator will accept an application by telephone. The telephone application process will include the administrator receiving written verification by mail and visiting the applicant's home with his or her permission (22 M.R.S.A. § 4304).
3. Written Application Upon Each Request. Each request for assistance will be administered in accordance with these guidelines. The administrator will make an independent determination of eligibility for general assistance each time a person applies (22 M.R.S.A. § § 4308, 4309)
4. Applications Accepted; Posted Notice. Application forms will be available during regular business hours at the municipal office and when the general assistance administrator is conducting interviews with applicants. Notice will be posted stating when and where people may apply for assistance and the name of the administrator available to take emergency applications at all other times. In addition, the posted notice shall include the fact that the municipality must issue a written decision on all applications within 24 hours, and the DHHS toll-free telephone numbers for reporting alleged violations or complaints. Completed applications will be accepted and interviews given only during the regular hours established and posted by the administrator. In an emergency, however, the administrator or his or her designee will be available to accept applications for assistance whenever necessary (22 M.R.S.A. § 4304).

**SECTION 10-402**     APPLICATION INTERVIEW

Except when it is impractical, the general assistance administrator will interview each applicant personally before making a decision. The interview will be conducted in private, although the applicant may be accompanied by a legal representative, friend or family member.

**SECTION 10-403**     CONTENTS OF THE APPLICATION

At a minimum, the application will contain the following mandatory information:

1. applicant's name, address, date of birth, Social Security number or appropriate United States Customs and Immigration Services (USCIS) documentation, and phone number;
2. names, date(s) of birth, and Social Security number(s) or appropriate USCIS documentation of other household members for whom the applicant is seeking assistance;
3. total number of individuals living with the applicant;
4. employment and employability information;
5. all household income, resources, assets, and property;
6. household expenses;
7. types of assistance being requested;
8. penalty for false representation;
9. applicant's permission to verify information;
10. signature of applicant and date.

In the event an initial applicant is unable to provide identification records (e.g., Social Security card/number) because the record may have been lost, stolen or misplaced, the initial applicant may be provided a reasonable amount of time, e.g., five working days, in order to obtain copies of identification records. Provided the initial applicant makes a good faith effort to obtain the item/record sought, GA required to cure an immediate and/or emergency need shall not be withheld. In such cases the municipality may elect to provide only a prorated amount of GA, e.g., five day's worth, while the applicant proceeds to obtain the required information.

**SECTION 10-404**     GENERAL ASSISTANCE ADMINISTRATOR'S RESPONSIBILITIES AT THE TIME OF THE APPLICATION

The administrator will make every effort to inform all applicants of their rights and responsibilities as well as the general program requirements associated with applying for and receiving general assistance, including application requirements, eligibility guidelines, applicant rights, and applicant reimbursement obligations.

1. Application Requirements. The administrator will help the applicant fill out the application form as described in the preceding section. The administrator will inform the applicant of any

other information or documentation that the applicant will have to provide in order for the administrator to evaluate the applicant's eligibility for assistance. The administrator will fully explain the purpose of any release of information form or reimbursement agreement before seeking to obtain the applicant's signature or written authorization.

2. Eligibility Requirements. The administrator will inform, either verbally or in writing, the applicant of the eligibility requirements of the program, including:
  - A. the income standard of need;
  - B. the applicant's ongoing use-of-income, work-related, and resource-related responsibilities, as described in the section immediately below;
  - C. the financial reduction in assistance that is the consequence of spending household income on non-basic necessities;
  - D. immigration status (see definition of "Eligible Person"); and
  - E. the disqualification penalties associated with committing fraud, failing to perform work-related assignments without just cause, or failing to make a good faith effort to secure potential resources when the requirement to attempt to obtain those resources has been explained to the applicant in writing.
3. Applicant Rights. The administrator will inform all applicants of their rights to:
  - A. review the municipal General Assistance ordinance and Maine General Assistance law;
  - B. apply for assistance;
  - C. receive a written decision concerning eligibility within 24 hours of applying for assistance;
  - D. confidentiality;
  - E. contact the DHHS;
  - F. challenge the administrator's decision by requesting a fair hearing.
4. Reimbursement/Recovery. The administrator will inform the applicant that he/she must reimburse the municipality for the amount of general assistance he/she has been granted in the event of a subsequent ability to pay. The municipality may also, as appropriate, contact the client's legal representative to inform him or her of the client's obligation to repay the municipality under the GA program. In addition to seeking repayment from a recipient, the municipality also may recover the amount of assistance granted to a recipient during the previous 12 months from any relative legally liable for the applicant's support (spouses, parents of persons under the age of 25, see Subchapter VIII, "Recovery of Expenses") (22 M.R.S.A. § § 4318, 4319). Whenever applicable, the administrator will explain the various liens a municipality may place against a recipient's real or personal property, such as the



mortgage or capital improvement lien, the Workers' Compensation lump sum payment lien, or the SSI "interim assistance agreement" lien, as these liens are described in Subchapter VIII, "Recovery of Expenses".

[Derivation: Ord. No. 16-04, effective 10/12/2016 (emergency)]

**SECTION 10-405**     RESPONSIBILITIES OF THE APPLICANT AT THE TIME OF APPLICATION

The applicant has the responsibility at the time of each application to provide accurate, complete and current household information and verifiable documentation concerning:

- Income
- Resources
- Assets
- Employment
- Use of income
- Names and addresses of any relatives legally liable for the applicant's support
- Any change in this information from a previous application that would affect household eligibility (22 M.R.S.A. §4309).

In addition, the applicant must accurately report and provide verifiable documentation that shows the applicant:

1. has remained employed, if previously employed, and not quit work without just cause or been discharged from employment for misconduct;
2. has been seeking employment, if previously unemployed or employed on a part-time basis, has accepted any suitable offer of employment, and has satisfactorily performed all workfare assignments or had just cause not to perform those assignments;
3. has made use of all available and potential resources when directed in writing to such a program by the administrator, including, but not limited to, other government benefit programs or the assistance of liable relatives of sufficient means; and
4. has participated in any training, retraining, educational or rehabilitative program when appropriate and when directed in writing to such a program by the administrator, in order to diminish the applicant's need for general assistance (22 M.R.S.A. § §4316-A, 4317).

**SECTION 10-406**     ACTION ON APPLICATIONS

1. Written Decision. The general assistance administrator will give a written decision to the applicant concerning his or her eligibility within 24 hours after the applicant submits a written application. Assistance will be furnished to eligible applicants within that period except when the municipality is permitted by law (and pursuant to Section 10-506 of this ordinance) to issue assistance conditionally on the successful completion of a workfare assignment (22 M.R.S.A. § § 4305, 4316-A, 4321). A written decision will be given each time a person applies, whether assistance is granted, denied, reduced or terminated.

2. Content. The written decision will contain the following information:
  - A. the type and amount of aid the applicant is being granted or the applicant's ineligibility;
  - B. the period of eligibility if the applicant is eligible for assistance;
  - C. the specific reasons for the decision;
  - D. the applicant's right to a fair hearing; and
  - E. the applicant's right to notify the DHHS if he/she believes the municipality has acted illegally (22 M.R.S.A. § 4321).

**SECTION 10-407**     WITHDRAWAL OF AN APPLICATION

An application is considered withdrawn if:

1. the applicant requests in writing that his or her application be withdrawn; or
2. the applicant refuses to complete or sign the application or any other form needed by the general assistance administrator.

**SECTION 10-408**     TEMPORARY REFUSAL TO ACCEPT APPLICATION

Under special circumstances, the general assistance administrator may temporarily refuse to accept applications. Such circumstances may include, but are not limited to, the following:

1. When the applicant's conduct is abusive, disruptive, or harassing, or when the applicant is under the influence of drugs or alcohol. In these situations, the applicant will be asked to leave, and if the applicant refuses to leave, the police may be summoned. The applicant will be informed that an application will only be accepted when his or her conduct is under control.
2. If the administrator believes that an applicant's behavior presents a threat to the health or safety of the public or to a municipal employee, or if such behavior is violent, or if an applicant has engaged in abusive, disruptive or harassing behavior and has been required to leave on more than one occasion, then the applicant may be required to designate a third party to apply for assistance on his or her behalf and the applicant may be prohibited from entering the municipal building;
3. When a third person applies for assistance on behalf of the applicant that person may be required to provide written verification that he/she has been duly authorized to act as a representative for the applicant (22 M.R.S.A. § 4308).

**SECTION 10-409     EMERGENCIES**

An emergency is considered to be any life threatening situation or a situation beyond the control of the applicant which if not alleviated immediately could reasonably be expected to pose a threat to the health or safety of the applicant or a member of the household (22 M.R.S.A. § 4301(4)). Although they may be considered otherwise ineligible to receive general assistance, persons who apply for assistance to alleviate an emergency may be granted assistance, except as provided below, if they do not have sufficient income and resources to meet an actual emergency need and have not had sufficient income and resources to avert the emergency (22 M.R.S.A. § 4308).

A municipality may provide emergency assistance when the municipality determines that an emergency is imminent and that failure to provide assistance may result in undue hardship and unnecessary costs to either the client or the municipality.

1. Disqualification. A person who is currently disqualified from receiving General Assistance due to a violation of Sections 10-505, 10-506, 10-507, 10-508, 10-509 or 10-604 of this ordinance is ineligible to receive emergency assistance (22 M.R.S.A. § 4308(2)(A)). However, dependents of a disqualified person may be eligible for assistance. For the purposes of this section, “dependents” are defined as: 1) a dependent minor child; 2) an elderly, ill or disabled person; or 3) a person whose presence is required to provide care for any child under the age of 6 years or any ill or disabled member of the household (22 M.R.S.A. § 4309(3)).

In the event one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be calculated by dividing the maximum level of assistance available to the entire household by the total number of household members.

2. Assistance Prior to Verification. Whenever an applicant informs the administrator that he/she needs assistance immediately, the administrator will grant, pending verification, the assistance within 24 hours, provided that:
  - A. after interviewing the applicant the administrator has determined that the applicant will probably be eligible for assistance after a verification of information is completed; and
  - B. the applicant submits documentation when possible, to verify his or her need. The administrator may contact at least one other person to confirm the applicant’s statements about needing emergency assistance. No further assistance will be authorized until the applicant’s eligibility is confirmed (22 M.R.S.A. § 4310).
3. Telephone Applications. If a person has an emergency need and cannot apply in person due to illness, disability, lack of transportation, or other good cause, and if there is no authorized representative who can apply on behalf of the applicant, the administrator shall accept an application over the telephone (22 M.R.S.A. § 4304).

The administrator will not grant any assistance as the result of a telephone application if the applicant refuses to allow the administrator to verify the information either by visiting his or her home or by mail and the administrator cannot determine his or her eligibility through any other means.

4. Limitation on Emergency Assistance. Applicants are not automatically eligible for emergency assistance. If applicants had income which could have been used to prevent all or part of an emergency, but they spent that income on items which are not basic necessities, they will not be eligible to receive general assistance to replace the misspent money (22 MRSA § § 4308(2) & 4315-A).

All applicants have the responsibility to provide the administrator with verifiable documentation demonstrating that the applicant did not have sufficient income to avert the emergency situation. According to the following criteria, the administrator may limit emergency assistance to cover only the difference between the amount of money necessary for the household to avoid the emergency and the amount of income available to the household during the applicable time period.

- A. The applicable time period shall be the 30 days preceding the application for emergency assistance, except in those cases where the emergency was created by a negative account balance for a commodity or service (such as rent, mortgage or utility payments), and the negative account balance was created over a longer period of time. In such cases, the applicable time period shall be the consecutive length of time the account balance has been in the negative.
- B. The administrator shall seek from the applicant all information pertinent to the applicant's ability to provide for his or her basic necessities for the applicable time period, including evidence of all income and resources received over that period of time.
- C. The administrator shall calculate all costs for the household's basic necessities during the applicable time period, per month, in accordance with the maximum levels established by this ordinance for the specific basic necessity or the actual monthly cost, whichever is less, including all costs associated with averting the particular emergency situation for which the applicant is seeking assistance.
- D. From the total household costs for basic necessities during the applicable time period, the administrator shall subtract the total income and lump sum payments available to the household for the applicable time period as well as the total general assistance actually received during the applicable time period.
- E. The administrator may restrict the issuance of emergency assistance to the difference yielded by the computation in subsection D, even when such a grant will not totally alleviate the emergency situation.
- F. The administrator may waive this limitation on emergency assistance in life threatening situations or for initial applicants; that is, persons who have never before applied for

general assistance.

- G. Nothing in these criteria may be construed as prohibiting a municipality from electing to alleviate an emergency situation in the most cost-effective manner available, provided such a determination of eligibility for emergency assistance is in conformance with general assistance law.

**SECTION 10-410     RESIDENCE**

The administrator shall provide general assistance to all eligible persons applying for assistance who are residents of this municipality. A resident is a person who has no other residence and is physically present in this municipality and who intends to remain here and establish a household.

The municipality also recognizes its responsibility to provide assistance to eligible persons who apply here and who are not residents of this municipality or any other municipality. If a person who is not a resident of any municipality applies in this municipality first, the administrator will determine his or her eligibility and, if eligible, will grant assistance until he/she establishes a residence in another municipality (22 M.R.S.A. § 4307).

1. Moving/Relocating. The municipality will not consider moving or transporting an applicant or recipient into another municipality unless the person requests assistance to relocate to another municipality. If the administrator determines the applicant is eligible and grants financial assistance to help with the requested relocation, this municipality will be responsible for providing assistance to the applicant for 30 days after he/she moves provided the recipient remains eligible.
2. Institutions. If a resident of this municipality enters an institution located in another municipality (such as a group home, shelter, rehabilitation center, nursing home, or hospital) and requests assistance while at the institution, he/she will be the responsibility of this municipality for up to 6 months after he/she enters the institution if the conditions of 22 M.R.S.A. § 4307 and §4313 are met. The municipality thereafter retains responsibility for an applicant in an institution only if the applicant has maintained a home in this municipality to which he/she intends to return. The municipality also recognizes its responsibility for applicants residing in an institution in this municipality if such an applicant had no residence prior to entering the institution (22 M.R.S.A. § 4307(4)).
3. Temporary Housing. Hotels/motels and similar places of temporary lodging are considered institutions if the municipality grants financial assistance for, makes arrangements for, or advises or encourages an applicant to stay in temporary lodging.

Note: Municipalities which illegally deny housing assistance and, as a result of the denial, the applicant stays in temporary lodging are responsible for the applicant for up to 6 months and may be subject to other penalties (22 M.R.S.A. § 4307(4)).

4. Disputes. When the administrator believes that an applicant is a resident of another municipality but that municipality disputes its responsibility the administrator will notify the DHHS in Augusta (287-3654 or 1-800-442-6003). If the applicant applies in this municipality first, the administrator will determine his or her eligibility and, if eligible, will grant assistance until the DHHS has concluded which municipality is responsible for providing assistance. If another municipality was responsible, the DHHS will recover the amount due from the other municipality. (22 M.R.S.A. § § 4307(5), 4307(6)).

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## **SUBCHAPTER V – ELIGIBILITY FACTORS**

A person will be eligible for general assistance if he/she is an “Eligible Person” as defined in §10-202, is in need, and has complied with the eligibility requirements set forth below.

[Derivation: Ord. No. 16-04, effective 10/12/2016 (emergency)]

### **SECTION 10-501     INITIAL APPLICATION**

1. Initial Application. For initial applicants, except as provided immediately below, need will be the sole condition of eligibility. The exception to this general rule, as provided by law, applies to all applicants, including initial applicants, who are disqualified for a defined period for quitting employment without just cause or for being discharged from employment for misconduct (22 M.R.S.A. § 1043 (23)) (see Section 10-505 of this ordinance) and to fugitives from justice as defined in 15 M.R.S.A. § 201(4) (22 M.R.S.A. § 4301(3)). An initial applicant is a person who has never before applied for general assistance in any municipality in Maine (22 M.R.S.A. § 4308(1)).

“Need” means that the applicant’s income (including prorated income, where applicable), property, credit, assets or other resources are less than the overall maximum level of assistance contained in Section 10-608 of this ordinance or the applicant’s 30-day need, whichever is less, and he/she does not have adequate income or other resources available to provide basic necessities.

2. Subsequent Applicants. Persons who are not initial applicants are repeat applicants. Repeat applicants are people who have applied for general assistance at any time in the past. Repeat applicants are also people on whose behalf a general assistance application was made at any time in the past, provided that at such a time the applicant was not a dependent minor in the household. For repeat applicants to be eligible for general assistance, they must be in need and meet all other eligibility requirements. The eligibility of repeat applicants may also be adversely affected to the extent they have not used their income and resources to secure basic necessities.

### **SECTION 10-502     ELIGIBILITY FOR CATEGORICAL ASSISTANCE**

Receipt of categorical assistance will not disqualify a person from receiving general assistance if the applicant is otherwise eligible. Benefits received from other assistance programs will be considered as income when determining need, with the exception of Food Stamps, which will not be counted as income or resources or otherwise taken into consideration when determining need (7 U.S.C. § 2017 (b)).

In addition, any fuel assistance (HEAP/ECIP) received by an applicant will not be considered as income; that is, the administrator will always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid all costs associated with his or her fuel needs (42 U.S.C. §8624(f)). The calculation of general assistance for heating energy needs when an applicant has received HEAP or ECIP shall be accomplished in accordance with



subsection C under “Types of Income” at Section 10-607 of this ordinance. For several additional exceptions please refer to the definition of “Income” in this ordinance (Section 10-202 Subsection 15).

Applicants or recipients must apply for other program benefits within 7 days after being advised in writing to do so by the general assistance administrator. Persons who, without just cause, make no good faith effort to obtain a potential resource will be disqualified from receiving assistance until they make a good faith effort to obtain the benefit (22 M.R.S.A. § 4317).

**SECTION 10-503     PERSONAL PROPERTY**

1. Liquid Assets. No person owning assets easily convertible into cash, including but not limited to, bank deposits, stocks, bonds, certificates of deposit, retirement accounts, life insurance policies and other marketable security, will be eligible for general assistance unless and until he or she uses these assets to meet his or her basic needs, and thereby exhausts them. At the discretion of the GA administrator, liquid assets do not mean a reasonable minimum balance necessary for obtaining free checking. Although one checking account per household may be allowed, any monies over the minimum required to obtain free checking are to be considered available liquid assets.
2. Tangible Assets. No person owning or possessing personal property, such as but not limited to: a motor vehicle (except as provided immediately below in subsection 3, or a boat, trailer, recreation vehicle or other assets that are convertible into cash and are non-essential to the maintenance of the applicant’s household, will be eligible for general assistance. Exceptions may be made when a person is making an initial application or is an unforeseeable repeat applicant as defined in Section 10-202 or when reasonable efforts to convert assets to cash at fair market value are unsuccessful. Tools of a trade, livestock, farm equipment and other equipment used for the production of income are exempt from the above category and are not considered available assets.
3. Automobile Ownership. Ownership of one automobile per household will not make a person ineligible for assistance if such vehicle is essential for transportation to employment or for seeking employment, obtaining medical care, rehabilitation or training facilities, or for any other reason the GA administrator determines reasonable for the maintenance of the applicant’s household. Recipients of general assistance who own an automobile with a market value greater than \$8000 may be required, with written, 7-day notice, to make a good faith effort to trade that automobile for an automobile with a market value of less than \$8000. Any income received by the applicant by virtue of such a trade down must be used for his or her basic necessities. Failure to liquidate or trade down the excess value of any automobile asset can result in disqualification (22 M.R.S.A. § 4317).

The municipality will neither pay nor consider as necessary any car payment or vehicle maintenance cost including insurance for which the applicant is responsible. However, provided the vehicle value is \$8000 or less and the applicant is utilizing the vehicle for any of the above mentioned “essential” reasons, the municipality in its discretion may choose to not consider reasonable car payments, reasonable car insurance and reasonable associated

costs of maintenance as “misspent” income. General assistance for travel-related needs shall be computed in accordance with Section 10-608 (F) (7), (8) “Work Related/Travel Expenses.”

4. Insurance. Insurance that is available to an applicant on a non-contributory basis or that is required as a condition of employment will not be a factor in determining eligibility for general assistance. Life insurance with a cash surrender value may, at the discretion of the GA administrator, be considered as a tangible asset.
5. Transfer of Property. Applicants who transfer assets for less than fair market value to someone else solely for the purpose of establishing eligibility for general assistance will not be granted general assistance to replace the uncompensated value of the transferred asset. Assistance will be denied within a 120-day limit up to the uncompensated value of the asset which was transferred unless the transfer of asset is fraudulently misrepresented, in which case a 120-day disqualification will be issued. There will be a presumption that the applicant transferred his or her assets in order to be eligible for general assistance whenever property is sold for less than the fair market value or when the transfer occurred within 30 days prior to applying for general assistance unless the applicant can demonstrate the existence of a good faith transaction.

**SECTION 10-504     OWNERSHIP OF REAL ESTATE**

1. Principal Residence. For purposes of General Assistance solely, the applicant’s principal residence, including any adjoining land, is considered an exempt resource, even if temporarily unoccupied because of employment, job training, education, illness or disaster, provided there is demonstrated an intent to return. If the applicant owns land in excess of the minimum lot size for the zone or district in which the home is located, then that land may be considered a potential resource if:
  - A. The applicant has received General Assistance for the last 120 consecutive days; and
  - B. The applicant has the legal right to sell the land (e.g., any mortgagee will release any mortgage, any co-owners agree to the sale, zoning or other land use laws do not render the sale illegal or impracticable); and
  - C. The applicant has the financial capability to put the land into a marketable condition (e.g., the applicant can pay for any necessary surveys); and
  - D. The land is not utilized for the maintenance and/or support of the household; and
  - E. A knowledgeable source (e.g., a realtor) indicates that the land in question can be sold at fair market value, for an amount which will aid the applicant’s financial rehabilitation; and
  - F. No other circumstances exist which cause any sale to be unduly burdensome or inequitable.

If the above conditions are met, then the administrator may condition the receipt of future assistance on the applicant's good faith efforts to sell, or render saleable, land which could be used to provide necessary support for the applicant (e.g., the applicant owns 100 "excess" acres. Sale of 10 of the acres would provide for the necessary support and therefore not all the land need be sold at the present time.) Assistance shall not be denied during the time that the applicant is making a good faith effort to sell or render saleable the land in question.

Once the applicant ceases to receive assistance the obligations under this section shall also cease.

2. Other Property. If the applicant or dependents own real property other than that occupied as the principal residence, continued eligibility will depend on the applicant making a reasonable effort to:
  - A. Dispose of the property at fair market value in order to convert the property into cash which can be applied toward meeting present need; or
  - B. Obtain a loan against such property which may be used to meet present need. Applicants who transfer their excess property to a third party in order to become eligible for general assistance will be ineligible.

If an applicant is granted assistance in the form of a mortgage payment or capital improvement payment, the municipality may claim a lien against the property. The lien shall not be enforceable until the time of sale of the property or upon the death of the recipient (see also Section 10-608 of this ordinance) (22 M.R.S.A. § 4320).

#### **SECTION 10-505     WORK REQUIREMENT**

All general assistance recipients are required to register for work, look for work, work to the extent of available employment, and otherwise fulfill the work requirements, unless the applicant is exempt from such requirements as provided below.

1. Employment; Rehabilitation. All unemployed applicants and members of their households who are 16 years of age or older and who are not attending a full-time primary or secondary school intended to lead to a high school diploma will be required to accept any suitable job offer and/or meet with job counselors, attend employment workshops and rehabilitative services, except as provided below (see "Exemptions"). Applicants must demonstrate to the administrator that they are available for work and are actively seeking employment.

A "suitable job" means any job, which the applicant is mentally and physically able to perform. "Available for work" means that applicants must make themselves available for work during normal business hours prevailing in the area, and show that no circumstance exists which would prevent them from complying with the work requirement.

2. Verification. Unemployed applicants or applicants employed on a part-time basis will be required to provide verifiable documentation of their pursuit of employment at the time of each application. At a minimum, such documentation shall consist of a list of the employers contacted, the date and time of the application contact, and the name of the employer representative contacted. "Pursuit of employment" means actually submitting a written application or applying for a job in person when reasonable, or submitting a written application or letter of inquiry to employers.

For the duration of any repeat applicant's period of unemployment or partial employment, the administrator will establish the number of employers per week to whom each non-exempt applicant shall be required to apply in order to fulfill his or her work search requirements. The number of weekly employer contacts required by the administrator shall be reasonably related to the number of potential employers in the region and the number of hours in the week the applicant has available for work search activities after considering all time the applicant must devote to existing employment obligations, workfare obligations, and required classroom or on-site participation in job training, educational, or rehabilitation programs. Fulfillment of these requirements will not be expected at the time of the initial application, but will be a condition of eligibility for subsequent assistance.

3. Ineligibility. After being granted assistance at the time of initial application, applicants will be considered ineligible for further assistance for 120 days if they, without just cause:
  - A. refuse to register for employment with the Maine Job Service;
  - B. refuse to search diligently for employment when the search is reasonable and appropriate; recipients who unreasonably seek work at the same places repeatedly will not be considered to be performing a diligent worksearch and will be disqualified;
  - C. refuse to accept a suitable job offer;
  - D. refuse to participate in an assigned training, education or rehabilitation program that would assist the applicant in securing employment;
  - E. fail to be available for work; or
  - F. refuse to participate or participate in a substandard manner in the municipal work program (see Section 10-506).
4. Ineligibility Due to Job Quit or Discharge for Misconduct. No applicant, whether an initial or repeat applicant, who has quit his or her full-time or part-time job without just cause or who has been discharged from employment for misconduct (see Appendix I, 26 M.R.S.A. § 1043 (23) for the definition) will be eligible to receive general assistance of any kind for a 120-day period from the date of separation from employment (22 M.R.S.A. §§ 4301(8), 4316-A (1-A)).

5. Just Cause. Applicants will be ineligible for assistance for 120 days if they refuse to comply with the work requirements of this section without just cause. With respect to any work requirement, just cause will be considered to exist when there is reasonable and verifiable evidence that:
  - A. the applicant has a physical or mental illness or disability which prevents him/her from working;
  - B. the work assignment pays below minimum wages;
  - C. the applicant was subject to sexual harassment;
  - D. the applicant is physically or mentally unable to perform required job tasks, or to meet piece work standards;
  - E. the applicant has no means of transportation to or from work or a training or rehabilitation program;
  - F. the applicant is unable to arrange for necessary child care or care of ill or disabled family members; or
  - G. any reason found to be good cause by the Maine Department of Labor, or any other verifiable reason the administrator considers reasonable and appropriate will be accepted as just cause. (22 M.R.S.A. § 4316-A(5)).
6. Applicant's Burden of Establishing Just Cause. If the administrator finds that the applicant has violated a work-related rule without just cause, it shall be the responsibility of the applicant to establish the presence of just cause (22 M.R.S.A. § 4316-A).
7. Eligibility Regained. Persons who are disqualified for 120 days because they violated a work requirement may regain their eligibility if and only when they become employed or otherwise satisfy the administrator that they are complying with the work requirement by fulfilling the work requirement or requirements they violated.

For the purpose of regaining eligibility by becoming employed, "employment" shall mean employment by an employer as defined in 26 M.R.S.A. § § 1043 et seq., or the performance of a service for an employer who withholds from the employee a social security tax pursuant to federal law.

The special provisions regarding the opportunity to regain eligibility after a disqualification for workfare violations are detailed in Section 10-506 of this ordinance, under "Eligibility Regained".

8. Dependents. Failure of an otherwise eligible person to comply with the work requirements shall not affect the eligibility of any member of the person's household who is not capable of working, including:

- A. a dependent minor child;
- B. an elderly, ill, or disabled person; and
- C. a person whose presence is required in order to provide care for any child under 6 years of age or for any ill or disabled member of the household (22 M.R.S.A. § 4309(3)).

In the event one (or more) member(s) of a household is disqualified and assistance is requested for those remaining members of the household who are dependents, the eligibility of those dependents will be calculated by dividing the maximum level of assistance available to the entire household by the total number of household members.

9. Exemptions. The above work requirements do not apply to any person who is elderly, physically or mentally ill or disabled. Any person whose presence is required to care for any pre-school age child or for any ill or disabled member of the household is also exempt from these requirements.

The requirements of this section will not be imposed so as to interfere with an applicant's existing employment, ability to pursue a bona fide job offer, ability to attend an interview for possible employment, classroom participation in a primary or secondary educational program intended to lead to a high school diploma, classroom or on site participation in a training program which is either approved by the Department of Labor or determined by the Department of Labor to be expected to assist the applicant in securing employment, or classroom participation in a degree-granting program operated under the control of the Department of Labor.

#### **SECTION 10-506      MUNICIPAL WORK PROGRAM**

Each applicant and any member of the household who is capable of working may be required to perform work for the municipality, including work for a non-profit organization, as a condition of receiving assistance (22 M.R.S.A. § 4316-A(2)).

As part of the municipal work program, the municipality can require recipients to participate in training, education, or rehabilitative programs that will assist the recipient in securing employment. The work requirement provisions found in Section 10-505 regarding just cause, dependents, and exemptions also apply to the municipal workfare program.

1. Consent. Persons assigned to the work program are required to sign a form stating that they understand the requirements of general assistance and the work program. Prior to signing the form, the administrator will read it to the applicants or the applicants will read it themselves. The form will also state the number of hours the applicants must work and the hourly rate by means of which the duration of the work assignment is calculated. In addition, the consent form shall describe the consequences of failing to adequately perform part or all of the workfare or workfare-first assignment.

2. Subtracting Value of Workfare Performed from Client's GA Debt. Pursuant to 22 MRSA § 4318 individuals owing the municipality funds for general assistance provided to them are obligated to repay the municipality when and if they become able (see Subchapter VIII). However, persons performing workfare shall have the value of the workfare performed deducted from any and all GA debt including GA liens (e.g., Workers' Compensation Settlement, SSI Retroactive Payment, Capital Improvement, Home Mortgage) that might exist against their settlements, payments or other such property.
3. Limitations. The work requirement is subject to the following limitations (22 M.R.S.A. § 4316-A(3)).
  - A. No person shall, as a condition of eligibility, be required to do any amount of work that exceeds the value of the net general assistance that the person receives under municipal general assistance standards. Any person performing work under this subsection shall be provided with net general assistance, the value of which is calculated at a rate of at least the prevailing minimum wage under state or federal law at the time the workfare was performed.
  - B. No workfare participant shall be required to work for a nonprofit organization if that work would violate the participant's basic religious beliefs.
  - C. In no case shall eligible persons performing work under this subsection replace regular municipal employees.
  - D. In no case will work performed under this subsection interfere with an eligible person's:
    - (1) existing employment;
    - (2) ability to follow up on a bona fide job offer;
    - (3) attendance at an interview for possible employment;
    - (4) classroom participation in a primary or secondary educational program intended to lead to a high school diploma; or
    - (5) classroom or on site participation in a training program which is approved by the Department of Labor or determined by the Department of Labor to be reasonably expected to assist the person in securing employment, or classroom participation in a degree-granting program administered by the DHHS or the Department of Labor.
  - E. In no case may an eligible person be required to work more than 40 hours per week. An eligible person who has full or part-time employment shall be exempt from the work requirement to the extent that the work requirement in combination with his or her regular employment would result in the person working more than 40 hours per week.

- F. In no case will an eligible person be required to perform work beyond his or her capabilities. However, when an illness or disability is claimed, an eligible person may be required as a condition of receiving assistance to present a doctor's statement detailing the extent of the disability or illness (22 M.R.S.A. § 4309).

If the administrator requires a doctor's statement to verify an applicant's illness or disability and the applicant is not currently under the care of a provider, the municipality may pay for the doctor's evaluation if the applicant has no means to pay for the exam. However in such a case the administrator will choose the doctor. If there is a no-cost or low-cost health care option, the municipality may elect to refer the client to such a resource. The administrator will not require verification of medical conditions which are apparent or which are of such short duration that a reasonable person would not ordinarily seek medical attention (22 M.R.S.A. § 4316(5)).

- G. In no case may an eligible person with an immediate need (i.e., a person in an emergency situation who has not been disqualified from receiving assistance for committing a program violation) be required to perform work under this subsection prior to receiving general assistance. The administrator shall meet immediate needs upon receiving written assurance from the eligible person that he/she is willing to work to maintain eligibility for general assistance. When the recipient has no immediate need, workfare participation may be required prior to receiving general assistance in accordance with the following "workfare first" policy.

4. "Workfare First" Policy. Under the authority of 22 M.R.S.A. § 4316-A(2)(D), the administrator may, in accordance with the following guidelines, require a recipient of general assistance to perform a workfare assignment prior to the actual issuance of the general assistance benefit conditionally granted.

- A. In no circumstance will emergency general assistance for which an applicant is eligible be withheld pending the satisfactory performance of workfare.

- B. All workfare participants under this policy will be provided a written decision, as otherwise required by law, within 24 hours of submitting an application for general assistance and prior to performing any workfare for the municipality associated with that request for assistance. That written decision must include:

- (1) a specific description of the amount of general assistance being conditionally granted to the household, and for which basic needs;
- (2) the period of eligibility for which the general assistance grant is being issued (in days or weeks, but not to exceed 30 days);
- (3) the rate, at a dollar-per-hour basis (but not less than the prevailing minimum wage), upon which the duration of the workfare assignment is calculated;



- (4) the actual duration of the workfare assignment that must be performed, in hours, before the general assistance grant will be actually issued;
  - (5) the specifics of the workfare assignment(s), including the general nature of the type of work being assigned, location(s) of work-site, date(s) and time(s) of assigned workfare, workfare supervisors' names and contact telephone numbers; and
  - (6) any other pertinent information related to the workfare assignment(s) the recipient will be expected to perform.
- C. As previously provided in this section, all workfare participants under this policy must sign a consent form that informs the participant of his or her workfare-related rights and responsibilities, including the consequences of failing to perform all or part of the workfare assigned without just cause.
- D. If a portion of the workfare-first assignment is satisfactorily performed but there has been a failure to perform the remainder of the assignment, without just cause, the administrator shall issue a grant of general assistance in the amount of the number of workfare hours satisfactorily performed times the hourly rate used to calculate the duration of the workfare assignment. In addition to any disqualification penalty that may apply, the remaining value of the conditionally issued general assistance grant shall be terminated, and notice of the partial termination, and the reasons therefore, will be issued to the workfare participant in accordance with Section 10-610 of this ordinance.
- E. Any amount of the workfare assignment that is not performed because the workfare participant was temporarily unable to perform the assignment for just cause reasons shall be reassigned or excused at the discretion of the GA administrator.
5. Work-Related Expenses. A participant's expenses related to work performed under this section will be added to the amount of net general assistance to be provided to the person (22 M.R.S.A. § 4316-A(2)(E)). The municipality will provide any special clothes or equipment the recipient needs to perform his or her work assignment.
6. Disqualification. Any person who either willfully fails to perform or willfully performs below average standards the work assigned by the municipality, will be ineligible for assistance for 120 days (22 M.R.S.A. § 4316-A(1)). As soon as the administrator knows that a recipient failed to fulfill the work assignment, the administrator will notify the recipient in writing that he/she is disqualified for 120 days starting from the last date of authorized assistance unless the recipient can show just cause. The burden of demonstrating a just cause failure to perform a workfare assignment falls on the workfare participant.
7. Eligibility Regained. Recipients who are disqualified from receiving assistance because they have violated the requirements of the municipal work program may regain their eligibility under the following conditions.

Recipients who fail to complete the first municipal work assignment they have been given

will be disqualified from receiving assistance during the next 120 days, although dependents in the household may be eligible (see Section. 10-505, "Dependents").

If during the 120-day disqualification period the recipient requests an opportunity to perform the work assignment which he or she, without just cause failed to perform, the disqualified recipient will be given one opportunity to regain eligibility. The administrator will give the recipient a work assignment as soon as possible.

If under such a set of circumstances the recipient has an emergency need and the administrator is unable to schedule a work assignment in time to alleviate the emergency, the administrator will provide sufficient assistance to the recipient to avert the emergency. However, the provision of such emergency assistance will not bar the administrator from subsequently enforcing the previously issued 120-day disqualification if the recipient fails to regain eligibility by satisfactorily performing the work assignment. The amount of emergency assistance granted will be considered in the computation of the total number of hours the recipient must work.

Recipients who have asked for the opportunity to regain their eligibility during a 120 day disqualification period and who agreed to fulfill the assignment which they previously failed to perform and who, without just cause, fail to fulfill their municipal work assignment will be considered to have acted in bad faith. In such a circumstance, the administrator will enforce the 120-day disqualification for the term of its initial duration.

If a workfare participant regains eligibility under this section but is subsequently disqualified within the initial 120-day period of ineligibility for failing to comply with the municipal work program, that participant will be ineligible for a new 120-day period beginning with the new disqualification date, but will be provided no opportunity to requalify.

Any recipient who intentionally causes damage to property, harasses or harms other employees or who otherwise conducts themselves in a disruptive manner and is discharged by the work supervisor will not be entitled to regain eligibility by returning to the work program. Eligibility may be regained by otherwise becoming employed and meeting the definition of need.

8. Reports. The administrator will itemize the assistance that has been provided to persons who work for the municipality in reports to the DHHS (22 M.R.S.A. § 4316-A(2)).

#### **SECTION 10-507     USE OF RESOURCES**

Each applicant has the responsibility to make a good faith effort to utilize every available or potential resource that may reduce his or her need for general assistance (see Section 10-202 for definition of "Resources"). People who refuse or fail to make a good faith effort to secure a potential resource after receiving written notice to do so are disqualified from receiving assistance until they make an effort to secure the resource. Applicants are required to prove that they have made a good faith effort to secure the resource (22 M.R.S.A. § 4317).

1. Minors. A minor under the age of 18 who has never married and is applying independently for general assistance and who is pregnant or has a dependent child or children will be eligible to receive general assistance only if the minor is residing in the home of his or her parent, legal guardian or other adult relative, in which case the entire household will be evaluated for eligibility. Exceptions to this limitation on eligibility will be made when:
  - A. the minor is residing in a foster home, maternity home, or other adult-supervised supportive living arrangement; or
  - B. the minor has no living parent or the whereabouts of the both parents are unknown; or
  - C. no parent will permit the minor to live in the parent's home; or
  - D. the minor has lived apart from both parents for at least one year before the birth of any dependent child; or
  - E. the DHHS determines that the physical or emotional health or safety of the minor or the minor's dependent child or children would be jeopardized if the minor and his or her child or children lived with a parent; or
  - F. the DHHS determines, in accordance with its regulation, that there is good cause to waive this limitation on eligibility (22 M.R.S.A. § 4309(4)).

Any person under the age of 25 who is applying independently from his or her parents for general assistance will be informed that until he or she reaches the age of 25, the applicant's parents are still legally liable for his or her support and the municipality has the right to seek recovery from the parents of the cost of all assistance granted to such a recipient to the extent his or her parents are financially capable of repaying the municipality (22 M.R.S.A. § 4319).

With regard to such application, the municipality may seek verification of the applicant's need for general assistance by contacting his or her parents. If the applicant's parents declare a willingness to provide the applicant with his or her basic needs directly, and there is no convincing evidence that the applicant would be jeopardized by relying on his or her parents for basic needs, the administrator may find the applicant not to be in need of general assistance for the reason that his or her needs can be provided by a legally liable relative.

2. Mental or Physical Disability. Any applicant who has a mental or physical disability must make a good faith effort to utilize any medical or rehabilitative services which have been recommended by a physician, psychologist or other professional retraining or rehabilitation specialist when the services are available to the applicant and would not constitute a financial burden or create a physical risk to the individual.
3. Written Notice; Disqualification. The administrator will give each applicant written notice whenever the applicant is required to utilize any specific potential resource(s). Any applicant who refuses to utilize potential resources, without just cause, after receiving written 7-day

notice will be ineligible for further assistance until he/she has made a good faith effort to utilize or obtain the resources. General assistance will not be withheld from the applicant pending receipt of a resource if the applicant has made, or is in the process of making, a good faith effort to obtain the resource.

4. Forfeiture of Benefits. Any applicant who forfeits receipt of or causes a reduction in benefits from another public assistance program due to fraud, misrepresentation, a knowing or intentional violation of program rules or a refusal to comply with that program's rules without just cause will be ineligible to receive general assistance to replace the forfeited benefits. To the extent the forfeited benefits can be considered income under general assistance law, the worth of the forfeited benefits will be considered income that is available to the applicant for the duration of the forfeiture.

To the extent the forfeited benefits were provided not in the form of income but, rather, in the form of a specific, regularly issued resource of a calculable value, that resource, up to its forfeited value, need not be replaced with general assistance for a period of 120 days from the date of the forfeiture—unless the municipality is prohibited by federal or state law from considering the forfeited resource as available with respect to local public assistance programs (22 M.R.S.A. § 4317).

#### **SECTION 10-508     PERIOD OF INELIGIBILITY**

No one will have his or her assistance terminated, reduced, or suspended prior to being given written notice and an opportunity for a fair hearing (22 M.R.S.A. § § 4321-4322). Each person will be notified in writing of the reasons for his or her ineligibility, and any person disqualified for not complying with the ordinance will be informed in writing of the period of ineligibility.

1. Work Requirement. Applicants/recipients who do not comply with a work requirement are disqualified from receiving assistance for a period of 120 days (unless they regain their eligibility) (see Sections 10-505, 10-506). If an applicant/recipient is provided assistance and does not comply with the work requirement, the applicant/recipient shall be disqualified for 120 days following the end of the period covered by the grant of assistance. The administrator shall give recipients written notice that they are disqualified as soon as the administrator has sufficient knowledge and information to render a decision of ineligibility.
2. Fraud. People who commit fraud are disqualified from receiving assistance for a period of 120 days (see Section 10-604, "Fraud"). The administrator shall give recipients written notice that they are ineligible as soon as the administrator has sufficient knowledge and information to render a decision. If the disqualification for fraud is issued before the expiration of a grant of assistance, the period of ineligibility shall commence on the day following the end of the period covered by the grant of assistance. If fraud is discovered after the period covered by the grant of assistance has expired, the period of ineligibility will commence on the day of the written notice of ineligibility.

**SECTION 10-509**     UNEMPLOYMENT FRAUD

An applicant who is found ineligible for unemployment compensation benefits because of a finding of fraud by the Department of Labor pursuant to 26 M.R.S.A. § 1051(1) is ineligible to receive general assistance to replace the forfeited unemployment compensation benefits for the duration of the forfeiture established by the Department of Labor. 22 M.R.S.A. § 4317.

**SUBCHAPTER VI – DETERMINATION OF ELIGIBILITY**

**SECTION 10-601**     RECOGNITION OF DIGNITY AND RIGHTS

Any determination or investigation into an applicant's eligibility will be conducted in a manner that will not violate the applicant's privacy or personal dignity or violate his or her individual rights.

**SECTION 10-602**     DETERMINATION; REDETERMINATION

The administrator will make an individual, factual determination of eligibility each time a person applies or reapplies for general assistance. The administrator will make a redetermination of eligibility at least monthly but may do so as often as necessary to administer the program efficiently and meet the needs of the applicants. Upon any application, the administrator will determine the applicant's eligibility on the basis of a 30-day prospective analysis, but may elect to disburse that applicant's assistance periodically, e.g., weekly, throughout a 30-day period of eligibility pursuant to that initial eligibility determination.

The administrator may redetermine a person's eligibility at any time during the period he or she is receiving assistance if the administrator is notified of any change in the recipient's circumstances that may alter the amount of assistance the recipient may receive. Once a recipient has been granted assistance, the administrator may not reduce or rescind the grant without giving prior written notice to the recipient explaining the reasons for the decision and offering the recipient an opportunity to appeal the decision to the fair hearing authority (22 M.R.S.A. § 4309).

**SECTION 10-603**     VERIFICATION

1. Eligibility of applicant; duration of eligibility. The overseer shall determine eligibility each time a person applies or reapplies for general assistance. The period of eligibility will not exceed one month. At the expiration of this period applicants/recipients may reapply for assistance and the person's eligibility will be redetermined.
2. Applicant's responsibilities. Applicants and recipients for general assistance are responsible for providing to the overseer all information necessary to determine eligibility. If further information or documentation is necessary to demonstrate eligibility, the applicant must have the first opportunity to provide the specific information or documentation required by the overseer. When information required by the overseer is unavailable, the overseer must accept alternative available information, which is subject to verification.

Each applicant and recipient has the responsibility at the time of application and continuing thereafter to provide complete, accurate and current information and documentation concerning his/her:

- Need
- Income
- Employment
- Use of income
- Expenses
- Assets & liabilities
- Use of available resources
- Household composition

3. Initial Applicants. Persons who have not applied for assistance in this or any other municipality are considered initial applicants and must have their eligibility determined solely on the basis of need. Initial applicants are not subject to eligibility conditions placed on repeat applicants (see below). However, such applicants are still responsible for providing the GA administrator with reasonably obtainable documentation adequate to verify that there is a need for assistance. In addition, initial applicants must also comply with both lump sum and relevant work rules (i.e. job quit).
4. Repeat Applicants. All applicants for general assistance that are not initial applicants are repeat applicants. The eligibility of repeat applicants must be determined on the basis of need and all other conditions of eligibility established by law and this municipal ordinance.

The administrator will require documentation of a repeat applicant's income, use of income, assets and resources plus actual bills and receipts for rent, utilities, fuel, telephone, medical services and other basic necessities. In addition, repeat applicants instructed to seek employment shall verify their work search results, e.g., provide a list of the employers contacted, the date and time of the application contact, and the name of the employer representative contacted, as required by the GA administrator.

Repeat applicants are also responsible for providing any changes of information reported on previous applications including changes in his/her household or income that may affect his/her eligibility.

5. Unforeseen Repeat Applicants. Unforeseen repeat applicants are applicants who have not applied for assistance within the last twelve months and who have been regularly employed or receiving support from a public benefit or private source who have unexpectedly become unemployed through no fault of their own or whose income and/or benefits (e.g., through an available resource) have ceased through no fault of their own. Such unforeseen repeat applicants may be considered initial applicants for purposes of verification requirements and misspent income if the administrator finds that imposing the general verification requirements and misspent income rules imposed on repeat applicants would be unreasonable or inappropriate.
6. Overseer's responsibilities. In order to determine an applicant's eligibility for general assistance, the overseer first must seek information and documentation from the applicant. Once the applicant has presented the necessary information, the overseer is responsible for determining eligibility. The overseer will seek verification necessary to determine eligibility.

In order to determine eligibility, the overseer may contact sources other than the applicant for verification only with the specific knowledge and consent of the applicant, except that the overseer may examine public records without the applicant's knowledge and consent.

Appropriate sources, which the overseers may contact, include, but are not limited to:

- DHHS and any other department/agency of the state or non-profit organizations
- financial institutions
- creditors
- utility companies
- employers
- landlords
- physicians
- persons with whom the applicant/recipient is a cohabitant
- legally and non-legally liable relatives

Assistance will be denied or terminated if the applicant is unwilling to supply the overseer with necessary information, documentation, or permission to make collateral contacts, or if the overseer cannot determine that eligibility exists based on information supplied by the applicant or others.

7. Redetermination of eligibility. The overseer may redetermine a person's eligibility at any time during the period that person is receiving assistance if the overseer is informed of any change in the recipient's circumstances that may affect the amount of assistance to which the recipient is entitled or that may make the recipient ineligible, provided that once a determination of eligibility has been made for a specific time period, a reduction in assistance for that time period may not be made without prior written notice to the recipient with the reasons for the action and an opportunity for the recipient to receive a fair hearing upon the proposed change.
8. Penalty for Refusing to Release Information. Any person governed by 22 M.R.S.A. § 4314 who refuses to provide necessary information to the administrator after it has been requested must state in writing the reasons for the refusal within 3 days of receiving the request. Any such person who refuses to provide the information, without just cause, commits a civil violation and may be subject to a fine of not less than \$25 nor more than \$100 which may be adjudged in any court of competent jurisdiction. Any person who willfully renders false information to the administrator is guilty of a Class E crime (22 M.R.S.A. § § 4314(5), 4314(6), 4315).
9. Inspection of Rental Units. Any property owner, property manager, or agent receiving or wishing to receive rental payments from the City of Hallowell on behalf of any applicant must comply with 25 M.R.S.A. §§ 2464 and 2468, the most recent version as adopted by the State of Maine of the NFPA Life Safety 101 codes, Chapter 300, Land Use, of the City Code and Chapter 173, Housing Code, as amended. The City reserves the right to inspect any rental unit and lodging, rooming and licensed hotel unit for housing assistance prior to occupancy or as needed. The purpose of the inspection is to determine whether that unit or dwelling, in addition to all common spaces, is safe to occupy and in compliance with the laws, ordinances, and codes outlined here. The City Manager is authorized to promulgate



rules detailing such inspection requirements, consistent with City Council policies. The City may require that an inspection be completed before authorizing rent for applicants in order to ensure that decent and safe housing is being provided. The City may withhold payments of rent or other assistance if any portion of a property is found to be unsafe for occupancy due to violations of the laws, ordinances, and codes outlined here.

[Derivation: Ord. No. 17-05, effective 07/20/2017]

**SECTION 10-604     FRAUD**

1. False representation. It is unlawful for a person to make knowingly and willfully a false representation of a material fact to the administrator in order to receive general assistance or cause someone else to receive general assistance (22 M.R.S.A. § 4315). False representation shall consist of any individual knowingly and willfully:
  - A. making a false statement to the general assistance administrator, either orally or in writing, in order to obtain assistance to which the applicant or the applicant's household is not entitled;
  - B. concealing information from the general assistance administrator in order to obtain assistance to which the applicant or applicant's household is not entitled; or
  - C. using general assistance benefits for a purpose other than that for which they were intended.

No person may be denied assistance solely for making a false representation prior to being given an opportunity for a fair hearing.

2. Period of Ineligibility. When the general assistance administrator finds that a person has knowingly and willfully misrepresented material facts for the purpose of making himself or herself eligible for general assistance, the administrator shall notify that applicant in writing that he or she has been disqualified from receiving assistance for 120 days. For the purpose of this section, a material misrepresentation is a false statement about eligibility factor in the absence of which some or all of the assistance would not be or would not have been granted.

The notification of ineligibility issued by the administrator shall inform the applicant of his or her right to appeal the administrator's decision to the fair hearing authority (FHA) within 5 working days of receipt. The period of ineligibility shall commence on the day following the end of the period covered by the grant of assistance fraudulently received or upon the date of notification of ineligibility, whichever is later.

3. Right to a Fair Hearing. Any applicant who is denied assistance for making a false representation will be afforded the opportunity to appeal the decision to the fair hearing authority (FHA) in accordance with Subchapter VII of this ordinance. No recipient shall have

his or her assistance reduced or revoked during the period of eligibility before being notified and given the opportunity to appeal the decision. Any person who is dissatisfied with the decision of the FHA may appeal that decision to the Superior Court pursuant to Rule 80-B of the Maine Rules of Civil Procedure (22 M.R.S.A. § 4309(3)).

4. Reimbursement. If a recipient does not appeal the decision or if the fair hearing authority determines that a recipient did make a false representation, the recipient will be required to reimburse the municipality for any assistance received to which he/she was not entitled.
5. Dependents. In no event will the ineligibility of a person under this section serve to disqualify any eligible dependent in that household (22 M.R.S.A. § 4309(3)). In the event one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be calculated by dividing the maximum level of assistance available to the entire household by the total number of household members.

#### **SECTION 10-605**     PERIOD OF ELIGIBILITY

The administrator will grant assistance to all eligible persons for a period that is sufficient to meet their need but in no event may a grant of assistance cover a period in excess of one month (22 M.R.S.A. § 4309). Upon receiving a completed and signed application the administrator will determine the applicant's eligibility on the basis of a 30-day prospective analysis.

When an applicant submits an incomplete or unsigned application, due to the 24-hour decision requirement placed on the GA administrator, the GA administrator shall render a notice of "ineligibility" and advise the applicant that he or she has a right to reapply as soon as he or she has the necessary information and/or as soon as is practicable for the applicant.

Although eligibility is determined on a 30-day basis, for reasons of administrative efficiency the administrator may elect to disburse an applicant's assistance for shorter periods of time, such as weekly, throughout the 30-day period of eligibility. When the administrator elects to disburse general assistance for a period of time less than 30 days, subsequent grants of assistance during that 30-day period may be issued pursuant to the initial determination of need unless the applicant's financial situation changes substantially enough to warrant a redetermination of eligibility.

#### **SECTION 10-606**     DETERMINATION OF NEED

The period of time used to calculate need will be the next 30-day period from the date of application (22 M.R.S.A. § 4301(7)). The administrator will calculate applicants' expenses according to the actual expense of the basic necessity or the maximum levels for the specific necessities allowed in Section 10-608, whichever is less. The sum of these expenses, as calculated for a prospective 30-day period, is the applicant's 30-day need. Applicants will not be considered eligible if their income and other resources exceed this calculation except in an emergency (22 M.R.S.A. § 4308(2)) (see Section 10-409 of this ordinance).

Applicants will also not be considered in need of general assistance if their income, property, credit, assets or other resources available to provide basic necessities for their household are greater than the applicable overall maximum level of assistance set forth in the beginning of Section 10-608 (22 M.R.S.A. § § 4301(10), 4305(3-B)). The difference between the applicant's income and the overall maximum levels of assistance established by this ordinance is the applicant's deficit.

Once an applicant's deficit has been determined, the specific maximum levels of assistance for each basic necessity (see Appendixes A-H of this ordinance) shall be used by the administrator to guide the distribution of assistance for which the applicant is eligible. The specific maximum levels of assistance for each basic necessity are intended to be reasonable and sufficient to help recipients maintain a standard of health and decency (22 M.R.S.A. § 4305(3-A)).

1. Income for Basic Necessities. Applicants are required to use their income for basic necessities. Except for initial applicants, no applicant is eligible to receive assistance to replace income that was spent within the 30-day period prior to an application for assistance on goods and services that are not basic necessities. All income spent on goods and services that are not basic necessities will be considered available to the applicant and combined with the applicant's prospective 30-day income for the purposes of computing eligibility (22 M.R.S.A. § 4315-A). Applicants who have sufficient income to provide their basic necessities but who use that income to purchase goods or services which are not basic necessities will not be considered eligible for assistance. Persons who exhaust their income on basic necessities and who still need assistance with other basic necessities will be eligible, provided that their income does not exceed the overall maximum level of assistance.
2. Use-of-Income Requirements. The administrator may require that anyone applying for general assistance provide documentation of his or her use of income. This documentation can take the form of cancelled checks and/or receipts which demonstrate that the applicant has exhausted all household income received over the last 30-day period. Except as is deemed appropriate by the GA administrator for "unforeseen" repeat applicants (See Section 10-603 of this ordinance), repeat applicants may be required to verify that expenditure of income was for basic necessities. Income expended that cannot be verified will generally be considered available and in such case will be added to the 30-day prospective income.

Allowable expenditures include reasonable shelter costs (rent/mortgage); the cost of heating fuel, electricity, and food up to the ordinance maximums; telephone costs at the base rate if the household needs a telephone for medical reasons, the cost of nonelective medical services as recommended by a physician which are not otherwise covered by medical entitlement, Hospital Free Care or insurance; the reasonable cost of essential clothing and non-prescription drugs, and the costs of any other commodity or service determined essential by the administrator.

Items not considered to be basic necessities and thus will not be allowed in the budget computation include:

- Internet services
- Cable or satellite television
- Cellular phones
- Cigarettes/alcohol
- Gifts purchased
- Pet care costs
- Costs of trips or vacations
- Paid court fines
- Repayments of unsecured loans
- Legal fees
- Late fees
- Credit card debt.

The municipality reserves the right to apply specific use-of-income requirements to any applicant, other than an initial applicant, who fails to use his or her income for basic necessities or fails to reasonably document his or her use of income (22 M.R.S.A. § 4315-A). Those additional requirements will be applied in the following manner:

- A. The administrator may require the applicant to use some or all of his or her income, at the time it becomes available, toward specific basic necessities. The administrator may prioritize such required expenditures so that most or all of the applicant's income is applied to housing (i.e., rent/mortgage), energy (i.e., heating fuel, electricity), or other specified basic necessities;
  - B. The administrator will notify applicants in writing of the specific use-of-income requirements placed on them;
  - C. If upon subsequent application it cannot be determined how the applicant's income was spent, or it is determined that some or all of the applicant's income was not spent as directed and was also not spent on basic necessities, the applicant will not be eligible to receive either regular or emergency general assistance to replace that income; and
  - D. If the applicant does not spend his or her income as directed, but can show with verifiable documentation that all income was spent on basic necessities up to allowed amounts, the applicant will remain eligible to the extent of the applicant's eligibility and need.
3. Calculation of Income and Expenses. When determining eligibility, the administrator will subtract the applicant's net income from the overall maximum level of assistance found at the beginning of Section 10-608. If income is greater than the overall maximum level of assistance, the applicant will not be eligible except in an emergency (see Section 10-409). If income is less than the overall maximum level of assistance, the applicant has a deficit.

The municipality will provide assistance in an amount up to the deficit to the extent the applicant also has an unmet need and is in need of basic necessities. The municipality will not grant assistance in excess of the maximum amounts allowed in Section 10-608 of this ordinance for specific basic necessities except in an emergency or when the administrator elects to consolidate the applicant's deficit, as provided immediately below.

4. Consolidation of Deficit. As a general rule and to the extent of their deficit, applicants will be eligible for assistance for any basic necessity up to, but not exceeding, the maximum

amount allowed for that necessity in this ordinance or the actual 30-day cost of the necessity, whichever is less. Under certain circumstances, however, and in accordance with the following conditions, the administrator may consolidate the applicant's deficit and apply it toward a basic necessity in an amount greater than the ordinance maximum for that necessity.

- A. The practice of consolidating the deficit and applying it toward a basic necessity in amounts greater than the ordinance maximum shall be the exception rather than the rule;
- B. The total general assistance grant cannot exceed the total deficit unless the applicant is in an emergency situation; and
- C. The need for the application of the recipient's consolidated deficit toward a basic necessity was not created by the recipient mispending his or her income or resources in violation of the use-of-income requirements of this ordinance.

**SECTION 10-607     INCOME**

- 1. Income Standards. Applicants whose income exceeds the overall maximum level of assistance provided in Section 10-608 shall not be eligible for general assistance except in an emergency. The administrator will conduct an individual factual inquiry into the applicant's income and expenses each time an applicant applies.
- 2. Calculation of Income. To determine whether applicants are in need, the administrator will calculate the income they will receive during the next 30-day period commencing on the date of application, and identify any assets or resources that would alleviate their need. For all applicants other than initial applicants, the administrator will also consider as available income any income that was not spent during the previous 30-day period on basic necessities, as well as any income that was spent on basic necessities in unreasonable excess of the ordinance maximums for specific basic necessities. If a household's income exceeds the amount of the household's need for basic necessities, up to the maximum levels contained in Section 10-608, applicants will not be considered in need.

Exceptions will be made in emergency situations, which may necessitate that the maximum levels be exceeded (22 M.R.S.A. § 4308) (see Section 10-409 of this ordinance). To calculate weekly income and expenses, the administrator will use actual income received or actual anticipated income.

- 3. Types of Income. Income that will be considered in determining an applicant's need includes:
  - A. Earned income. Income in cash or in kind earned by the applicant through wages, salary, commissions, or profit, whether self-employed or as an employee, is considered earned income. If a person is self-employed, total income will be computed by subtracting reasonable and actual business expenses from gross income. When income

consists of wages, the amount computed will be the income available after taxes, social security and other payroll deductions required by state, federal, and local law. Rental income and profit from produce that is sold is considered earned income. Income that is held in trust and unavailable to the applicant or the applicant's dependents will not be considered as earned income.

Note: Actual work-related expenses such as union dues, transportation to and from work, special equipment or work clothes, and child care costs will be deducted from an applicant's income (22 M.R.S.A. § 4301(7)).

- B. Income from Other Assistance or Social Services Programs. State/federal categorical assistance benefits, SSI payments, Social Security payments, VA benefits, unemployment insurance benefits, and payments from other government sources will be considered as income, unless expressly prohibited by federal law or regulation. Federal law prohibits Food Stamps and fuel assistance payments made by the Home Energy Assistance Program (HEAP and EPIC) from being considered income. The value of the food stamps or fuel assistance will not be used to reduce the amount of general assistance the applicant is eligible to receive. Although applicants may have only a limited or reduced need for general assistance for heating fuel or electricity if a recently received HEAP/ECIP benefit has sufficiently credited their account or otherwise prevented the fuel-related costs for the prospective 30-day period.

The administrator's obligation is to always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid for his or her total fuel costs. Accordingly, in such cases, the administrator will budget for the household's heating energy needs according to actual usage, up to the ordinance maximums, but the administrator may, with written notice to the applicant, hold in reserve the heating energy portion of the applicant's deficit until such a time during the period of eligibility that the applicant has a demonstrable need for the disbursement of heating energy assistance; that is, the applicant's fuel tank can accept a minimum fuel delivery or the applicant no longer has a positive credit balance with his or her utility company. The municipality is not obligated to divert any recipient's heating energy allowance toward non-heating purposes solely on the basis of the recipient's receipt of HEAP/ECIP.

Other programs whose income cannot be counted for purposes of GA eligibility include:

- Family Development Accounts (22 M.R.S. § 3762)
- Americorp VISTA program benefits (42 USCS § 5044 (f))
- Property tax rebates issued under the Maine Property Tax Fairness Credit program, only so long as the money is spent on basic necessities. (22 M.R.S.A. § 4301(7))

- C. Court-Ordered Support Payments. Alimony and child support payments will be considered income only if actually received by the applicant. The general assistance administrator will refer cases where support payments are not actually received to the State Department of Health and Human Services' Child Support Enforcement Unit. In order to be eligible for future GA, applicants being referred to DHHS for such

enforcement services shall be required to follow-through with such services. Because child support payments are considered a resource, applicants must make a good faith effort to secure such payments.

- D. Income from Other Sources. Payments from pensions and trust funds will be considered income. Payments from boarders or lodgers will be considered income as will cash or in-kind contributions provided to the household from any other source, including relatives (22 M.R.S.A. § 4301(7)).
- E. Earnings of a Son or Daughter. Earned income received by sons and daughters below the age of 18 who are full-time students and who are not working full-time will not be considered income. The unearned income of a minor in the household will be considered available to the household.
- F. Income from Household Members. Income from household members will be considered available to the applicant, whether or not the household member is legally obligated for the support of the applicant, if the household members pool or share their income and expenses as a family or intermingle their funds so as to provide support to one another.
- G. The Pooling or Non-Pooling of Income. When two or more individuals share the same dwelling unit but not all members of the household are applying for general assistance, the administrator shall make a finding under a rebuttable presumption that the entire household is pooling income (22 M.R.S.A. § 4301(12-A)).

One or more applicants for assistance can successfully rebut the presumption that all household income is being pooled by providing the administrator with verifiable documentation affirmatively demonstrating a pattern of non-pooling for the duration of the shared living arrangement. Such documentation would include evidence of the entire household expenses as well as bank statements, cancelled checks, receipts, landlord statements or other vendor accounts clearly supporting a claim that the applicant has been and is presently solely and entirely responsible for his or her pro-rata share of household costs.

If the applicant is unable to successfully rebut the municipality's presumption that all household income is being pooled, eligibility of the entire household will be determined based on total household income. If the applicant successfully rebuts the municipality's presumption that all household income is being pooled, the applicant's eligibility will be determined on the basis of his or her income and his or her pro-rata share of actual household expenses.

- H. Lump Sum Income. A lump sum payment received by any GA applicant or recipient prior or subsequent to the date of application for general assistance will be considered as income available to the household. However, verified required payments (i.e., any third party payment which is required as a condition of receiving the lump sum payment, or any payments of bills earmarked for the purpose for which the lump sum payment was made) and any amount of the lump sum payment which the applicant can document was

spent on basic necessities, as described below, will not be considered available income.

Where a household receives a lump sum payment at any time prior or subsequent to the date of application for general assistance, the administrator will assess the need for prorating an applicant's eligibility for general assistance according to the following criteria (22 M.R.S.A. § 4301(7), (8-A)):

- (1) identify the date the lump sum payment was received;
- (2) subtract from the lump sum payment all required payments;
- (3) subtract from the lump sum any amount the applicant can demonstrate was spent on basic necessities, including all basic necessities as defined by the general assistance program such as: reasonable payment of funeral or burial expenses for a family member; any reasonable travel costs related to the illness or death of a family member; repair or replacement of essentials lost due to fire, flood or other natural disaster; repair or purchase of a motor vehicle essential for employment, education, training or other day-to-day living necessities. Repayments of loans or credit, the proceeds of which can be verified as having been spent on basic necessities; and payment of bills earmarked for the purpose for which the lump sum is paid must also be subtracted. (22 M.R.S.A. § 4301(7), (8-A));
- (4) add to the remainder all income received by the household between the date of receipt of the lump sum payment and the date of application for general assistance; and
- (5) divide the sum created in subsection (4) by the verified actual monthly amounts for all of the household's basic necessities. 22 M.R.S.A. § 4305(3-B)

This dividend represents the period of proration determined by the administrator to commence on the date of receipt of the lump sum payment. The prorated sum for each month must be considered available to the household for 12 months from the date of application or during the period of proration, whichever is less.

The household of an initial applicant that is otherwise eligible for emergency assistance may not be denied emergency assistance to meet an immediate need solely on the basis of the proration of a lump sum payment. (22 MRSA § 4308)

**SECTION 10-608**     **BASIC NECESSITIES; MAXIMUM LEVELS OF ASSISTANCE**

1. Overall Maximum Levels of Assistance. Notwithstanding any of the maximum levels of assistance for specific basic necessities listed in Appendices B-H of this ordinance, an applicant's eligibility for general assistance will be first determined by subtracting his or her income from the overall maximum level of assistance designated in Appendix A for the applicable household size (22 M.R.S.A. § 4305 (3-B)). The difference yielded by this calculation shall be the applicant's deficit.



Applicants will be eligible for general assistance up to the calculated deficit to the extent the applicant is unable to otherwise provide the basic necessities essential to maintain themselves or their families. Applicants with no deficit shall be found ineligible for general assistance unless they are in an emergency, in which case eligibility for emergency general assistance will be determined according to Section 10-409 of this ordinance.

2. Maximum Levels of Assistance for Specific Basic Necessities. The municipality will grant assistance to eligible applicants for basic necessities according to the maximum levels for specific types of assistance set forth below. The administrator, in consultation with the applicant, may apply the amount of the applicant's deficit toward assistance with any one or combination of necessities not to exceed the total deficit. These maximum levels will be strictly adhered to unless the administrator determines that there are exceptional circumstances and an emergency is shown to exist, in which case these absolute levels will be waived in order to meet immediate needs. In all cases either the actual expenses the applicant incurs for basic necessities or the maximum amount allowed in each category, whichever is less, will be used in determining need.

In roommate situations, the applicant's need for common living expenses for rent, fuel, electricity, etc., will be presumed to be reduced by an amount equal to the other household members' proportionate fair share of the common living expenses. No applicant will be allowed to claim a need for any expense which has been or will be paid by another person. In addition, as a general rule the municipality will not provide a benefit toward a basic need by paying a bill that is issued to a person not living with the applicant's household or that has otherwise been incurred by a person who has not been found eligible to receive assistance.

Temporary exceptions to this general rule may be made by the administrator in the following circumstances: (1) a recent, unplanned separation has occurred in the household resulting in the sustained or permanent absence of a former household member in whose name the bill was customarily issued; (2) the applicant and members of the applicant's household were or will be the sole recipients of the commodities or services covered by any bill to be paid or partially paid with general assistance; and (3) the applicant will make a good faith effort to direct the vendor to issue future bills in the name of the applicant or other responsible person residing in the household.

- A. Food. The administrator will provide food assistance to eligible persons up to the allowed maximum amounts designated by the U.S.D.A. Thrifty Food Plan for the appropriate household size.

For this purpose, the municipality hereby incorporates by reference the U.S.D.A. Thrifty Food Plan, as distributed by the Maine Department of Health and Human Services on or about October of each year. See Appendix B of this ordinance for the current year's food maximums.

In determining need for food the administrator will not consider the value of the food stamps an applicant receives as income (22 M.R.S.A. § 4301.7(A); 7 U.S.C. §2017(b)). The municipality will authorize vouchers to be used solely for approved food products.

The administrator will exceed the maximums when necessary for households having members with special dietary needs. The administrator may require a doctor's statement verifying there is a special dietary need requiring an expenditure for food that is greater than the ordinance maximums.

B. Housing. The administrator will provide assistance with rent or mortgage payments that are reasonable and/or within the allowed maximum levels. See Appendix C of this ordinance for the current year's housing maximums. It is the applicant's responsibility to find suitable housing, although the administrator may help the applicant find housing when appropriate. The administrator will inform the applicant of the allowed housing maximums to assist the applicant in his or her search for housing. The allowed maximum for any applicant will be the categorical housing maximum representing the minimum dwelling unit space necessary to adequately shelter the applicant household. Applicants requesting assistance for housing that contains more bedrooms than are necessary for the number of household members will be provided assistance according to the maximum level for the number of rooms actually needed.

(1) Rental Payments to Relatives. The municipality may elect to not issue any rental payment to an applicant's relatives unless the rental relationship has existed for at least three months and the applicant's relative(s) rely on the rental payment for their basic needs. For the purpose of this section, a "relative" is defined as the applicant's parents, grandparents, children, grandchildren, siblings, parent's siblings, or any of those relative's children (22 M.R.S.A. § 4319(2)).

(2) Rental Payments to Non-Relatives. When applicants are living in private homes with the owner or sharing dwelling units with people who are not pooling income or who are not legally liable relatives, the amount allowed as the applicant's shelter expense will be the applicant's pro rata share of the actual, total shelter cost, up to the ordinance maximum (22 M.R.S.A. § 4301(6)).

Any housing assistance issued to a recipient in such a circumstance will be issued, whenever reasonably possible, to the landlord or property owner with the most superior interest in the property; i.e., to a landlord before a tenant, or to a mortgagee before a mortgagor.

When the municipality issues in aggregate more than \$600 in rental payments to any landlord in any calendar year, a 1099 form declaring the total amount of rental payments issued during the calendar year will be forwarded to the Internal Revenue Service (IRS) pursuant to IRS regulation (see section 6041(a) of Internal Revenue Code).

Any landlord wishing to regularly receive rental payments from the municipality on behalf of applicants renting rooms from the landlord's own residence must, at a minimum, make a good faith effort to obtain a lodging license from the Department of Health and Human Services, Division of Health Engineering, pursuant to 10-144A

Code of Maine Regulations, Chapter 201, as a condition of that landlord receiving future general assistance payments on behalf of his or her tenants.

- (3) Mortgage Payments. In the case of a request for assistance with a mortgage payment, the general assistance administrator will make an individual factual determination of whether the applicant has an immediate need for such aid. In making this determination, the administrator will consider the extent and liquidity of the applicant's proprietary interest in the housing. Factors to consider in making this determination include:
- (a) the marketability of the shelter's equity;
  - (b) the amount of equity;
  - (c) the availability of the equity interest in the shelter to provide the applicant an opportunity to secure a short-term loan in order to meet immediate needs;
  - (d) the extent to which liquidation may aid the applicant's financial rehabilitation;
  - (e) a comparison between the amount of mortgage obligations and the anticipated rental charges the applicant would be responsible for if he/she were to be dislocated to rental housing;
  - (f) the imminence of the applicant's dislocation from owned housing because of his or her inability to meet the mortgage payments;
  - (g) the likelihood that the provision of housing assistance will prevent such dislocation; and
  - (h) the applicant's age, health, and social situation.

These factors shall be considered when determining whether the equity in the shelter is an available asset which may be substituted for the assistance the municipality would otherwise be required to provide.

The administrator shall consider issuing a benefit in response to the applicant's request for mortgage assistance to the extent the applicant is otherwise eligible for general assistance if after reviewing the above criteria the administrator determines that

- (a) the monthly mortgage obligation is in accordance with the maximum levels of assistance available for housing appropriate to the applicant's household size;
- (b) there is no capacity in the accumulated equity in the property, when considered in the context of the applicant's borrowing capacity with the mortgagee or the general lending community, to suspend the mortgage obligation temporarily or

reamortize the mortgage in such a way as to suspend or reduce the mortgage obligation; and

- (c) the failure to provide a mortgage payment in a timely manner could jeopardize the applicant's continued right of possession of the property.

If a mortgage payment is necessary, the administrator will pay the actual amount due, up to the amount allowed according to the maximum levels listed below. After an initial application, assistance with such payments will be given only after the applicant has made all reasonable efforts to borrow against the equity of his or her home. If there is not sufficient equity in the home with which to secure a loan, and if the monthly mortgage payments are not realistically in line with the rental rates for similar housing in the area that could meet the applicant's needs, the administrator will inform the applicant that he/she is responsible for finding alternative housing within his or her ability to pay and will be obligated to make all reasonable efforts to secure such housing.

- (4) Liens. The municipality may place a lien on the property in order to recover its costs of granting assistance with mortgage payments. In addition, a municipality may claim a lien against the owner of real estate for the amount of money spent by it to make capital improvements to the real estate (22 M.R.S.A. § 4320). No lien may be enforced against a recipient except upon his or her death or the transfer of the property. Further, no lien may be enforced against a person who is currently receiving any form of public assistance, or who would again become eligible for general assistance if the lien were enforced.

If the municipality determines that it is appropriate to place a lien on a person's property to recover its costs of providing general assistance for a mortgage payment or capital improvement it must file a notice of the lien with the county registry of deeds where the property is located within 30 days of making the mortgage payment. That filing shall secure the municipality's or the state's interest in an amount equal to the sum of that mortgage or capital improvement payment and all subsequent mortgage or capital improvement payments made on behalf of the same eligible person, plus interest and costs.

Not less than 10 days prior to filing the lien in the registry, the municipal officers must send notice to the owner of the real estate, the general assistance recipient, and any record holder of the mortgage by certified mail, return receipt requested, that a lien on the property is going to be filed with the registry. This notice must clearly inform the recipient of the limitations upon enforcement plus the name, title, address and telephone number of the person who granted the assistance. The municipal officers must also give written notice to the recipient each time the amount secured by the lien is increased because of an additional mortgage payment. This notice must include the same information that appeared on the original intent-to-file notice sent to the recipient.

The municipality may charge interest on the amount of money secured by the lien. The municipal officers will establish the interest rate not to exceed the maximum rate of interest allowed by the State Treasurer to be charged against delinquent taxes. The interest will accrue from the date the lien is filed.

- (5) Property Taxes. In the event an applicant requests assistance with his or her property taxes, the administrator will inform the applicant that there are two procedures on the local level to request that relief: the poverty abatement process (36 M.S.R.A. § 841(2)) and General Assistance. If the applicant chooses to seek property tax assistance through General Assistance, or if the applicant is denied a poverty tax abatement, the administrator may consider using general assistance to meet this need only if:
- (a) the property tax in question is for the applicant's place of residence;
  - (b) there is a tax lien on the property which is due to mature within 60 days of the date of application;
  - (c) as a matter of municipal policy or practice, or on the basis of information obtained from the applicant's mortgagee, if any, it is reasonably certain that a tax lien foreclosure will result in subsequent eviction from the residential property; and
  - (d) the applicant, with sufficient notice, applies for property tax relief through the Maine Property Tax Fairness Credit program, when available.
- (6) Housing Maximums. The maximum levels of housing assistance contained in this ordinance have been derived either from a locally accomplished fair market rental survey or the fair market rental values developed by the United States Department of Housing and Urban Development (HUD). If the maximum levels of housing are derived from the HUD values made effective as of every October 1, and adjusted to disregard the current and averaged utility allowances as developed by the Maine State Housing Authority, those levels are hereby incorporated by reference. See Appendix C of this ordinance for the current year's housing maximums.

If and when the maximum levels of housing contained in this ordinance are derived from a locally developed fair market rental survey, a record of that survey will be submitted to the DHHS, General Assistance Unit, and the maximum levels of housing assistance will be incorporated into this ordinance pursuant to the ordinance adoption and amendment procedures found at 22 M.R.S.A. § 4305.

- C. Utilities. Expenses for lights, cooking, and hot water will be budgeted separately if they are not included in the rent. Applicants are responsible for making arrangements with the utility company regarding service, including entering into a special payment arrangement if necessary.

Assistance will be granted to eligible applicants on the basis of their most recent bill. The

municipality is not obligated to pay back bills or utility security deposits. Exceptions may be made in emergency situations pursuant to Section 10-409.

Disconnection of utility service will not be considered an emergency in all cases. The administrator will make an individual, factual analysis to determine if the termination of utility service constitutes an emergency. The administrator will consider the household composition, the time of year, the age and health of the household members, and other appropriate factors in reaching a decision. Applicants who had sufficient income, money, assets or other resources to pay their utility bill when it was received, but who spent all or part of their income on items which were not basic necessities, will not be eligible to receive general assistance to replace those funds.

Applicants have the burden of providing evidence of their income and use of income for the applicable time period (22 M.R.S.A. § 4308(2)) (see Sections 10-409 and 10-603). The administrator will notify applicants in writing that they must give the administrator prompt notice if their utility service is to be terminated or if their fuel supply is low. It is the applicant's responsibility to attempt to make arrangements with the utility company to maintain their service and to notify the administrator if assistance is needed with a utility bill prior to service being terminated.

- (1) Electricity Maximums for Households Without Electric Hot Water. See Appendix D of this ordinance for the current year's electricity maximums.
- (2) Electricity Maximums for Households that Use Electrically Heated Hot Water. See Appendix D of this ordinance for the current year's electricity maximums.
- (3) Non-Electric Utilities. The allowed amount for water and sewer utility service will be budgeted at a 30-day reasonable usage rate.

- D. Fuel. Expenses for home heating will be budgeted according to the actual need for fuel during the heating season (September through May) provided such expenses are reasonable, and at other times during the year when the administrator determines the request for fuel assistance is reasonable and appropriate.

Assistance will be granted to eligible applicants on the basis of their most recent bill. The municipality is not responsible for back bills except in an emergency as provided in Section 10-409. Applicants are responsible for monitoring their fuel supply and requesting assistance prior to depleting their fuel supply. When applicants who have been informed of this responsibility run out of fuel nonetheless, and can show no just cause for failing to give the administrator timely notice of their need for fuel, the administrator shall find that the emergency was not beyond the applicants' control, and process the emergency request accordingly, pursuant to Section 10-409 of this ordinance.

See Appendix E of this ordinance for the current year's fuel maximums.

- E. Personal Care and Household Supplies. Expenses for ordinary personal and household supplies will be budgeted and allowed according to the applicant's actual need for these items. Personal and household supplies include: hand soap, toothpaste, shampoo, shaving cream, deodorant, dish detergent, laundry supplies and costs, household cleaning supplies, razors, paper products such as toilet paper, tissues, paper towels, garbage/trash bags light bulbs and supplies for children under 5 years of age. See Appendix F of this ordinance for the current year's personal care and household supplies maximums.
- F. Other Basic Necessities. Expenses falling under this section will be granted when they are deemed essential to an applicant's or recipient's health and safety by the general assistance administrator and, in some cases, upon verification by a physician. Assistance will be granted only when these necessities cannot be obtained through the utilization of available resources.
- (1) Clothing. The municipality may assist a household with the purchase of adequate clothing. Before assistance will be granted for clothing, the general assistance administrator must be satisfied that the applicant has utilized all available resources to secure the necessary clothing. In some circumstances, clothing will be a postponable item. Exceptions to this would be, for example, if fire, flood or unusually cold weather makes extra clothing an immediate necessity, special clothing is necessary for the applicant's employment, or a household member is without adequate clothing.
- (2) Medical. The municipality will pay for essential medical expenses, other than hospital bills (see below), provided that the municipality is notified and approves the expenses and services prior to their being made or delivered. Medical expenses include prescriptions, devices, treatments, or services that are determined to be 'medically necessary' by a licensed physician. The municipality will grant assistance for medical services only when assistance cannot be obtained from any other source and the applicant would not be able to receive necessary medical care without the municipality's assistance. The applicant is required to utilize any resource, including any federal or state program, that will diminish his or her need to seek general assistance for medical expenses. The municipality will grant assistance for non-emergency medical services only if a physician verifies that the services are essential.

Provided there is no cost to the applicant, the administrator may require a second medical opinion from a physician designated by the municipality to verify the necessity of the services.

Generally, the municipality will issue general assistance at the established Medicaid rates for all medical services, prescriptions, or other medical commodities. Before authorizing general assistance for any medical expenses, the administrator will inform the pharmacy or medical service provider of the municipality's intention to pay for the medical service at the Medicaid rate, and ask to be billed accordingly.

Ordinary medical supplies/non-prescription drugs will be budgeted at the actual amount when the applicant can demonstrate a need for such items. Allowable supplies include bandages, aspirin, cough syrup, and other generic brand, non-prescription medicines. In addition, the basic monthly rate for telephone service will be budgeted when a telephone is essential to the health and safety of the household. In order for telephone service to be considered an allowable expense the applicant must provide a written statement from a physician certifying that the telephone is essential.

- (3) Hospital Bills. In the event of an emergency admission to the hospital, the hospital must notify the administrator within 5 business days of the admission. Notification must be by telephone, confirmed by certified mail, or by certified mail only. If a hospital fails to give timely notice to the administrator, the municipality will have no obligation to pay the bill.

Any person who cannot pay his or her hospital bill must apply to the hospital for consideration under the Hospital's Free Care Program as provided in Title 22 M.R.S.A. § 1716. Anyone who is not eligible for the hospital's free care program may apply for general assistance. Applicants must apply for assistance within 30 days of being discharged from the hospital and provide a notice from the hospital certifying that he or she is not eligible for the hospital's free care program.

Before the administrator will consider whether to allow a hospital bill as a necessary expense, the applicant must enter into a reasonable payment arrangement with the hospital. The payment arrangement will be based upon the Medicaid rate. In determining an applicant's eligibility, the municipality will budget the monthly payment to the hospital the applicant has agreed to pay. The applicant's need for assistance with a hospital bill will be considered each time he/she applies by including the amount of the bill in the applicant's monthly budget, but the recipient will be responsible for making any necessary payments to the hospital pursuant to the use-of- income requirements found at Section 10-606 of this ordinance.

- (4) Dental. The municipality will pay for medically necessary dental services only. As is the case with medical services generally, the municipality will issue general assistance for dental services at the established Medicaid rates for those services, and before authorizing the general assistance benefit for dental services, the administrator will inform the dentist or dental surgeon of the municipality's intention to pay at the Medicaid rate. If full mouth extractions are necessary, the municipality will pay for dentures provided the applicant has no other resources to pay for the dentures. The applicant will be referred to a dental clinic in the area whenever possible. The administrator will expect the applicant to bear a reasonable part of the cost for dental services, including extractions and dentures, taking into account the applicant's ability to pay.
- (5) Eye Care. In order to be eligible to receive general assistance for eyeglasses, an applicant must have his or her medical need certified by a person licensed to



practice optometry. The general assistance administrator will provide assistance for eyeglasses to eligible persons only after the applicant has exhausted all other available resources and generally only at the Medicaid rate.

- (6) Telephone Charge. A payment for basic telephone will only be allowed if a telephone is necessary for medical reasons as verified by a physician. At the discretion of the GA administrator, minimum/basic telephone services may be allowed for households with children, for households where job search or job related reasons exist and/or for any other reasons the administrator deems necessary.
- (7) Work-Related Expenses. In determining need, reasonable and actual work-related expenses will be deducted from earned income. These expenses include childcare costs, work clothes, supplies and transportation at the actual costs not to exceed the ordinance maximum (see Appendix G for this year's maximum mileage allotment). The applicant is required to provide documentation substantiating the costs and that the expenses were necessary.
- (8) Travel Expenses. In determining need, necessary travel which is not work-related will be budgeted if the applicant can satisfy the administrator that the prospective need for travel is necessary. For applicants in rural areas, weekly transportation to a supermarket will be considered, as will any medically necessary travel. See Appendix G for the current rate at which such necessary travel will be budgeted. This rate shall be construed to subsidize all costs associated with automobile ownership and operation, including gas/oil, tires, maintenance, insurance, financing, licensing/registration, excise tax, etc.
- (9) Burials, Cremations. Under the circumstances and in accordance with the procedures and limitations described below (see Section 10-609), the municipality recognizes its responsibility to pay for the burial or cremation of eligible persons. See Appendix H for the current maximums.
- (10) Capital Improvements. The costs associated with capital improvements/ repairs (e.g., heating/water/septic system repair) will generally not be budgeted as a basic necessity. Exceptions can be made only when the capital improvement/repair has been pre-approved by the administrator as a necessary expense and the monthly cost of the capital improvement/repair has been reduced as far as reasonably possible; for example, by means of the applicant entering into an installment payment arrangement with the contractor. The administrator may grant general assistance for capital improvements when:
  - (a) the failure to do so would place the applicant(s) in emergency circumstances;
  - (b) there are no other resources available to effect the capital repair; and
  - (c) there is no more cost-effective alternative available to the applicant or municipality to alleviate an emergency situation.

In some cases, the entire immediate cost of the capital improvement can be mitigated by the applicant entering into an installment payment arrangement with a contractor. The municipality reserves the right to place a lien on any property pursuant to 22 M.R.S.A. § 4320 when general assistance has been used to effect a capital improvement. The lien process shall be accomplished in the same manner as for mortgage payments, as described in subsection B (4) "Liens", above.

[Derivation: Ord. No. 17-10, eff. 12/11/2017 (emergency)]

**SECTION 10-609**     BURIALS; CREMATIONS

1. Funeral Director Must Give Timely Notice. In order for the municipality to be liable for a burial or cremation expense, the funeral director must notify the administrator prior to the burial or cremation or by the end of three business days following the funeral director' receipt of the body, whichever is earlier (22 M.R.S.A. §4313(2)). This contact by the funeral director shall begin the process of developing an application for burial/cremation assistance on behalf of the deceased. It is the funeral director's responsibility to make a good-faith effort to determine if the family or any other persons are going to pay all or part of the burial expenses. If family members or others are unable to pay the expenses, and the funeral director wants the municipality to pay all or part of the expenses, the funeral director must make timely contact to the municipal administrator. In addition, the funeral director may refer legally liable relatives to the administrator so that a timely determination of financial capacity may be accomplished.
2. Application for Assistance Shall be Calculated on Behalf of the Deceased. For the purposes of determining residency, calculating eligibility and issuing general assistance for burial or cremation purposes, an application for assistance shall be completed by the administrator on behalf of the deceased.

With regard to residency, the municipality of responsibility for burial expenses shall be the municipality in which the eligible deceased person was a resident at the time of death as residency is determined under Section 10-410 of this ordinance.

Although legally liable relatives may be asked to provide information regarding their income, assets, and basic living expenses, that information will not be construed as an application for general assistance inasmuch as living persons are not eligible for burial assistance. To clarify this point of law, although legally liable relatives have a financial responsibility to pay for the burial or cremation of their relatives, that financial responsibility only exists to the extent the legally liable relatives have a financial capacity to do so. Therefore, legally liable relatives who are eligible for general assistance, by virtue of their eligibility, have no legal obligation to pay for the burial or cremation of their relatives. For these reasons, all general assistance issued for burial or cremation purposes shall be issued on behalf of, and in the name of, the deceased.

3. Financial Responsibility of Certain Family Members. Through October 31, 2017, grandparents, parents, children and grandchildren of the deceased, who live in Maine or

own property in Maine, are financially responsible for the burial or cremation of the deceased to the extent those relatives, individually or as a group, have a financial capacity to pay for the burial or cremation either in lump sum or by means of a budgeted payment arrangement with the funeral home. Effective November 1, 2017, grandparents, parents, children and grandchildren of the deceased whether or not living in or owning property in Maine, and the spouse or registered domestic partner of the deceased, are financially responsible for the burial or cremation of the deceased to the extent those relatives, individually or as a group, have a financial capacity to pay for the burial or cremation either in lump sum or by means of a budgeted payment arrangement with the funeral home. Accordingly, at the request of the administrator, all legally liable relatives must provide the municipal administrator with any reasonably requested information regarding their income, assets, and basic living expenses. The Administrator may also seek information from financial institutions holding assets of the deceased. Effective November 1, 2017, Maine law requires a financial institution to disclose the amount deposited in the corporation or association when the municipality or its agents are acting in accordance with section 4313(2) and provide a written request and a notarized affidavit signed by the overseer of the municipality or its agents stating that the named depositor is deceased.

4. Consideration of the Financial Responsibility of Family Members. Generally, when the administrator can make a finding that one or more of the deceased's legally liable relatives have an obvious and demonstrable financial capacity to pay for the burial or cremation, by lump sum payment or by means of a reasonable payment arrangement, the municipality will not grant the requested burial or cremation assistance. When the administrator is unable to make such a finding, the following proration of familial responsibility will be implemented.
5. Proration of Familial Responsibility. A proration of familial financial responsibility will be used when no legally liable relative possesses an obvious and demonstrable capacity to pay for the burial or cremation, but one or more of the financially liable relatives is found to have a financial capacity to make a partial financial contribution, or the administrator is unable to determine the financial capacity of one or more of said relatives.

Under these circumstances, each legally liable relative is considered to be responsible for his or her pro rata share of the total municipal contribution that would exist if no legally liable relatives had a financial capacity to contribute. Furthermore, and as long as all other eligibility factors have been satisfied, the municipality will provide as a burial or cremation benefit the aggregate of all pro rata shares less the share of any legally liable relative who refuses to cooperate with the administrator by providing information or documentation reasonably necessary to determine that relative's financial capacity, and less any share or part of a share attributable to a legally liable relative who can financially contribute or partially contribute toward the burial or cremation to the extent of that relative's share.

6. Eight Days to Determine Eligibility. The administrator may take up to 8 days from the date of contact by the funeral director to issue a written decision regarding the amount of the municipal contribution toward the burial or cremation. The 8-day eligibility determination period from the date of contact by the funeral director shall be used as necessary to make third-party collateral contacts, verify the listing of legally liable family members and determine their respective financial capacities to contribute to the burial or cremation,

contact the personal representative of the deceased's estate, if any, and other related administrative tasks. The administrator shall not use this 8-day period allowed by law to unreasonably delay the municipality's decision.

7. Municipal Obligation to Pay When Legally Liable Relatives or Others Can Contribute. The figures provided in this section are the maximum benefits provided by the municipality when no contributions toward the burial or cremation are available from any other source. To the extent any legally liable relatives of the deceased have a financial capacity to pay for the burial or cremation, that financial capacity shall be deducted from the maximum burial costs allowed by this section. In addition, any other benefits or resources that are available, such as Social Security burial benefits, veterans' burial benefits, or contributions from other persons, will be deducted from the maximum amount the municipality will pay, except there will be no deduction from the municipal benefit level with respect to any contribution provided for the purpose of publishing an obituary notice up to an aggregate contribution limit for this purpose of \$75 when a paid receipt demonstrating the purchase of an obituary notice is provided to the administrator.
8. Burial Expenses. The administrator will respect the wishes of family members with regard to whether the deceased is interred by means of burial or cremated. See Appendix H for the maximum levels of assistance granted for the purpose of burials.
9. Cremation Expenses. In the absence of any objection by any family members of the deceased, or when neither the administrator nor the funeral director can locate any family members, the administrator may issue general assistance for cremation services. See Appendix H for the maximum levels of assistance granted for the purpose of cremations.

[Derivation: Ord. No. 17-10, eff. 12/11/2017 (emergency)]

**SECTION 10-610**     NOTICE OF DECISION

1. Written Decision. The administrator will give a written decision to each applicant after making a determination of eligibility each time a person applies. The decision will be given to the applicant within 24 hours of receiving a completed and signed application (22 M.R.S.A. § 4305(3)) (see Subchapter IV, Section 10-406).

When an applicant submits an incomplete or unsigned application, due to the 24-hour decision requirement placed on the GA administrator, the GA administrator may decide to render a notice of "ineligibility" and provide the applicant with another application to submit as soon as is practicable for the applicant.

In order to ensure that applicants understand their rights, it is the responsibility of the general assistance administrator to explain the applicants' right to a fair hearing in the written notice of decision.

2. Contents. After an application has been completed, applicants will be given written notice of any decision concerning their eligibility for assistance. In addition to the contents of a written decision listed in Section 10-406 of this ordinance, the notice will state that applicants:

- A. have the right to a fair hearing and the method by which they may obtain a fair hearing and;
  - B. have the right to contact the DHHS if they believe the municipality has violated the law. The decision will state the method for notifying the department.
3. Disbursement of General Assistance. Except when determined impractical by the administrator, all general assistance will be provided in the form of a voucher or purchase order payable to a vendor or through direct municipal payment to a provider of goods or services. General assistance will not be issued in the form of a cash payment to an applicant unless there is no alternative to making such a cash payment, in which case the administrator shall document the circumstances for issuing general assistance in the form of cash (22 M.R.S.A. § 4305(6)).

## **SUBCHAPTER VII – THE FAIR HEARING**

### **SECTION 10-701     RIGHT TO A FAIR HEARING**

Within 5 working days of receiving a written notice of denial, reduction or termination of assistance, or within 10 working days after any other act or failure to act, the applicant or his or her authorized representative has the right to request a fair hearing (22 M.R.S.A. § 4322). The right to review a decision of the general assistance administrator is a basic right of the applicant to a full evidentiary hearing and is not limited solely to a review of the decision.

### **SECTION 10-702     METHOD OF OBTAINING A FAIR HEARING**

Upon receiving notification of the decision of the general assistance administrator, all claimants will be informed of the method of obtaining a fair hearing. All complaints that are not clear requests for a fair hearing will be answered by a personal interview or in writing by the general assistance administrator. If the client is satisfied with the adjustment or explanation, the administrator will make an entry in the case record and file any correspondence involved.

1. Written Request. To obtain a fair hearing, the claimant, or his or her authorized representative, must make a written request within 5 working days of receiving the administrator's decision to grant, deny, reduce or terminate assistance, or within 10 working days after any other act or failure to act. The administrator will make available a printed form for requesting a fair hearing and will assist the claimant in completing it if necessary. On the printed form, the claimant will give the following information:
  - A. the decision on which review is sought;
  - B. the reason(s) for the claimant's dissatisfaction and why the claimant believes he/she is eligible to receive assistance; and
  - C. the relief sought by the claimant.

The administrator cannot deny or dismiss a request for a hearing unless it has been withdrawn (in writing) by the claimant.

2. Scheduling the Fair Hearing. Upon receipt of the completed written request the fair hearing authority must meet and hold the hearing within 5 working days. The administrator will notify the claimant in writing when and where the hearing will be held (22 M.R.S.A. § 4322). In addition to the date, time and place of the hearing, the notice of fair hearing sent to the claimant shall include, at a minimum, the claimant's rights to:
  - A. be his or her own spokesperson at the fair hearing, or be represented by legal counsel or other spokesperson at the hearing, at the claimant's own expense;

B. confront and cross-examine any witnesses presented at the hearing against the claimant; and

C. resent witnesses on his or her own behalf.

Arrangements for the date, time, and place of the hearing will take into consideration the convenience of the claimant and hearing authority. The claimant will be given timely notice to allow for preparation and will also be given adequate preliminary information about the hearing procedure to allow for effective preparation of his or her case.

**SECTION 10-703     THE FAIR HEARING AUTHORITY**

The municipal officers will appoint a fair hearing authority (FHA) that will determine, based on all the evidence presented at the fair hearing, whether the claimant(s) were eligible to receive assistance at the time they applied for GA. The FHA is charged with the responsibility of ensuring that general assistance is administered in accordance with the state law and local ordinance.

The fair hearing authority may consist of the municipal officers, one or more persons appointed by the municipal officers to act as the FHA , or, if designated, the board of appeals created under 30-A M.R.S.A. § 2691 (22 M.R.S.A. § 4322). In determining the organization of the fair hearing authority, the municipal officers will use the following criteria. The person(s) serving as FHA must:

1. not have participated in the decision which is the subject of the appeal;
2. be impartial;
3. be sufficiently skilled in interviewing techniques to be able to obtain evidence and the facts necessary to make a fair determination; and
4. be capable of evaluating all evidence fairly and realistically, explaining to the claimant the laws and regulations under which the administrator operated, and interpreting to the administrator any evidence of unsound, unclear, or inadequate policies, practices or actions.

**SECTION 10-704     FAIR HEARING PROCEDURE**

1. Fair Hearing Procedure. When a claimant requesting a fair hearing is notified of the date, time, and place of the hearing in writing, he/she will also be given adequate preliminary information about the hearing procedure to allow for effective preparation of his or her case. The claimant shall be permitted to review his or her file prior to the hearing. At a minimum, the claimant will be told the following information, which will govern all fair hearings. All fair hearings will:

A. be conducted privately, and will be open only to the claimant, witnesses, legal counsel, or others whom the claimant wants present, and the general assistance administrator,

his or her agents, counsel and witnesses;

- B. be opened with a presentation of the issue by the fair hearing authority;
- C. be conducted informally, without technical rules of evidence, but subject to the requirements of due process;
- D. allow the claimant and the administrator the option to present their positions for themselves or with the aid of others, including legal counsel;
- E. give all participants an opportunity to present oral or written testimony or documentary evidence, offer rebuttal; question witnesses presented at the hearing; and examine all evidence presented at the hearing;
- F. result in a decision, based exclusively on evidence or testimony presented at the hearing; and
- G. be tape recorded, and result in a written decision that is given to the claimant and filed with evidence introduced at the hearing. The fair hearing authority will allow the claimant to establish all pertinent facts and circumstances, and to advance any arguments without undue interference. Information that the claimant does not have an opportunity to hear or see will not be used in the fair hearing decision or made part of the hearing record. Any material reviewed by the fair hearing authority must be made available to the claimant or his or her representative. The claimant will be responsible for preparing a written transcript if he/she wishes to pursue court action.

The fair hearing authority shall admit all evidence if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs (22 M.R.S.A. § 4322).

2. Claimant's Failure to Appear. In the event the claimant fails to appear, the FHA will send a written notice to the claimant that the GA administrator's decision was not altered due to the claimant's failure to appear. Furthermore, the notice shall indicate that the claimant has 5 working days from receipt of the notice to submit to the GA administrator information demonstrating "just cause," for failing to appear.

For the purposes of a claimant's failure to appear at a fair hearing, examples of "just cause" include:

- A. a death or serious illness in the family;
- B. a personal illness which reasonably prevents the party from attending the hearing;
- C. an emergency or unforeseen event which reasonably prevents the party from attending the hearing;



- D. an obligation or responsibility which a reasonable person in the conduct of his or her affairs could reasonably conclude takes precedence over the attendance at the hearing; or
- E. lack of receipt of adequate or timely notice; excusable neglect, excusable inadvertence, or excusable mistake.

If the claimant (or their attorney) establishes just cause, the request for the hearing will be reinstated and a hearing rescheduled.

In the event a claimant who is represented by legal counsel fails to appear at a fair hearing, legal counsel shall not testify in place of the claimant on matters of 'fact' but may cross examine witnesses and make 'legal' arguments on behalf of the claimant.

#### **SECTION 10-705     THE FAIR HEARING DECISION**

The decision of the fair hearing authority will be binding on the general assistance administrator, and will be communicated in writing to the claimant within 5 working days after completion of the hearing. Written notice of the decision will contain the following:

- a) a statement of the issue;
- b) relevant facts brought out at the hearing;
- c) pertinent provisions in the law or general assistance ordinance related to the decision; and
- d) the decision and the reasons for it.

A copy of the notice of the decision will be given to the claimant. The hearing record and the case record will be maintained by the general assistance administrator.

The written notice of the decision will state that if the claimant is dissatisfied with the fair hearing decision, he/she has a further legal right to appeal the decision pursuant to the Maine Rules of Civil Procedure, Rule 80B. To take advantage of this right, the claimant must file a petition for review with the Superior Court within 30 days of receipt of the fair hearing decision.

When the decision by the fair hearing authority or court authorizes assistance to the claimant, the assistance will be provided within 24 hours.

**SUBCHAPTER VIII – RECOVERY OF EXPENSES**

**SECTION 10-801     RECOVERY OF EXPENSES**

1. Recipients. The municipality may recover the full amount of assistance granted to a person from either the recipient or from any person liable for the recipient, or his or her executors or administrators in a civil action. However, prior to recovering assistance granted, the municipality shall “offset” the value of any workfare performed by a GA recipient, at a rate not less than minimum wage.

Prior to taking a recipient to court to recover the amount of assistance, the municipality will seek voluntary repayment from the recipient by notifying him/her in writing and discussing it with the recipient. The municipality shall not attempt to recover such costs if, as a result of the repayment, the person would again become eligible for general assistance (22 M.R.S.A. § 4318).

2. Recipients Anticipating Workers’ Compensation Benefits. The municipality shall claim a lien for the value of all general assistance payments made to a recipient on any lump sum payment made to that recipient under the Workers’ Compensation Act or similar law of any other state (22 M.R.S.A. § 4318, 39-A M.R.S.A. § 106). After issuing any general assistance on behalf of a recipient who has applied for or is receiving Workers’ Compensation, the municipality shall file a notice of the municipal lien with the general assistance recipient and the Office of Secretary of State, Uniform Commercial Code division.

The notice of lien shall be filed on a UCC-1 form which must be signed by the recipient of general assistance who has applied for or is receiving Workers’ Compensation. Any general assistance applicant who has applied for or who is receiving Workers’ Compensation benefits and who refuses to sign a properly prepared UCC-1 form will be found ineligible to receive general assistance until he or she provides the required signature. The municipality shall also send a photocopy of that filing to the recipient’s Worker’s Compensation attorney, if known, the applicant’s employer or the employer’s insurance company, and, at the administrator’s discretion, to the Workers’ Compensation Board. The lien shall be enforced at the time any lump sum Workers’ Compensation benefit is issued.

3. Recipients of SSI. All applicants who receive general assistance while receipt of their Supplemental Security Income (SSI) assistance is pending or suspended, and which therefore may be retroactively issued to the applicant at a later date, will be required to sign a statement on an Interim Assistance Agreement form distributed by the DHHS that authorizes the Social Security Administration to direct a portion of any retroactive SSI payment to the municipality and/or the state in repayment for the general assistance granted. Any general assistance applicant who has applied for or who may be applying for SSI, or who may be required to apply for SSI pursuant to 22 M.R.S.A. § 4317, and who refuses to sign the Interim Agreement SSI authorization form will be found ineligible to receive general assistance until he or she provides the required signature (22 M.R.S.A. § 4318).

4. Relatives. The spouse of an applicant, and the parents of any applicant under the age of 25, are liable for the support of the applicant (22 M.R.S.A. § 4319). In addition, grandchildren, children, parents, grandparents, and effective November 1, 2017, the spouse and a registered domestic partner, are liable for the burial costs of each other. The municipality considers these relatives to be available resources and liable for the support of their relatives in proportion to their respective ability. The municipality may complain to any court of competent jurisdiction to recover any expenses made on the behalf of a recipient if the relatives fail to fulfill their responsibility (22 M.R.S.A. § 4319).

[Derivation: Ord. No. 17-10, eff. 12/11/2017 (emergency)]

**SUBCHAPTER IX – SEVERABILITY**

**SECTION 10-901**    SEVERABILITY

Should any section or provision of this ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the ordinance.

[Chapter Derivation: Ord. No. 11-04 (MMA Model Ordinance 8/2006), eff. 9/22/2011; Ord. No. 13-08 (MMA Model Ordinance 2013) eff. 10/7/2013.]

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## 2018-2019 GA MAXIMUMS SUMMARY SHEET

Note: The overall maximums found in *Appendices A, B, C, D, E, and F* are effective from **October 1, 2018 to September 30, 2019.**

### APPENDIX A - OVERALL MAXIMUMS

<u>County</u>	<u>Persons in Household</u>					
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
Kennebec	727	756	944	1,241	1,326	1,401

**NOTE:** For each additional person add \$75 per month.

### APPENDIX B - FOOD MAXIMUMS

<u>Number in Household</u>	<u>Weekly Maximum</u>	<u>Monthly Maximum</u>
1	44.65	192
2	82.09	353
3	117.44	505
4	149.30	642
5	177.21	762
6	212.56	914
7	235.12	1,011
8	268.60	1,155

**NOTE:** For each additional person add \$144 per month.

### APPENDIX C - HOUSING MAXIMUMS

<b>Number of Bedrooms</b>	<u>Unheated</u>		<u>Heated</u>	
	<b>Weekly</b>	<b>Monthly</b>	<b>Weekly</b>	<b>Monthly</b>
0	131	564	154	662
1	131	564	159	684
2	168	724	200	859
3	222	955	266	1,142
4	230	987	282	1,214

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## APPENDIX D - UTILITIES

### ELECTRIC

**NOTE:** For an electrically heated dwelling also see “Heating Fuel” maximums below. But remember, an applicant is *not automatically* entitled to the “maximums” established—applicants must demonstrate need.

1) **Electricity Maximums for Households Without Electric Hot Water:** The maximum amounts allowed for utilities, for lights, cooking and other electric uses *excluding* electric hot water and heat:

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$14.00	\$60.00
2	\$15.70	\$67.50
3	\$17.45	\$75.00
4	\$19.90	\$86.00
5	\$23.10	\$99.00
6	\$25.00	\$107.00

**NOTE:** For each additional person add \$7.50 per month.

2) **Electricity Maximums for Households With Electrically Heated Hot Water:** The maximum amounts allowed for utilities, hot water, for lights, cooking and other electric uses *excluding* heat:

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$20.65	\$89.00
2	\$23.75	\$102.00
3	\$27.70	\$119.00
4	\$32.25	\$139.00
5	\$38.75	\$167.00
6	\$41.00	\$176.00

**NOTE:** For each additional person add \$10.00 per month.

**NOTE:** For electrically heated households, the maximum amount allowed for electrical utilities per month shall be the sum of the appropriate maximum amount under this subsection and the appropriate maximum for heating fuel as provided below.

## APPENDIX E - HEATING FUEL

<u>Month</u>	<u>Gallons</u>	<u>Month</u>	<u>Gallons</u>
September	50	January	225
October	100	February	225
November	200	March	125
December	200	April	125
		May	50

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**NOTE:** When the dwelling unit is heated electrically, the maximum amount allowed for heating purposes will be calculated by multiplying the number of gallons of fuel allowed for that month by the current price per gallon. When fuels such as wood, coal and/or natural gas are used for heating purposes, they will be budgeted at actual rates, if they are reasonable. No eligible applicant shall be considered to need more than 7 tons of coal per year, 8 cords of wood per year, 126,000 cubic feet of natural gas per year, or 1000 gallons of propane.

**APPENDIX F - PERSONAL CARE & HOUSEHOLD SUPPLIES**

<u>Number in Household</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1-2	\$10.50	\$45.00
3-4	\$11.60	\$50.00
5-6	\$12.80	\$55.00
7-8	\$14.00	\$60.00

**NOTE:** For each additional person add \$1.25 per week or \$5.00 per month.

**SUPPLEMENT FOR HOUSEHOLDS WITH CHILDREN UNDER 5**

When an applicant can verify expenditures for the following items, a special supplement will be budgeted as necessary for households with children under 5 years of age for items such as cloth or disposable diapers, laundry powder, oil, shampoo, and ointment up to the following amounts:

<u>Number of Children</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1	\$12.80	\$55.00
2	\$17.40	\$75.00
3	\$23.30	\$100.00
4	\$27.90	\$120.00

[Derivation: Appendix A adopted 7/8/2013; Appendices B-F adopted August 12, 2013; Ord. No. 13-08, eff. 10/7/2013 (emergency); Ord. No. 14-05, eff. 7/7/2014 (emergency); Ord. No. 14-06, eff. 10/14/2014 (emergency); Ord. No. 15-10, eff. 10/13/2015 (emergency); Ord. No. 16-04, eff. 10/12/2016 (emergency); Ord. No. 17-10, effective 12/11/2017 (emergency); Ord. No. 18-14, effective 11/13/2018 (emergency)]

*FOR MUNICIPAL USE ONLY*

*MMA 08/19*



### **MILEAGE RATE**

This municipality adopts the State of Maine travel expense reimbursement rate as set by the Office of the State Controller. The current rate for approved employment and necessary medical travel etc. is 44 cents (44¢) per mile.

Please refer to the Office of State Controller for changes to this rate: Telephone: 626-8420 or visit: <http://www.state.me.us/osc/>

Prepared by MMA 9/2013

## **Funeral Maximums**

### **Burial Maximums**

The maximum amount of general assistance granted for the purpose of burial is \$1,125. Additional costs may be allowed by the GA administrator, where there is an actual cost, for:

- the wholesale cost of a cement liner if the cemetery by-laws require one;
- the opening and closing of the grave site; and
- a lot in the least expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipally owned cemetery or in a cemetery under municipal control, the cost of the cemetery lot in any other cemetery will not be paid by the municipality.

The municipality's obligation to provide funds for burial purposes is limited to a reasonable calculation of the funeral director's direct costs, not to exceed the maximum amounts of assistance described in this section. Allowable burial expenses are limited to:

- removal of the body from a local residence or institution
- a secured death certificate or obituary
- embalming
- a minimum casket
- a reasonable cost for necessary transportation
- other reasonable and necessary specified direct costs, as itemized by the funeral director and approved by the municipal administrator.

### **Cremation Maximums**

The maximum amount of assistance granted for a cremation shall be \$785. Additional costs may be allowed by the GA administrator where there is an actual cost, for:

- a cremation lot in the least expensive section of the cemetery
- a reasonable cost for a burial urn not to exceed \$50
- transportation costs borne by the funeral director at a reasonable rate per mile for transporting the remains to and from the cremation facility.

Prepared by MMA 9/2013

### 26 MRSA §1043 (23)

**Misconduct.** “Misconduct” means a culpable breach of the employee’s duties or obligations to the employer or a pattern of irresponsible behavior, which in either case manifests a disregard for a material interest of the employer. This definition relates only to an employee’s entitlement to benefits and does not preclude an employer from discharging an employee for actions that are not included in this definition of misconduct. A finding that an employee has not engaged in misconduct for purposes of this chapter may not be used as evidence that the employer lacked justification for discharge. [1999, c. 464, §2 (rpr).]

A. The following acts or omissions are presumed to manifest a disregard for a material interest of the employer. If a culpable breach or a pattern of irresponsible behavior is shown, these actions or omissions constitute “misconduct” as defined in this subsection. This does not preclude other acts or omissions from being considered to manifest a disregard for a material interest of the employer. The acts or omissions included in the presumption are the following:

- (1) Refusal, knowing failure or recurring neglect to perform reasonable and proper duties assigned by the employer;
- (2) Unreasonable violation of rules that are reasonably imposed and communicated and equitably enforced;
- (3) Unreasonable violation of rules that should be inferred to exist from common knowledge or from the nature of the employment;
- (4) Failure to exercise due care for punctuality or attendance after warnings;
- (5) Providing false information on material issues relating to the employee’s eligibility to do the work or false information or dishonesty that may substantially jeopardize a material interest of the employer;
- (6) Intoxication while on duty or when reporting to work or unauthorized use of alcohol while on duty;
- (7) Using illegal drugs or being under the influence of such drugs while on duty or when reporting to work;
- (8) Unauthorized sleeping while on duty;
- (9) Insubordination or refusal without good cause to follow reasonable and proper instructions from the employer;
- (10) Abusive or assaultive behavior while on duty, except as necessary for self-defense;
- (11) Destruction or theft of things valuable to the employer or another employee;
- (12) Substantially endangering the safety of the employee, coworkers, customers or members of the public while on duty;
- (13) Conviction of a crime in connection with the employment or a crime that reflects adversely on the employee’s qualifications to perform the work; or
- (14) Absence for more than 2 work days due to incarceration for conviction of a crime.

[1999, c. 464, §2 (new).]

B. “Misconduct” may not be found solely on:

- (1) An isolated error in judgment or a failure to perform satisfactorily when the employee has made a good faith effort to perform the duties assigned;
  - (2) Absenteeism caused by illness of the employee or an immediate family member if the employee made reasonable efforts to give notice of the absence and to comply with the employer’s notification rules and policies; or
  - (3) Actions taken by the employee that were necessary to protect the employee or an immediate family member from domestic violence if the employee made all reasonable efforts to preserve the employment.
- [1999, c. 464, §2 (new).]

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### **MILEAGE RATE**

This municipality adopts the State of Maine travel expense reimbursement rate as set by the Office of the State Controller. The current rate for approved employment and necessary medical travel etc. is 44 cents (44¢) per mile.

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Prepared by MMA 9/2013

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The municipality's obligation to provide funds for burial purposes is limited to a reasonable calculation of the funeral director's direct costs, not to exceed the maximum amounts of assistance described in this section. Allowable burial expenses are limited to:

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- a cremation lot in the least expensive section of the cemetery
- a reasonable cost for a burial urn not to exceed \$50
- transportation costs borne by the funeral director at a reasonable rate per mile for transporting the remains to and from the cremation facility.

Prepared by MMA 9/2013

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**Misconduct.** “Misconduct” means a culpable breach of the employee’s duties or obligations to the employer or a pattern of irresponsible behavior, which in either case manifests a disregard for a material interest of the employer. This definition relates only to an employee’s entitlement to benefits and does not preclude an employer from discharging an employee for actions that are not included in this definition of misconduct. A finding that an employee has not engaged in misconduct for purposes of this chapter may not be used as evidence that the employer lacked justification for discharge. [1999, c. 464, §2 (rpr).]

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- (1) Refusal, knowing failure or recurring neglect to perform reasonable and proper duties assigned by the employer;
- (2) Unreasonable violation of rules that are reasonably imposed and communicated and equitably enforced;
- (3) Unreasonable violation of rules that should be inferred to exist from common knowledge or from the nature of the employment;
- (4) Failure to exercise due care for punctuality or attendance after warnings;
- (5) Providing false information on material issues relating to the employee’s eligibility to do the work or false information or dishonesty that may substantially jeopardize a material interest of the employer;
- (6) Intoxication while on duty or when reporting to work or unauthorized use of alcohol while on duty;
- (7) Using illegal drugs or being under the influence of such drugs while on duty or when reporting to work;
- (8) Unauthorized sleeping while on duty;
- (9) Insubordination or refusal without good cause to follow reasonable and proper instructions from the employer;
- (10) Abusive or assaultive behavior while on duty, except as necessary for self-defense;
- (11) Destruction or theft of things valuable to the employer or another employee;
- (12) Substantially endangering the safety of the employee, coworkers, customers or members of the public while on duty;
- (13) Conviction of a crime in connection with the employment or a crime that reflects adversely on the employee’s qualifications to perform the work; or
- (14) Absence for more than 2 work days due to incarceration for conviction of a crime.

[1999, c. 464, §2 (new).]



B. “Misconduct” may not be found solely on:

- (1) An isolated error in judgment or a failure to perform satisfactorily when the employee has made a good faith effort to perform the duties assigned;
  - (2) Absenteeism caused by illness of the employee or an immediate family member if the employee made reasonable efforts to give notice of the absence and to comply with the employer’s notification rules and policies; or
  - (3) Actions taken by the employee that were necessary to protect the employee or an immediate family member from domestic violence if the employee made all reasonable efforts to preserve the employment.
- [1999, c. 464, §2 (new).]

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**CHAPTER 11 – HUMAN RIGHTS**

[Derivation: Ord. No.: 03-20, Effective: November 20, 2005]

**SUBCHAPTER I – GENERAL PROVISIONS**

**SECTION 11-101     PURPOSE**

The State of Maine Human Rights Act [5 MRSA § 4552 et seq.] prohibits discrimination on account of age, race, color, sex, marital status, religion, ancestry, or national origin, but does not prohibit discrimination on account of sexual orientation. This Chapter 11 is to protect the public health, safety and welfare and to better ensure the basic human right to a life with dignity, it is declared the policy of the City of Hallowell to correct and to prevent discrimination in employment, housing, access to public accommodations, and the extension of credit, on account of a person's sexual orientation.

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**SUBCHAPTER II – DEFINITIONS**

**SECTION 11-201     COMMON MEANING OF WORDS**

Unless otherwise apparent or defined, all words in this Chapter shall have their common meaning.

**SECTION 11-202     SPECIAL DEFINITIONS**

As used in this Chapter, unless the context indicates otherwise, the following words shall have the following meanings:

1.     Application for credit. Any communication, oral or written, by a person to a creditor requesting an extension of credit to that person or to any other person, and includes any procedure involving the renewal or alteration of credit privileges or the changing of the name of the person to whom credit is extended.
2.     Credit. The right granted by a creditor to a person to defer payment of debt or to incur debt and defer its payment, or purchase property or services and defer payment therefor.
3.     Credit sale. Any transaction with respect to which credit is granted or arranged by the seller. The term includes any contract in the form of a bailment or, lease if bailee or lessee contracts to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the property and services involved, and it is agreed that the bailee or lessee will become the owner of the property upon full compliance with his or her obligations under the contract.
4.     Credit transaction. Any invitation to apply for credit, application for credit, extension of credit or credit sale.
5.     Creditor. Any person who regularly extends or arranges for the extension of credit for which the payment of a finance charge or interest is required, whether in connection with loans, sale of property or services or otherwise.
6.     Discriminate. Includes, without limitation, "segregate" or "separate".
7.     Employee. An individual employed by an employer, but not including any individual employed by his/her parents, spouse or child.
8.     Employer. Any person in this City employing any number of employees, whatever the place of employment of the employees, and any person outside the City of Hallowell employing any number of employees whose usual place of employment is within this City; any person acting in the interest of any employer, directly or indirectly; and labor organizations, whether or not organized on a religious, fraternal or sectarian basis, with respect to their employment of employees. "Employer" does not include a religious or fraternal corporation or association, not organized for private profit and in

fact not conducted for private profit, with respect to employment of its members of the same religion, sect or fraternity.

9. Employment agency. Any person undertaking with or without compensation to procure opportunities to work, or to procure, recruit, refer or place employees. It includes, without limitation, placement services, training schools and centers, and labor organizations, to the extent that they act as employee referral sources; and it includes any agent of such person.
10. Extension of credit. Any acts incident to the evaluation of an application for credit and the granting of credit.
11. Housing accommodation. Any building or structure or portion thereof, or any parcel of land, developed or undeveloped, which is occupied, or is intended to be occupied or to be developed or to be developed for occupancy, for residential purposes, excepting: a) an owner-occupied dwelling of up to four (4) dwelling units; b) the rental of not more than four (4) rooms of a one-family dwelling that is occupied by the owner; or c) the rental of any dwelling owned, controlled or operated for other than commercial purpose, by a religious corporation to its membership, unless such membership is restricted on account of sexual orientation.
12. Invitation to apply for credit. Any communication, oral or written, by a creditor which encourages or prompts an application for credit.
13. Owner-occupied. Property that is the primary physical residence of the owner.
14. Person. One or more individuals, partnerships, associations, organizations, corporations, municipal corporations, legal representatives, trustees, trustees in bankruptcy, receivers and other legal representatives, including the City of Hallowell and all agencies thereof.
15. Place of public accommodation. Any establishment operated by a public or private entity that in fact caters to, or offers its goods, facilities or services to, or solicits or accepts patronage from, the general public, regardless of where goods or services are provided. This definition shall be liberally construed to accomplish the purpose of the ordinance. The ordinance shall apply to the following establishments, which are included for the purpose of illustration only and not by way of limitation:
  - A. An inn, hotel, motel or other place of lodging, whether conducted for the entertainment or accommodation of transient guests or of those seeking health, recreation or rest;
  - B. A restaurant, eating house, bar, tavern, buffet, saloon, soda fountain, ice cream parlor or other establishment serving or selling food or drink;
  - C. A motion picture house, theater, concert hall, stadium, roof garden, or other place of exhibition or entertainment;

- D. An auditorium, convention center, lecture hall or other place of public gathering;
  - E. A bakery, grocery store, clothing store, hardware store, shopping center, garage, gasoline station or other sales or rental establishment;
  - F. A laundromat, dry cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, dispensary, clinic, bathhouse or other service establishment;
  - G. All public conveyances operated on land or water or in the air as well as a terminal, depot or other station used for specified public transportation;
  - H. A museum, library, gallery or other place or public display or collection;
  - I. A park, zoo, amusement park, race course, skating rink, fair, bowling alley, golf course or club, gymnasium, health spa, shooting gallery, billiard or pool parlor, swimming pool, boardwalk or other place of recreation, exercise or health;
  - J. A nursery, elementary, secondary, undergraduate or postgraduate school or other place of education;
  - K. A daycare center, senior citizen center, homeless shelter, food bank, adoption agency or other social service center establishment;
  - L. Public elevators of buildings occupied by 2 or more tenants or by the owner and one or more tenants;
  - M. A municipal building, city hall or other or other establishment of the State or local government; and
  - N. When a place of public accommodation is located in a private residence, the portion of the residence used exclusively as a residence is not covered by this chapter, but that portion used exclusively in the operation of the place of public accommodation or that portion used both for the place of public accommodation and for the residential purposes is covered by this chapter. The covered portion of the residence extends to those elements used to enter the place of public accommodation, and those exterior and interior portions of the residence available to or used by customers or clients, including rest rooms.
16. Real estate broker and real estate salesman. All persons meeting the definition of Section 4001 (2) and (3) of Title 32 of the Maine Revised Statutes Annotated, whether or not they are licensed or required to be licensed.

17. Sexual orientation. Having a preference or orientation for, being identified as having a preference or orientation for, or having a history of a preference or orientation for, heterosexuality, homosexuality, or bisexuality. Sexual orientation refers to a person's actual or perceived status, condition, or actual or perceived gender identity or expression.



**SUBCHAPTER III – TYPES OF DISCRIMINATION**

**SECTION 11-301     EMPLOYMENT DISCRIMINATION**

It shall be unlawful employment discrimination, in violation of this Chapter, except where based on a bona fide occupational qualification:

1. For any employer to fail or refuse to hire or otherwise discriminate against any applicant for employment because of sexual orientation; or because of such reason, to discharge an employee, or to discriminate with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment, or any other matter directly or indirectly related to employment; or in recruiting of individuals for employment or in hiring them; to utilize any employment agency which such employer knows, or has reasonable cause to know, discriminates against individuals because of their sexual orientation.
2. For any employment agency to fail or refuse to classify properly or refer for employment or otherwise discriminate against any individual because of sexual orientation, or to comply with an employer's request for the referral of job applicants, if such request indicates whether directly or indirectly that such employer will not afford full and equal employment opportunities to individuals regardless of their sexual orientation.
3. For any labor organization to exclude from apprenticeship or membership, or to deny full and equal membership rights, to any applicant for membership, because of sexual orientation, or because of such reason to deny a member full and equal membership rights, expel from membership, penalize or otherwise discriminate in any manner with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment, representation, grievances or any other matter directly or indirectly related to membership or employment, whether or not authorized or required by the constitution or bylaws of such labor organization or by a collective labor agreement or other contract, or to fail or refuse to classify properly or refer for employment, or otherwise to discriminate against any member because of such sexual orientation, or to cause or attempt to cause an employer to discriminate against an individual in violation of this Chapter.
4. For any employer or employment agency or labor organization, prior to employment or admission to membership of any individual, to:
  - A. Elicit or attempt to elicit any information directly or indirectly pertaining to sexual orientation except where some privileged information is necessary for an employment agency or labor organization to make a suitable job referral;
  - B. Make or keep a record of sexual orientation;
  - C. Use any form of application for employment or personnel or membership blank containing questions or entries directly or indirectly pertaining to sexual

orientation;

- D. Print or publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specification or discrimination based upon sexual orientation;
  - E. Establish, announce or follow a policy of denying or limiting, through quota system or otherwise, employment or membership opportunities of any group because of sexual orientation; or
5. For an employer or employment agency or labor organization to discriminate in any manner against any individual because they have opposed any practice which would be a violation of the article, or because they have made a charge, testified or assisted in any manner in any investigation, proceeding or hearing under this Chapter.

**SECTION 11-302     NOT EMPLOYMENT DISCRIMINATION**

It shall not be unlawful employment discrimination under this Chapter:

- 1. Records. After employment or admission to membership, to make a record of such features of an individual as are needed in good faith for the purpose of identifying them, provided such record is intended and used in good faith solely for such identification, and not the purpose of discrimination in violation of this Chapter.
- 2. Required records. To record any data required by law, or by the rules and regulations of any state or federal agency, provided such records are kept in good faith for the purpose of complying with law, and are not used for the purpose of discrimination in violation of this Chapter.

**SECTION 11-303     UNLAWFUL HOUSING DISCRIMINATION**

It shall be unlawful housing discrimination, in violation of this Chapter:

- 1. For any owner, lessee, sublessee, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation, or any agent of these to make or cause to be made any written or oral inquiry concerning the sexual orientation of any prospective purchaser, occupant or tenant of such housing accommodation; or to refuse to show or refuse to sell, rent lease, let or otherwise deny to or withhold from any individual such housing accommodation because of sexual orientation of such individual; or to issue any advertisement relating to the sale, rental or lease of such housing accommodation which indicates any preference, limitation, specification or discrimination based upon sexual orientation; or to discriminate against any individual because of sexual orientation in the price, terms, conditions or privileges of the sale, rental or lease of any such housing accommodations or in the furnishing of facilities or services in connection therewith,

or to evict or attempt to evict any tenant of any housing accommodation because of sexual orientation;

2. For any real estate broker or real estate sales person, or agent of one of them to fail or refuse to show any applicant for a housing accommodation any such accommodation listed for sale, lease or rental, because of sexual orientation of such applicant or of any intended occupant of such accommodation, or to misrepresent for the purpose of discriminating on account of sexual orientation of such applicant or intended occupant the availability or asking price of a housing accommodation listed for sale, lease or rental; or for such a reason to fail to communicate to the person having the right to sell or lease such housing accommodation any offer for the same made by any applicant thereof; or in any other manner to discriminate against any applicant for housing because of sexual orientation of such applicant or of any intended occupant of the housing accommodation, or to make or cause to be made any written or oral inquiry or record concerning the sexual orientation of any such applicant or intended occupant, or to accept for listing any housing accommodation when the person having the right to sell or lease the same has directly or indirectly indicated an intention of discriminating among prospective tenants or purchasers on the ground of their sexual orientation, or when he knows or has reason to know that the person having the right to sell or lease such housing accommodation has made a practice of such discrimination; or
3. For any person to whom application is made for a loan or the form of financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, whether secured or unsecured, or agent of such person, to make or cause to be made any oral or written inquiry concerning the sexual orientation of any individual seeking such financial assistance, or of existing or prospective occupants or tenants of such housing accommodations; or to discriminate in the granting of such financial assistance, or in the term, conditions or privileges relating to the obtaining or use of any such financial assistance, against any applicant because of the sexual orientation of such applicant or of the existing or prospective occupants or tenants.

**SECTION 11-304     NOT HOUSING DISCRIMINATION**

With respect to housing, nothing in this Chapter shall be construed in any manner to prohibit or limit the exercise of the privilege of every person and the agent of any person having the right to sell, rent, lease or manage a housing accommodation, to set up and enforce specifications in the selling, renting, leasing or letting thereof or in the furnishing of facilities or services in connection therewith which are not based on the sexual orientation of any prospective or actual purchaser, lessee, tenant or occupant thereof. Nothing in this Chapter shall be construed in any manner to prohibit or limit the exercise of the privilege of every person and the agent of any person making loans for or offering financial assistance in the acquisition, construction, rehabilitation, repair or maintenance of housing accommodations to set standards and preferences, terms, conditions, limitations or specifications for the granting of such loans or financial assistance which are not based on the sexual orientation of any existing or prospective owner, lessee, tenant or occupant of such housing accommodation.

**SECTION 11-305**     UNLAWFUL PUBLIC ACCOMMODATIONS

It shall be unlawful public accommodation discrimination, in violation of this Chapter:

1. For any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, to directly or indirectly refuse, withhold from or deny to any person, on account of sexual orientation, any of the accommodations, advantages, facilities or privileges of such place of public accommodation, or for such reason in any manner to discriminate against any person in the price, terms or conditions upon which access to such accommodations, advantages, facilities and privileges may depend; or
2. For any person to directly or indirectly publish, circulate, issue, display, post or mail any written, printed, painted or broadcast communications, notice or advertisement, to the effect that any of the accommodations, advantages, facilities and privileges of any place of public accommodation shall be refused, withheld from or denied to any person on account of sexual orientation, or that the patronage or custom thereof of any person belonging to or purporting to be of any particular sexual orientation is unwelcome, objectionable or not acceptable, desired or solicited, or that the clientele thereof is restricted to members of particular sexual orientation. The production of any such written, printed, painted or broadcast communication, notice or advertisement, purporting to relate to any such place, shall be presumptive evidence in any action that the same was authorized by its owner, manager or proprietor.

**SECTION 11-306**     UNLAWFUL CREDIT EXTENSION DISCRIMINATION

It shall be unlawful credit discrimination for any creditor to refuse the extension of credit to any person solely on the basis of sexual orientation in any credit transaction. It shall not be unlawful credit discrimination to comply with the terms and conditions of any bona fide group credit life, accident and health insurance plan, for a financial institution extending credit to a married person to require both the husband and the wife to sign a note and mortgage and to deny credit to persons under the age of 18 or to consider a person's age in determining the terms upon which credit will be extended.

**SUBSECTION IV – ENFORCEMENT**

**SECTION 11-401     ENFORCEMENT BY CIVIL ACTION**

A violation of this Chapter shall be a civil infraction and shall be enforceable in the Maine Superior Court in a civil action. Within the time limited, a person who has been subject to unlawful discrimination may file a civil action in the Superior Court against the person or persons who committed the unlawful discrimination.

**SECTION 11-402     TIME**

The action shall be commenced not more than two years after the unlawful act complained of.

**SECTION 11-403     BURDEN OF PROOF**

In any civil action under this Chapter, the burden shall be on the person seeking relief to prove, by a fair preponderance of the evidence, that the alleged unlawful discrimination occurred.

**SECTION 11-404     RELIEF**

In any action filed under this Chapter, by any person:

1. If the Court finds that unlawful discrimination has occurred, its judgment shall specify an appropriate remedy or remedies therefor. These may include, but are not limited to:
  - A. An order to cease and desist from the unlawful practices specified in the order;
  - B. An order to employ or reinstate a victim of unlawful employment discrimination, with or without back pay;
  - C. An order to accept or reinstate such a person in a union;
  - D. A temporary order enjoining the sale or rental to others of the housing accommodations as to which the violation allegedly occurred, or against the sale or rental of a single housing accommodation substantially identical thereto and controlled by the alleged violator, when it appears probable that the plaintiff will succeed upon final disposition of the case. Such relief shall be liberally granted in the interests of furthering the purposes of this Chapter;
  - E. An order to rent or sell a specified housing accommodation, or one substantially identical thereto, if controlled by the respondent, to a victim of unlawful housing discrimination

- F. An order requiring the disclosure of the locations and descriptions of all housing accommodations which the violator has the right to sell, rent, lease or manage;
  - G. An order to pay the victims of unlawful price discrimination three (3) times the amount of any excessive price demanded and paid by reason of such unlawful discrimination; and
  - H. An order to pay to the Complainant civil penal damages of One Thousand Dollars (\$1,000.00) in the case of the initial violation; Twenty Five Hundred Dollars (\$2,500.00) for the second order issued under this article; and a minimum of Five Thousand Dollars (\$5,000.00), up to a maximum of Fifty Thousand Dollars (\$50,000.00), for a third and subsequent violation by the respondent.
2. The Court, in its discretion, may allow the prevailing party reasonable attorney's fees and costs.

**SUBSECTION V – EXEPTIONS**

**SECTION 11-501**    EXCEPTIONS

In addition to the other exceptions provided in this article, this article does not:

1.     Require the teaching of any particular subject in the public schools;
2.     Require any form of affirmative action, quotas, or preferential treatment based on sexual orientation.

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**CHAPTER 12**

**EMERGENCY MANAGEMENT PLAN**

**SECTION 12-101**    PROMULGATION STATEMENT AND LETTER:

To All Recipients

This is the Emergency Operations Plan for the City of Hallowell, Kennebec County, Maine. It provides a framework for the use in performing emergency functions during a major emergency or disaster in the city.

It includes four phases of emergency management. They are:

**Prevention** – those activities which eliminate or reduce the probability of an incident, also known as mitigation;

**Preparedness** – those activities developed to save lives and minimize damage;

**Response** – immediate activities which prevent loss of lives and property and provide emergency assistance; and

**Recovery** – short and long term activities which return all systems to normal or improved standards.

This plan is prepared in accordance with Federal and Maine statutes. It will be tested, revised and updated where required. All recipients are requested to revise Hallowell's Emergency Operations Plan regarding recommendations for improvements.

Signed:

Mayor \_\_\_\_\_

City Councilor \_\_\_\_\_

City Councilor \_\_\_\_\_

City Councilor \_\_\_\_\_

City Councilor \_\_\_\_\_

City Councilor \_\_\_\_\_

City Councilor \_\_\_\_\_

City Councilor \_\_\_\_\_

**SECTION 12-102**    REVISION SHEET:

Date of Revision \_\_\_\_\_, 20\_\_

Attached, are pages of the City of Hallowell's Emergency Operations Plan has been revised. Please replace older pages with these revised pages and discard the older pages. Retain this list as the Revision Log to your copy of the plan.

**Plan Component**

**Remove Pages Numbered**

**Insert Pages Numbered**

**Date Revisions Posted** \_\_\_\_\_, 20\_\_.

**SECTION 12-103**    PURPOSE OF THE PLAN:

This plan is a local level integrated emergency management manual. It is designed to describe the emergency-disaster response of the City of Hallowell, Kennebec County, Maine.

The plan goal is to provide a means to utilize all available resources to **Mitigate** or prevent potential emergencies or disasters whenever possible, **Prepare** to deal efficiently with the effects of inevitable events, **Respond** to the needs to save lives and protect property, and promote a means to **Recover** rapidly from unavoidable damages.

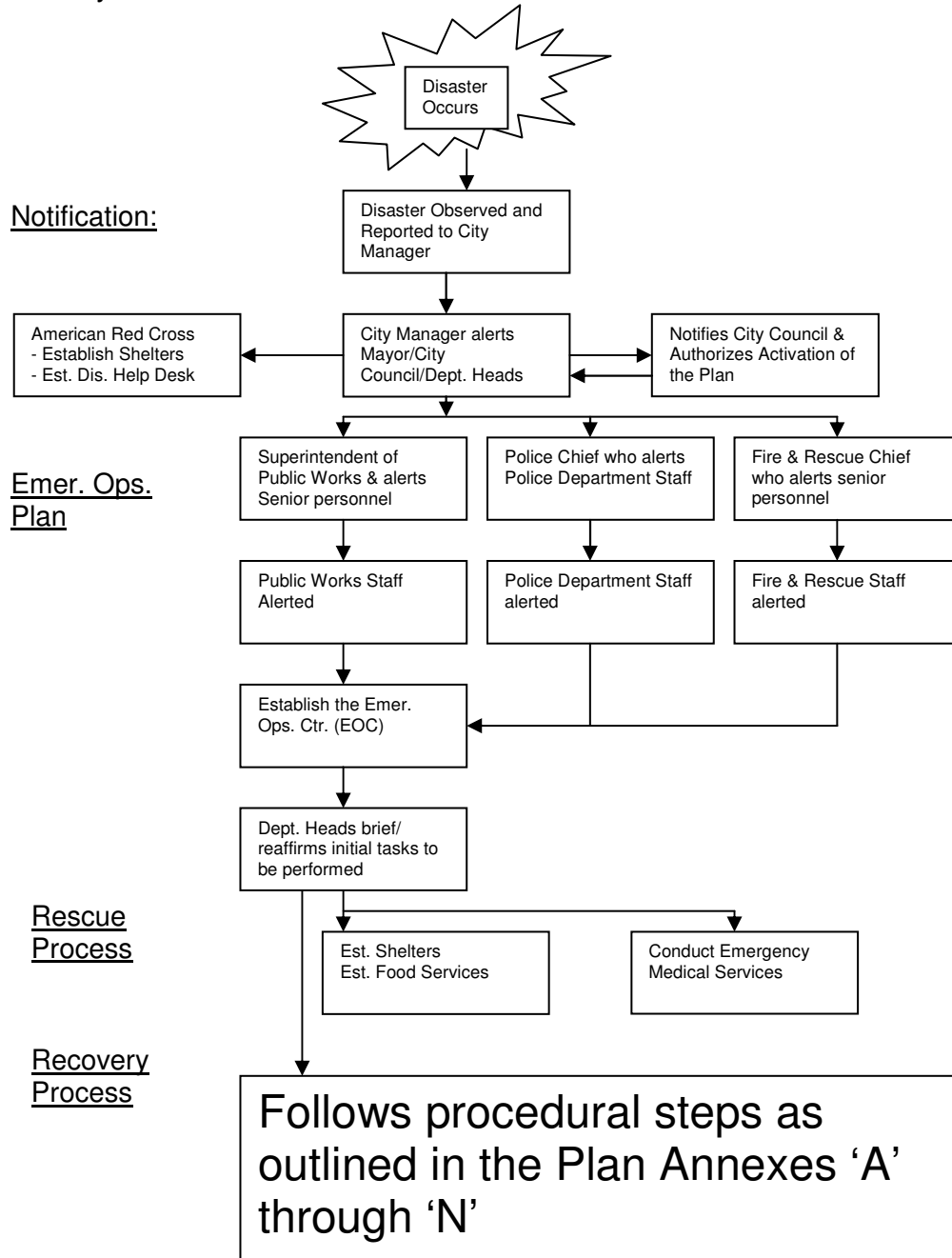
The plan is intended to be both “generic” and “hazard specific”, covering the entire range of emergency and disaster situations from age old natural disasters to the technological hazards created as a bi-product of our modern society.

The plan is a reference of emergency-disaster information and the basic source data considered necessary to accomplish the various types of emergency missions. It is designed to bring the user to the point of knowing what is to be done, and who will do it. It may include information relative to when and where the response will be effective, and even why it will be done.

Each participating organization, private or governmental, must depend upon its own expertise to develop the procedures describing how to carry out its assignments in support of the plan.

The following page contains a flowchart that illustrates the recovery process.

1. Recovery Flowchart



2. Emergency Operations Plan (EOP) Attachments

Additional information that supports this plan, has taken the form of attachments and are added behind this EOP. These listings are:

CONTACTS INFORMATION - SERIES 1 REPORTS:

REPORT 1B – KCEMA MUNICIPAL CONTACTS REPORT

This report lists all personnel contacts in city or City government and local Mutual Aid Contacts.

REPORT 1C – PRIVATE INDUSTRY REPORT

This report lists all store or super-markets in the local area that could provide materials to aid in the recovery of the city or City.

REPORT 1D – PARTNERSHIP AGENCY REPORT

Lists agencies such as the American Red Cross to assist in the recovery of essential functions.

RADIO OPERATIONS INFORMATION – SERIES 4 REPORTS:

REPORT 4A – STATION FREQUENCY ASSIGNMENTS: FCC INFORMATION

Lists radio operating information for government agencies and local “Ham” Radio Operators.

REPORT 4B – PAGING TONE ASSIGNMENTS

This report provides additional operating instructions to supplement the information listed in Report 4A.

Situations and Assumptions:

The City of Hallowell, located in Kennebec County, in the south central section of the State of Maine, has an area of 5.36 square miles and a population of 2500 (2000 census).

Interstate Highway 295 and State Highway 201, provide major highway access to the City.

The City of Hallowell has local railroad service.

The City has a paid volunteer fire department.

Mutual Aid System – The Hallowell Fire Department has a mutual aid agreement with the City of Augusta.

The Cyr Bus Service at 163 Maple Street, Farmingdale, Maine will provide passenger service. Telephone number is (207) 620-8555.

Law enforcement is handled by the Hallowell Police Department. Dispatching services are provided by the Augusta Police Department.

There is one elementary school, the Hall-Dale Elementary School is located at 26 Garden Lane in the City of Hallowell. There are no significant companies located within City Limits however there are 3 companies that contain either heating fuel, propane, gasoline or diesel. 1) Down-east Energy (622-7521) located at 283 Whitten Road, Hallowell has propane and heating fuel storage tanks on site. 2) Maine Energy (947-4525) located at 112 Central Street, Hallowell has a single propane storage tank. 3) Wadleigh's (622-6301) located at 21 Water Street, Hallowell has heating fuel, gasoline, and diesel fuel storage tanks. Note: Exxon Mobile (767-2672) has an underground petroleum line going through Hallowell with a pump station located on the Hickley Road, Hallowell. Refer to the Emergency Preparedness Manual for further details. The Hazmat hotline number is 626-2370.

The nearest hospital is the MaineGeneral Medical Center located in Augusta (4 miles away). There are two nursing homes; Hillside Terrace at 21 Warren Street, Hallowell (622-5644) and Granite Hill Estate at 60 Balsam Drive, Hallowell (626-7786). The Woodlands Assisted Living facility at 156 Winthrop Street, Hallowell (622-5644).

#### **SECTION 12-104    VULNERABILITY**

The Kennebec River flows north to south, and has been the cause of some problems in the past. Advanced weather prediction is not always accurate and extreme precipitation can develop without adequate warning. Flooding, especially flash flooding, can impact areas in City that are identified flood plains.

##### **Assumptions**

**FLOODS:** Floods are the most probable natural cause of emergencies or disasters in the City of Hallowell. Spring thaws and ice breakups may cause some lowland flooding. Summer and Fall storms are more likely to be responsible for major flooding.

**WINTER STORMS:** Winter storms with snow, ice and freezing temperatures in various combinations, are fairly commonplace in Hallowell, Maine. The City is geared to handle most winter emergencies. A potential for emergency exists when such storms also result in loss of electric power, leaving people without adequate heating capability. Heavy wet snows of early fall and late spring cause most power failures, however ice storms can also cause power outages.

**WINDSTORMS:** Violent windstorms are possible in Hallowell, Maine. A hurricane hit Maine in 1938. Most windstorms result in downed trees, damaged telephone and power lines, and crop losses.

**DROUGHT:** Drought can be a problem in late summer with local springs and well levels reduced to minimal flows. Water tables reached an all time low during the national drought of 1988, however recovery was fairly rapid.

**WILDFIRE:** Wildfires are possible in the forested area of City during late summer and early fall. The forests contain potential fuel for a serious conflagration. Some recreation and retirement homes with single access roads are in jeopardy. Fire detection methods are basically good, with special efforts being made during fire seasons.

**EARTHQUAKE:** Earthquakes have been felt on Maine's Eastern Coastline past and remain a geological possibility. Hallowell is situated in a remote earthquake zone. Although earthquakes are not a frequent event, they have the potential to cause extensive damage to un-reinforced masonry (brick) buildings.

**NATIONAL EMERGENCIES:** National emergencies, including a possible attack by foreign interests, are not as likely as during the cold war. Since Hallowell, Maine is dependent upon outside resources for a large percentage of food and fuel supplies, any situation which might affect this system could have a severe impact upon the City's population.

**TECHNOLOGICAL HAZARDS: Hazardous Materials** lead the list of potential hazards which could impact the City of Hallowell, Maine. Fuels are the most widespread materials likely to create problems.

**AIRCRAFT CRASHES** can happen anywhere in Maine. Small private planes and military aircraft are more common in Kennebec County air space. A commercial airliner, off course in bad weather, could become involved with CMP high altitude power lines remain a potential threat for creating mass casualties.

**SHORTAGES:** The shortage of energy or food supplies could threaten the welfare of the citizens of Hallowell, Maine. The dependency upon out-of-state sources can become a problem when normal deliveries are interrupted.

**SECTION 12-105**     CONCEPT OF OPERATIONS:

1.     General
  - A.     Operations conducted under this plan require a rapid and coordinated response by every City agency, private institution, or other non-governmental agency.
  - B.     Implementation of operations must be as self-triggering as possible and not dependent upon the presence of a particular individual.
  - C.     The City of Hallowell will be the coordinating agency for all activity in connection with emergency management.
  - D.     The City Council will be responsible for the execution of the plan and for minimizing the disaster effects.

- E. Central control from the Emergency Operations Center provides the requisite direction and coordination. The primary Emergency Operations Center is located in the Hallowell City Hall.

2. Operations

Operation of the plan commences when the Hallowell City Council determines that the severity or length of the situation warrants plan implementation to reduce the threat to life and property to a minimum.

- A. Alert and order the mobilization of the City of Hallowell.
- B. Activate the City Emergency Operations Center. Size and composition of the Staff is to be determined by the magnitude of the disaster.
- C. Alert the general population of the disaster or impending disaster.
- D. Arrange for the evacuation of threatened areas.
- E. Notify those public and private agencies dedicated to the relief of distress and suffering, such as the American Red Cross and Salvation Army, and establish liaison as necessary.
- F. Alert the Kennebec County Emergency Management Agency for assistance and coordination with State agencies with disaster capabilities.
- G. Notify local industries, public utility companies, schools, etc., of the disaster or pending disaster as necessary.

**SECTION 12-106**    ORGANIZATION AND RESPONSIBILITIES:

1. Organization

- A. The City Council will convene to perform legislative and administrative duties as the situation demands, and shall receive reports relative to Emergency Management activities.
- B. The City Council shall be the City Leaders of the emergency management forces of Hallowell and shall be responsible. For organization, administration and operations.
- C. The Emergency Management Director, under the supervision of the City Leaders, shall be responsible for the planning, coordination and operation of the emergency management activity in the City.



- D. The employees, equipment and facilities of all City departments, boards, institutions and commissions will participate in the emergency management activity as appropriate within their capabilities and assigned responsibilities.
- E. The organization shall also include volunteer agencies and/or persons offering services to the City, upon acceptance thereof.
- F. Duties assigned to a City Department shall be the same or similar to the normal duties of the Department. (Specific departmental responsibilities are documented in the appropriate information Annexes attached.)
- G. The Director shall oversee the recruitment of volunteer personnel agencies to augment the personnel and facilities of the City for emergency management purposes.

2. Responsibilities

The City operations plan consists of the basic plan with appropriate annexes to cover emergency operations as follows:

**ANNEX A Direction and Control:** The City Leaders. Includes staffing and functioning of the Emergency Operations Center and succession of command.

**ANNEX B Evacuation:** Emergency Management Director (City level). Includes actions to protect the population before, during and after disasters by establishing evacuation routes, safe areas, transportation and coordination with shelters.

**ANNEX C Communications:** Communications Officer. Includes local emergency communications to be utilized for all types of disasters.

**ANNEX D Alert and Warning:** Fire Chief. Includes a means for receiving and disseminating warnings for disasters and maintenance procedures.

**ANNEX E Shelter:** Emergency Management Director (City level). Includes actions to protect the population before, during and after disasters by establishing best available shelters and/or feeding, registering, clothing and social services

**ANNEX F Police:** Chief of Police. Includes maintenance of law and order, traffic control, controlling and limiting access to the scene of a disaster.

**ANNEX G Fire and Rescue:** Fire Chief. Includes actions to limit or prevent loss of life and property from fire or threat of and assisting in rescue, warning and evacuation.

**ANNEX H Public Works:** Public Works Director. Includes maintaining the City's roads, bridges, and sewer systems and assisting with equipment and personnel if a disaster threatens or occurs.

**ANNEX I Emergency Public Information:** The City Leaders. Includes actions for providing a flow of accurate and official information and instructions to the general public through all means of communications available before, during, and after an emergency or disaster.

**ANNEX J Resource Management:** City Leaders. Includes actions to obtain vital supplies and other properties found lacking, and needed for the protection of health, life and property of people, and resources for special or critical facilities.

**ANNEX K Hazardous Materials:** Fire Chief. Includes the identification of HAZMAT facilities and transportation routes within the City. It also outlines responsibilities for responding to a HAZMAT incident within the city.

The emergency tasks designed in the Annexes are related to day-to-day activities assigned by existing law, where applicable. Several have been added or extended to cope with emergency situations. Each City department and/or agency has the responsibility of preparing a written, functional Annex, with appropriate Appendices and Attachments, delineating the staffing, alerting and actions necessary to accomplish assigned tasks.

Development of these Annexes will be coordinated with the City's Emergency Management Director and updated annually by Department/Agency Head.

**SECTION 12-107**     EMERGENCY MANAGEMENT ADMINISTRATION STAFF:

The City Council shall be the City **Leaders** of emergency management. The **City Emergency Management Director** will report to the City Leaders and may be the individual responsible for day-to-day emergency management operations.

The City Leaders shall have the general supervision of the Emergency Management Program and Emergency Management Director. This will include any direction and guidance necessary.

The City **Leaders** will be responsible for:

- Chairing all Emergency Management meetings.
- Providing expertise and guidance to the E.M. Director preparing the Emergency Operations Plan.

- Preparing and promoting ordinances when necessary.
- Providing City resources to the E.M. Director in establishing and operating an Emergency Operations Center.
- Providing guidance in the annual Emergency Management budget and preparation of reports.

The **Emergency Management Director** shall be responsible for:

- The preparation of the basic plan and its review and update.
- With the approval of the City Council, appoint service heads to the Emergency Management program.
- Shall have direct responsibility for the organizations, the administration and operations subject to the direction and guidance of the City Council.
- Schedule training, drills, and exercises to train and test the local government's response capability.
- Will encourage participation by staff members for emergency management training courses and seminars.
- Shall prepare annual reports for Emergency Management.
- Be responsible for establishing and setting up the Emergency Operations Center.
- Be the Emergency Operations Center Manager and provide for adequate staffing.
- Attend training courses, meetings and seminars at local, state and regional levels.

**SECTION 12-108**     RESOURCES AND SUPPORT:

1. Resources
  - Normal supply methods will be utilized.
  - If emergency supplies are required they will be coordinated by the Emergency Management Director under the City Leaders.
  - The City does not have a central procurement warehouse or distribution system. Emergency supplies will be distributed at the Hall-Dale Elementary School.

2. Support

- Support by civil government forces may be made available from surrounding jurisdictions, including mutual aid agreements.
- Support by State departments and/or agencies will be requested through the Kennebec County Emergency Management Agency.
- The Governor can activate military support. Requests for assistance will be coordinated through Kennebec County Emergency Management Agency.

**SECTION 12-109**     PLAN DEVELOPMENT AND MAINTENANCE:

1. Plan Development

City officials and dedicated citizens developed this Emergency Operations Plan (for the City of Hallowell. It is implemented with the complete knowledge of all individuals and organizations with assignments or responsibilities in the plan. Participants have agreed to perform emergency response functions to the best of their ability within the guidelines provided.

It is intended that this Emergency Operations Plan be the primary outline for emergency or disaster operations.

2. Annual EOP Maintenance

The Emergency Management Director will be responsible for keeping this plan up-to-date by an annual review.

Changes happen throughout the year that may involve personnel, operating procedures, and equipment used by all city or departments. These changes may require updates to the Emergency Operations Plan (EOP) in order to maintain its effectiveness.

It is recommended that a walk-through of the EOP be conducted initially by all city or City department heads (collectively) to identify where updates to the EOP are required and then annual tests.

3. Annual EOP Testing (Drills)

Testing this EOP annually ensures its ongoing effectiveness especially where changes to personnel, operating methods, and equipment are involved. This is also true where Mutual Aid Agreements and personnel contacts with surrounding communities exist.

A Post-EOP Test Evaluation should be conducted to determine the overall effectiveness of the city's response. Also updates the EOP with this resulting information will assist in maintaining its effectiveness.

4. Establish an EOP Maintenance and Testing Process

The following is a list of recommended tasks to ensure the Emergency Operations Plan (EOP) maintains ongoing effectiveness from year-to-year by legislatively requiring the processes to update and test the EOP annually as a required annual business function:

- Pass City level legislation requiring the annual updating and testing of the EOP takes place.
- Establish an annual schedule for these events to take place. Such as every August the EOP is updated, every September the EOP is tested, and in October the results of this testing is evaluated which may result in further updates to the EOP.
- Identify the costs involved with conducting these tests.
- Add the cost of conducting this test of the EOP to the annual city budget.

Completing these steps will ensure the effectiveness of the city or City Emergency Operations Plan is always well maintained and effective.

**SECTION 12-110**    PLAN ANNEXES: (SPECIFIC RESPONSIBILITIES)

1. Annex A – Direction and Control (Role of the Emergency Operations Center)

Purpose

To identify a facility as Emergency Operations Center and the staff and actions necessary to provide central direction and control before, during and after disaster/emergencies that could affect the city. Provide emergency information and advice to the public.

Situation

- The primary City Emergency Operations Center is located in the Hallowell City Hall, Hallowell, Maine.
- The Emergency Operations Center will be activated if a disaster/emergency identified in the hazard analysis has exceeded, or is expected to exceed the city's normal capability to respond.

- The decision to order activation of the Emergency Operations Center will be made by direction of the City Leaders.

**The primary Emergency Operations Center Staff will consist of:**

Mayor  
City Council  
City Manager  
Fire Chief  
Police Chief/ Emergency Management Director  
Public Works Director

Note: The type of disaster/emergency and response may require additional staff.

Assumptions:

- The Emergency Operations Center will be adequate for direction and control.
- Communications will be available.
- Close coordination will occur with neighboring jurisdictions, county officials, volunteers and industry.

Concept of Operation:

The Emergency Operations Center Staff, upon activation will prepare the site for operation, and:

- Ensure that information is being received from field forces, recorded and evaluated.
- Based on evaluation, coordinate response.
- Develop and maintain a city situation map identifying problem areas and deployment of responders.
- Determine the capability of the city to respond to the situation and whether outside assistance is needed, and its availability. Establish liaison.
- Issue information and advice to the general public. Be prepared to brief media and answer questions.
- Prepare for possible 24 hour Emergency Operations Center operation, if warranted.
- Determine procedures for damage assessment and recovery operations.

Organization and Assignment of Responsibilities

A. Emergency Operations Center manager has authority to:

- Ensure that all capabilities of the City are utilized in the direction and coordination of alleviating the effects of the disaster or emergency occurring in the City.
- Ensure promulgation of regulations to protect life and property and preserve critical Resources.
- Request assistance from the County, or other political subdivisions, where conditions in the city are beyond the control of local emergency management forces.
- Obtain vital supplies, equipment and other properties needed for the protection of health, life, and property of the people.
- Maintain liaison with Kennebec County Emergency Management Agency and local authorities from nearby jurisdictions.
- Coordinate the activity of public and private agencies, including volunteers, American Red Cross, industry, etc.
- Assume such authority and activity to promote and execute the Emergency Operations Plan.

B. Police Chief:

- Normal Operational requirements of the Police Department and coordination with other services.
- Determine traffic control points.
- Coordinate with other services if an evacuation advisory is anticipated or issued. Assist in warning.
- Security of evacuated areas.
- Security of the Emergency Operations Center.
- Recommendation for requesting outside assistance, including military.

D. Fire Chief:

- Normal operational requirements of the Fire Department and coordination with other services.
- Coordinate with other services if an evacuation advisory is anticipated or issued.
- Disseminate warnings to the public as required.

E. Deputy Fire Chief:

- Assume the duties of the Fire Chief in his/her absence, or by direction.

F. Public Works Director:

- Lead Public Works staff.
- Normal operational requirements of the Public Works Department and coordination with other services.
- Debris clearance from city roads.
- Coordination of transportation through the City Leaders.
- Damage assessment as directed by City Leaders.

Administration and Logistics

- City Leaders have responsibility for assuring that the Emergency Operations Center is physically opened.
- First person at the Emergency Operations Center has responsibility for assuring that primary staff have been notified (not necessarily perform the actual notification).
- Department heads have a responsibility for providing radio communications to their department by bring a portable radio.
- The City Leaders or Communications Officer, if one designated, will arrange for additional telephones or extensions in the Emergency Operations Center if needed.
- Emergency Management Director has responsibility for providing personal



services to the staff. (IE: food, water, sleeping accommodations, etc.)

- The Public Works Department has responsibility for emergency power, if necessary at the Central Distribution Point.

2. Annex B - Evacuation

Purpose:

To provide procedures that would assist the City in accomplishing or assisting in an orderly evacuation of people.

Situation:

The City of Hallowell has identified emergencies or disasters in its hazard analysis that could require the evacuation of segments of the City's population. The City could also be utilized as a host area for evacuees from disasters or emergencies outside the City's boundaries.

Assumptions:

The City of Hallowell has a capability to offer some assistance if this happens. Direction and control can be accomplished through the Emergency Operations Center. Assistance will be available from local agencies, if required.

Mission:

Carry out basic government functions of maintaining the public peace, health, and safety if an evacuation of population is contemplated or occurs.

Concept of Operations:

Services heads of City departments involved in emergency response have responsibility to recommend evacuation as a viable method of protecting lives before, during, or after disasters or emergencies that may affect the City. This recommendation, time permitting, will be directed to the City Leaders for implementation and coordination from the Emergency Operations Center. City Agencies as covered in their respective annexes, have a responsibility to assist in the warning and evacuation including establishing evacuation routes, safe areas, transportation and coordination with shelter.

Assignment of Responsibilities:

- A. The City Leaders are responsible for:
- Regulations prohibiting or restricting the movement of vehicles in order to facilitate the mass movement of persons from critical areas within or outside the City.
  - Regulations pertaining to the movement of persons from areas deemed to be hazardous or vulnerable to disaster.
  - Such other regulations necessary to preserve public peace, health, and safety.
- B. The Emergency Management Director responsible for:
- Development and coordination of evacuation plans.
  - Maintain liaison with Kennebec County Emergency Management Agency and authorities of other nearby political sub-divisions.
  - Negotiating and concluding agreements with owners of persons in control of buildings or other property for the use of such buildings or property for emergency management purposes and designating suitable buildings as public shelters.
  - Coordination of the activity of all other public and private agencies.
  - Reviewing and updating this Annex on an annual or as needed basis.
- C. The Fire Chief is responsible for:
- Recommending and assisting in evacuation if situation warrants.
  - Assisting in dissemination of warning.
  - Fire inspections and establishing procedures for adequate fire control for shelter occupancy coordinated with the Emergency Management Director.
- D. The Police Chief is responsible for:
- Assisting in dissemination of the warning.
  - Coordinating with the City Leaders or designee on transportation to shelters.

- Emergency traffic control and crowd control.
- Assisting in evacuation within capabilities and as requested by service heads or City Leaders.
- Security of evacuated areas and shelters.

E. The Public Works Director is responsible for:

- Clearing of debris from City roads.
- Coordination of emergency transportation through the Emergency Management Director.
- Supplying emergency power, if needed, to the emergency shelter and central distribution point.

Direction and Control:

- Responsibility for implementing an evacuation, time permitting, rests with City Leaders. Coordination will be accomplished through the Emergency Operations Center under the general direction of the Emergency Management Director who will coordinate the actions and responsibilities of the service heads as covered in their respective annexes and outlined in this Annex.

Communications:

- Communications will primarily be by telephone, City radio, and cellular telephone.

Training and Exercise:

- It is the responsibility of the Emergency Management Director to see that training and exercises are conducted on an annual basis.

3. Annex C – Communications

Purpose:

To identify communication equipment and procedures that will be utilized during an emergency.

Situation:

- The Emergency Management Director will be responsible for coordinating all

emergency communications activities during an emergency.

- The Hallowell Police Department has the responsibility for alert/notification of the City from outside hazards.
- Hallowell has one Fire Horn at the Fire Station.
- Emergency services have sufficient radios and telephones for day-to-day emergency operations.

Assumptions:

- Local radio will be utilized for emergency warning and instructions to the public.

Mission:

- Provide the Emergency Operations Center Staff with the capability to communicate with emergency forces in the field, the public, and other essential services.

Organization and Assignment of Responsibilities:

A. Police Department:

- Maintain the Police Department telephone and base and portable radio systems.

B. Fire Department:

- Maintain Fire Department base and portable radio system.
- Maintain a telephone system at the Emergency Operations Center. Obtain additional telephone lines and cellular telephones during an emergency.
- Test all radio and telephone systems periodically.
- Maintain countywide Emergency Management radio link.

C. Emergency Management Director:

- Provide a liaison to this agency.
- Ensure that the Kennebec County Emergency Management Agency is aware of local communications procedures.

- Revise and update this Annex annually or as necessary with the Police and Fire Chiefs.
- See that personnel are trained and that communications systems are periodically tested.
- Coordinate with the local volunteer organizations.

Concept of Operations:

In an emergency, the primary Emergency Operations Center will be located in the Hallowell City Hall. The Emergency Operations Center will use telephones for primary communications.

The primary Emergency Operations Center has two telephone lines. (The unlisted line can be used for outgoing calls only and the other can be used for incoming calls). The local telephone company can easily add an additional telephone line to the Emergency Operations Center.

In addition to telephone communications, several City departments utilize radio communications. The Fire Department and the Public Works Department can utilize portable radio communications.

The Fire Department has several cellular telephones that can be utilized in addition to the above telephone and radio systems. The local cellular phone company has agreed to make an additional cellular telephone available to the Emergency Operations Center in an emergency. There is excellent reception for cellular usage in the Kennebec County Area.

Another important communications resource to the Emergency Operations Center is the County ham radio operators organization, which is comprised of several ham operators, each equipped with their own portable radios which operate on the ham radio frequencies. Assistance from this team is requested through Kennebec County Emergency Management Agency.

4. Annex D – Alert and Warning

Purpose:

- Identify responsible authorities and the method that will be utilized to alert City authorities and warn the general public.

Situation:

- The City Fire Chief is the Warning Officer for the City of Hallowell.

- The Hallowell Police Department has the responsibility for alert/notification and for contacting the Fire Chief.
- A Fire Horn is located at the Hallowell Fire Station.
- Door-to-door warning will be necessary for part of the population.
- The City has a viable alert notification system for response personnel and the school department.

Assumptions:

- Fire vehicles and police vehicles will be available.
- Fire, police, and volunteers will be utilized for emergency warning and instructions.
- Local radio will be utilized for emergency warning and instructions to the public.
- A telephone fan-out may be required for affected industries.
- Warning time will vary depending on the hazard speed at onset. Time available can vary from ample to none but will greatly allow City officials sufficient time to evaluate necessary actions.
- A requirement for warning may be local, area, state or national origin.

Mission:

- Notify the Emergency Operations Center Staff and the general public if the situation or hazard requires.

Organization and Assignment of Responsibilities:

A. Police Department:

- Receive warning notification through the Fire Department from the County or from the public and disseminate as required.
- Assist the Fire Department in warning the public.
- Alert the Emergency Operations Center primary staff when it is activated.

- Alert Kennebec County Emergency Management Agency when the Emergency Operations Center is activated.

B. Fire Department:

- Disseminate a warning to the public using sirens, public address systems, City agencies, volunteers and the media as required.
- Maintenance of outdoor warning devices.

C. Emergency Management Director:

- Provide liaison with Kennebec County Emergency Management Agency.
- Assure that Kennebec County Emergency Management Agency is aware of the local warning point and that procedures are up to date and operational within the City of Hallowell if any warning disseminated from the County warning point.
- Revise and update this annex annually or as necessary with the Police and Fire Chiefs.
- See that personnel are trained and that warning functions are exercised.
- Provide liaison with the American Red Cross language data bank personnel for hearing impaired and non-English speaking groups as appropriate.
- Check with the Warning Officer (Fire Chief) that nursing homes, major industries and other key locations have been notified.
- See that Fire and Police make verification of warnings before dissemination.

Concept of Operations:

The Hallowell Police Department has primary responsibility for initial reception of any warning disseminated by the County. If a warning is locally generated it would normally be received by either the Police Department or the Fire Department by telephone. Each department has a responsibility to see that the other department is notified. Once this is accomplished the Fire Chief has the responsibility of Emergency Operations Center Staff notification. Time permitting, a decision to warn the public if the method of protecting the public

includes sheltering and/or evacuation.

Communications:

City departments will use P.F. C/H 158.7675 P.W. 155.1375; the municipal frequency for interface including a land-line to the School Department to staff their base if the situation so requires. Primary communications with the media, County and other surrounding local governments will be by telephone. The Hallowell Police Department radio and the Mutual Aid Fire radio systems can be utilized as back-up as necessary. If shelters are utilized, primary communications will be cellular telephone. If the situation indicates, City portable radios, City mobile radio equipped vehicles or messengers will be used.

5. Annex E – Shelter

Purpose:

- Define the duties and responsibilities of shelter service in the event of a natural or man-made disaster.

Situation:

- The City of Hallowell could be subjected to the effects of a disaster requiring the sheltering of a significant number of people for an undetermined period of time.
- If such a disaster occurs, shelter will be provided in predetermined locations selected and arranged by the American Red Cross.
- Activation of shelters will be determined by the City Leaders and will be dependent on the magnitude of the disaster.
- The American Red Cross has both the expertise and experience in operating public shelters.
- Special needs of the elderly, handicapped, institutionalized, and those with language barriers are recognized and will be provided for.

Assumptions:

- The American Red Cross will recruit necessary volunteers to compliment the Shelter Operations Staff.
- The American Red Cross will coordinate with the City Emergency Management Director for any additional support that can be provided by local government agencies.



- Shelters in the City of Hallowell will not normally be stocked. The American Red Cross will obtain supplies through local sources when possible.

Mission:

- Protect the population from the effects of a disaster, by directing the public to available shelters, performing necessary tasks during the shelter stay, and releasing the shelter occupants when the situation warrants.

Execution:

A. Organization:

- Emergency Management Coordination will be liaison between the City and the American Red Cross Shelter Coordinator.
- Members of the American Red Cross and volunteers, recruited from County agencies or the local populace, will constitute each individual shelter organization.
- The Emergency Management Director will coordinate outside shelter assistance requested from City Departments and/or agencies. (Police, Fire, etc.)

B. Alert Notification:

- The City Emergency Management Director will notify the American Red Cross Shelter Service of the need for shelter services.
- Notification of other members of the American Red Cross Chapter will follow American Red Cross procedures.

C. Emergency Operating Center:

- An American Red Cross representative may report to the Emergency Operations Center when necessary to assist in the coordination of shelter operations.
- Status charts may be utilized at the Emergency Operations Center to indicate the location of shelters and available spaces, etc.
- A log of incoming and outgoing messages concerning shelter operations will be maintained.

- Coordination with other emergency services will be accomplished through the City Emergency Management Director.
- Primary shelter communications will be by telephone. Radios and messengers may also be utilized when available. If additional radio communications are desired, requests will be coordinated through the City Emergency Management Director. The use of Amateur Radio Operators will be considered according to availability.

D. Concept of Operations:

- The American Red Cross and the Emergency Management Director will coordinate designation of the shelters as part of this plan. The American Red Cross will have a position reserved in the Hallowell Emergency Operations Center.
- The American Red Cross will be the Manager of the emergency shelters. Assistance in feeding may be provided by volunteers.
- Fire inspections are routinely performed by the Fire Department in designated shelters.
- Assistance in security, inside and outside, will be coordinated with the Hallowell Police Department.
- Health requirements and inquiries about missing persons will be the responsibility of the American Red Cross assisted by City Health Officer, if necessary.
- Public information concerning shelters will be coordinated through the City Emergency Management Director.
- If the nature of the disaster requires that decontamination procedures are necessary, assistance will be requested through the City Leaders.
- The City Emergency Management Director will be consulted prior to release of shelter occupants. Public safety will be a major concern in order to ensure that any remaining hazards have been identified and that shelter occupants have received adequate information for their personal protection.

E. Training and Exercise:

- It is expected that the American Red Cross will train shelter staff. City shelter liaison and coordination duties will be developed and participating city personnel trained.

- If additional or special training is required, it will be coordinated through the Emergency Management Director.
- Shelter exercises will be held at the request of the American Red Cross. The Emergency Management Director will coordinate exercises.

6. Annex E – Appendix E-1 – Shelter Listing

Schools

(Refer to School Superintendent listed in Report 1B  
– Municipal Contacts Report)

7. Annex E – Appendix E-2 – American Red Cross

The American Red Cross, as mandated by Federal Law 36-ISC-3 and affirmed in Public Law 93-288 (Federal Disaster Relief Act of 1974), provides disaster relief in peacetime.

At the County level, the Statement of Understanding between the American Red Cross and the County establishes the operating relationships between these agencies. The major care and shelter responsibilities of the American Red Cross in the emergency period include:

- Emergency lodging for disaster victims in public and private buildings.
- Food and clothing for persons in emergency mass care facilities.
- Food for disaster workers if normal commercial feeding facilities are not available.
- Registration and inquiry service.
- The American Red Cross acts cooperatively with the Kennebec County Emergency Management Agency and local governments and other private relief organizations to provide emergency mass care to persons affected by disasters in peacetime. There is no legal mandate for the American Red Cross involvement in a State of War Emergency, however, assistance and support will be provided to Kennebec County Emergency Management Agency, to the extent possible.

8. Annex F – Police

Purpose:

- Provide for disaster and emergency response by the Police Department.

Situation

- A hazard analysis has been completed that identifies types of disasters or emergencies that could affect the City.
- The geography of the City, 5.36 square miles.
- The City has a population of 2500 people (2000 census), located throughout the City with a large percentage clustered in communities, fire districts, which can create a demand for response at widely separated locations.

Assumptions:

- Assistance will be available from the Hallowell Police Department.
- Assistance may be secured from outside the City of Hallowell by requesting aid from Kennebec County Emergency Management Agency.
- Assistance requested from the City's Police Department from outside areas will be provided at discretion of Police Chiefs from surrounding Cityships whether assistance can be spared.

Mission:

- Protect life and property.
- Maintaining law and order.
- Emergency traffic control.
- Crowd Control.
- Assisting and evacuating.
- Assisting in warning of residents.

Administration and Logistics:

- Normal channels will be used for day-to-day operations.
- Emergency supplies and equipment will be secured through area supply agencies and administered by the Police Chief or his/her designee.

- Emergency funding will be requested through the City Leaders before, during, or after disasters or emergencies.
- Legal questions will be referred to the City Attorney.
- Records of purchasing and disbursements applicable to the disaster/emergency will be kept through normal procedures.

Concept of Operations:

In the event a warning is received or a disaster or emergency occurs, the following will be instituted:

- All off-duty personnel will be called-in.
- All personnel will be placed on stand-by.
- All equipment will be checked and prepared for use.
- Feeding and lodging of emergency personnel will be instituted.
- Security and protection of departmental personnel will be maintained by the department or by calling in other area law enforcement agencies.
- Area Police assistance is provided and coordinated through the Hallowell Police Dispatcher.
- Evacuation of endangered areas will be accomplished using mobile public address system followed by a door-to-door check, with transportation to shelters coordinated with the Emergency Management Director or designee.
- The Police Chief, or designee, will report to the Emergency Operations Center, if activated, to provide direction and coordination of police functions.
- The Police Chief will recommend activation of the Emergency Operations Center if circumstances indicate.
- Alternate Emergency Operations Center may be mobile units.

Organization and Assignments:

- The Police Chief is responsible for day-to-day and emergency operations of his/her department and for coordination with other City agencies.

- The line of succession for the Department is as follows:
  - Chief
  - Senior Officer
- The officer-in-charge has the responsibility on-scene, of reporting to an established command post or of recommending or creating a command post if the situation indicates.

Direction and Control:

- The Police Department is located at the Hallowell City Hall.
- The Police Chief exercises direction and control of the departments' emergency forces. This is accomplished at Police Headquarters under normal operating conditions and at the Emergency Operations Center if activated for an emergency.
- Maps and markers, charts, etc., needed to display the following information will be located in the Emergency Operations Center and maintained by the City Manager and the Emergency Management Director:
  - A. Deployment of personnel.
  - B. Location of vehicles.
  - C. Lodging (Shelter) areas.
  - D. Location of incident command post.
  - E. Location and nature of problem(s).
  - F. Weather information.
  - G. Type and location of disaster area.
  - H. Location and identified high hazard areas.
  - I. Other pertinent information.

Communication:

- Emergency communications equipment is maintained and operated through the City's Police Department Headquarters by a full-time Dispatcher.
- Twenty-four hour dispatch is covered by the City's Police Department.
- The Police have radio communications capability with Hallowell Municipal Government, Public Works, the Kennebec County Sheriff's Department, and Maine State Police.

Training and Exercises:

- Emergency Operations Training for Department Personnel will be conducted through periodic briefings and/or courses on emergency operations

procedures.

- Test exercises or department personnel will be conducted in cooperation with the City Leaders and Emergency Management Director.

9. Annex G – Fire and Rescue

Purpose:

- Develop a plan that will assist in minimizing damage to property, save lives, and improve recovery in the event of an emergency/disaster requiring a response from the City Fire Department personnel.

Situation and Assumptions:

- The Fire Department has the primary responsibility of responding to emergencies in the City where a fire, or threat of fire may exist.
- It has a responsibility of responding to fire emergencies in neighboring Cities through mutual aid compacts.
- The Fire Department can expect assistance from other City agencies and departments upon request.

Mission:

- Limit or prevent loss of life and property from fires or threat of fires.
- Assist in warning and evacuation.
- Assist and cooperate with other City agencies and departments responding to disaster.

Administration:

- The Fire Department is headed by a Chief appointed by the City Council.
- The Department is continuously in the process of re-evaluating pre-fire plans for hospitals, schools, and major industries within the City.
- A copy of the resource inventory is included as part of this Annex and identifies the type and locality of major pieces of equipment.
- The Fire Chief has responsibility for updating this Annex on an annual or as-needed basis and coordinating changes with the Emergency Management Director.

Concept of Operations:

- Operations of the Fire Department require a rapid coordinated response.
- Implementation must be as self-triggering as possible and not dependent upon the presence of a particular individual. Fire Department Personnel carry pagers and will normally be notified by the Fire Department, if a response by the Department is required.
- Telephone fan-out can be used as a back-up.
- The Fire Officer-in-charge of the incident has responsibility for requesting additional assistance through dispatch.
- Initial response will include an evaluation, establishment of a command post, if necessary, and identification of a staging area if additional assistance is required.

Responsibilities:

A. Fire Chief or designee:

- Responding to fire or threat of a fire.
- Any rescue work needed, then protecting exposures as required and extinguishing fires.
- Assisting other City agencies, if requested, when life or property is threatened.
- Assisting in dissemination of warning.
- Recommending and assisting in evacuation if situation warrants.
- Requesting assistance from Mutual Aid System and other City agencies/departments.
- Keeping proper authorities informed of situation.
- Normal operation of the Fire Department.

B. Fire Department Officers:

- Must have ability and knowledge to serve as office-in-charge at an incident until a superior officer or chief is on-scene and assumes control.



- Knowledge and skills to perform day-to-day operations as described in staff duties.
- Other specific or related fire response duties as assigned by the Chief or Officer-in Charge at the scene or as indicated in standard operating procedures.

Direction and Control:

Direction and control, as a function, is covered in Annex A.

- Requests for off-site assistance shall be requested by the Officer-in-Charge through the Fire Department base station.
- A command post shall be established at the scene with responding agencies reporting on arrival.
- If the situation warrants the opening of the City's Emergency Operations Center, the Officer-in-Charge shall ensure that all communications with the Emergency Operations Center are established and he/she or a designee shall provide information and coordination.

Communications:

- The Hallowell Fire Station has a base radio on Public Band on frequency P. F. C/H 158.7675 and P. W. 155.1375. These frequencies are used both for toning out the Fire Department personnel and two-way communications.
- Fire apparatus is radio equipped with these frequencies.
- Standard procedures call for a person to be stationed at the Fire Station base radios if the Department responds.
- The Fire Department also has portable radios with multiple frequencies capable of communicating with other departments, medical services, and hospitals.

Warning:

- The Fire Chief, or Officer-in-Charge if the Fire Chief is not available, has the responsibility as City Warning Officer for disseminating severe weather warnings.

- The Fire Chief, or designee, has the responsibility of assisting in warning the population in an area recommended for evacuation.

Shelter:

- If shelters are identified for use, the Fire Chief has the responsibility of fire inspections and of establishing procedures for adequate fire controls for shelter occupancy. The above will be coordinated with the City Emergency Management Director.

Training/Exercises:

- The Fire Chief has the responsibility for on-going training and exercising the Department. It is expected that the Department may be asked to coordinate with the Kennebec County Emergency Management Agency in an annual exercise involving other City departments.

10. Annex H – Department of Public Works

Purpose:

Assign responsibilities and outline a method for the Department of Public Works to safeguard lives and property in the event of a disaster as defined in the Emergency Operations Plan.

Assumptions:

- Assistance will be available from other City departments, local communities, and County agencies, during/after a major disaster or emergency affecting the City.
- Assistance may be secured from Kennebec County Emergency Management Agency.

Mission:

- Provide manpower, equipment, and vehicles to maintain roadways and assist other City agencies, when requested, with personnel, material and equipment, before, during, and after disasters and emergencies.

Administration and Logistics:

- Normal channels will be used for day-to-day operations.
- Emergency supplies will be secured by the Emergency Management Director.

- Emergency funding will be requested through the City Leaders before, during, and after disaster/emergencies.
- Legal questions will be referred to the City Attorney.
- Records of purchases and disbursements applicable to the disaster/emergency will be kept through normal procedures.

Warning:

- The Department of Public Works will receive warning of a disaster or emergency through communications by telephone, municipal radio, or messenger.
- They may also receive notification from:
  - A. The Police and/or Fire Department
  - B. The Emergency Management Director
- The Director is on 24-hour call and can be reached by telephone.

Concept of Operations:

In the event that a warning is received or a disaster or emergency occurs, the following will be instituted:

- The City Manager will report to the Emergency Operations Center, if activated, to provide direction and coordination of public works functions.
- The City Manager will recommend activation of the Emergency Operations Center if circumstances indicate.
- Pre-impact preparations for Public Works Director:
  - A. Notify key public works personnel.
  - B. Assign dues and crews.
  - C. Check all appropriate equipment.
  - D. Check fuel supply.
- If necessary to restore or maintain essential services:
  - A. Call in former retired department employees.
  - B. Make use of local contractors.
  - C. Contact Kennebec County Emergency Management Agency through the City Emergency Management Director.

Organization and Assignment of Responsibilities:

- A. The Public Works Department is responsible for:

- Day-to-day Emergency operations of the department, and coordination with other City agencies.
- Clearing of debris from City roads.
- Supplying emergency power, if needed, to emergency shelters.
- Coordination of transportation through the City Leaders or the City Emergency Management Director.
- Emergency Operations training for department personnel.
- Maintenance and repair of department vehicles.
- Maintaining and updating this Annex, annually or as needed, as part of the City's emergency operations plan; testing or evaluating it annually in coordination with the Emergency Management Director.
- Reporting to the Emergency Operations Center, if opened, and recommending its opening if the situation warrants.
- Emergency operations are under the general direction of the City Leaders or the City Emergency Management Director.

B. The Road Foreman is responsible for:

- Day-to-day maintenance of equipment.
- Emergency operations as instructed by the Public Works Director or in the Director's absence, under the general direction of the City Leaders or designee.

Direction and Control:

- Direction and control of emergency forces is accomplished from the City Hall under normal operating conditions and from the Emergency Operations Center, if activated for the emergency.
- Maps and markers needed in the Emergency Operations Center to display operational activity, nature of problems, location and condition of personnel and equipment and means for further action will be placed and maintained by the Public Works Director and the Emergency Management Director.

Communications:

- Day-to-day and emergency communications are maintained and operated from the City Hall.
- The department has a radio capability for communicating with other municipal departments on the municipal frequency.

Training and Exercising:

- Emergency operations training for department personnel will be conducted through periodic briefings and/or courses on emergency operations procedures. Test exercises for department personnel will be conducted in cooperation with the City Leaders and/or Emergency Management Director.

11. Annex I – Emergency Public Information

Situation:

- FM station WABK can provide information instructions to the public during an emergency.
- Augusta Police Dispatch will take requests to provide immediate information through the Emergency Alert System (EAS).
- The Kennebec Journal, Capital Weekly, and Hallowell Record will be asked to publish informational and instructional material when the situation warrants.

Assumptions:

- Radio Station WABK has emergency power to remain on the air in the event of a power failure.
- The Kennebec Journal has emergency power also.
- The local news media will be asked to cooperate with the public information officer in providing information and instructions to the public in an emergency.
- The Public Information Officer will assure that the Emergency Public Information package is printed and distributed to the public.

Mission:

- Provide accurate and official information and instructions to the people through all available media before, during, and after emergencies.

Execution:

A. Organization:

- The Public Information Officer, or designee, will select personnel to assist in providing fast accurate reporting during emergencies.

B. Warning:

- The Public Information Officer, or designee, will be alerted by Emergency Management if required, when an emergency situation exists.
- The Public Information Officer, or designee, will alert the assistants.

C. Concept of Operations:

- The Public Information Officer, or designee, will report to the Emergency Operations Center or alternate location when requested by the City Leaders.
- The Public Information Officer, or designee, will coordinate the collection and evaluation of information instructions for the public.
- All releases, information, instructions will be cleared with the City Leaders before being disseminated to the public.
- No releases will be made concerning bomb threats at the schools.

D. Assignment of Responsibilities:

The Public Information Officer, or designee, will be responsible for the following:

- Maintaining a list of local news media personnel within the city together with their telephone numbers.
- Maintaining any other material necessary to carry out their assignment.
- Maintaining a file on news releases.
- Establish an information center at the Emergency Operations Center for the media.

- Preparing appropriate news releases.
- Coordinating information for public release with other emergency services.
- Contacting the Augusta Police Department Dispatch to request an EAS broadcast.
- Notifying the public of information and instructions outlined in the Emergency Public Information Package and assuring that the package is up to date.

Training and Exercises:

- Training – The Public Information staff will undergo training as necessary.
- Exercises – Test exercises may be conducted annually. The Public Information Officer will participate in, or at least be present, at the exercise.

Administration:

- The Public Information Officer will review this Annex for any possible changes on an annual basis and will coordinate revisions and/or updates with the City Leaders.

Communications:

The primary communications between the Public Information Officer and news media will be by telephone.

12. Appendix I-1

The following types of information that should be released to the public after approval by the City Leaders:

- Nature of the disaster.
- Location of disaster.
- Time of disaster.
- Agencies involved with response.
- Scope of agency involvement.
- Number of casualties.
- Nature and severity of injuries.
- Condition of casualties that were treated.
- Identification, age, sex, address of casualties (after notification to next of kin).

13. Appendix I-2

- The Public Information Officer will establish a media room/area at the Emergency Operations Center.
- When the Emergency Operations Center is activated, access to the following area by the media will be allowed only with the Public Information Officer or a representative.
  - A. City Manager's Office.
  - B. Emergency Manager's Office
  - C. Operations Room
  - D. Communications Room

14. Annex J – Resource Management

This Annex contains the lists of resources available to the City. This information is stored and retrieved on an MS Access Database. Resource reports will be attached behind this Plan.

15. Annex K – Hazardous Materials

Summary of Hazardous Materials Incidents

- A few minor HAZMAT incidents have occurred in Hallowell in the last decade. Propane gas leaks in homes, and spills or leaks in storage facilities are not uncommon. Because propane is stored and moved frequently and in high volumes, it can be expected to be involved in a high percentage of HAZMAT incidents.

Concept of Operations

First Responder's Emergency Action Checklist:

- Most emergency incidents have the potential to involve hazardous materials. The first responder at the scene must immediately assess this potential; further action should be in accordance with the department's standard operating procedures.

Alerting and Warning:

- Public warning of hazardous materials incident can be made over radio and television stations if necessary by activating the Emergency Alert System. EAS can be activated through. Callers should provide information summarized on the Hazardous Materials Incident Information Form.



- Loudspeakers are available in fire trucks and police cruisers. These could be used to provide instructions to residents in a local area. Door-to-door warning procedures may also be used.

#### Emergency Information

- The Public Information Officer will disseminate official information and instructions to the public when in his/her judgment a potential for public harm is present. An emergency message must indicate what has happened, what can be expected to happen, and what measures people should take to protect themselves. Evacuation instructions should explicitly describe the importance of leaving the area quickly and where to go. If an extensive evacuation is required, involving more than one family for more than 12 hours, a shelter will be designated.
- A sample emergency message would be *“At 00.00, emergency personnel were notified that an incident had occurred, resulting in the release of toxic chemicals. Residents of City of Hallowell are advised to leave the area immediately.”*
- *All efforts are being made to control the release. Local and County officials have been notified. Additional details will be released as they become available.”*

#### Actions for Citizens

- If there is an immediate life-threatening situation, the Emergency Management Director may order a precautionary evacuation of affected areas.

#### Law Enforcement

- The Hallowell Police Department will play a primary role in establishing traffic control and access control during the early stages of an incident. If an evacuation is ordered, they will also provide security and property protection of homes and businesses in the evacuated area.

#### Fire and Rescue

- Hazardous Materials incidents are often accompanied by fire or injured persons. The Fire Officer-in-Charge shall regulate access to a hazardous materials scene by fire fighters and emergency rescue personnel to control risk exposure. Environments where potentially IDLH (Immediately Dangerous to Life and Health) concentrations of any hazardous material may be present and are not to be entered by persons that have not been trained

to the Technician or Specialist level.

- Firefighters are primary responsible for fighting fires and must avoid unnecessary hazardous materials exposures. Extrication of injured persons will usually involve entry into a hazardous condition. Rescue personnel must wear protective equipment and clothing when conducting rescues as indicated by the Emergency Management Director.

#### Health and Medical Services

- The City of Hallowell receives ambulance service from Augusta Rescue and Delta Ambulance. Medical services are provided by the MaineGeneral Hospital in Augusta. Chemical-specific treatment and decontamination protocols for EMS personnel leaving an incident scene will be specified by the Emergency Management Director if the potential for spreading hazardous materials contamination is present. The Emergency Management Director is also responsible for notifying the hospital of the materials to which incident casualties have been exposed.

#### Local Resources

- Accessing personnel and equipment resources for addressing hazardous materials are listed in Report 1B – KCEMA Municipal Contacts Report, 1C – Private Industry Report, and 1D – Partnership Agency Report. Kennebec County Emergency Management Agency or Maine State Police Dispatch can be contacted to request the hazmat team, Department of Environmental Protection, and other necessary resources.

#### Resource Inventory and Maintenance

- As soon as practical after any response, an inventory check shall be completed of all emergency response equipment owned by the Fire Department, Police Department, and the Public Works Department. Missing or damaged items or equipment shall be repaired or replaced.

#### Testing the Plan

- This plan will be tested annually to identify operation deficiencies and procedural improvements that should be adopted. The Emergency Management Director will initiate the exercises and chair a committee that will evaluate the response. He/she will also be responsible for the implementation of procedural improvements.
- In addition to annual testing of the plan, an assessment of this plan should also be completed after each incident that required the plans implementation.

- A. Were the appropriate persons listed on Report 1B – Municipal Contacts Report notified and the contacts information on this report is current.
- B. Were responders informed of the hazards of the materials at the scene prior to entry? Were additional materials discovered after the initial size up? Was the recommended personnel protective equipment appropriate to all exposure hazards discovered?
- C. Was response equipment in working order?
- D. Were all persons at risk evacuated to a safe area?
- E. Was the public kept advised of the severity of the incident and the progress of corrective actions?
- F. Were all written reports properly prepared and filed?
- G. Did all aspects of the response comply with current OSHA, Health Department, Agency of Natural Resources, and Department of Public Safety regulations?

#### Updating the Plan

- Annually or as a result of the assessment completed, the plan should be reviewed for modifications. Revision pages will be issued to all holders of the plan. The revision will be recorded on the Revision Sheet as listed on page 4 of the plan.

#### Personnel

- Refer to the HAZMAT Database to obtain training information concerning first responders and CERT volunteers.

#### 16. Annex L – Emergency Medical Services

##### Dispatch Protocol

- Any agency or department receiving information of an incident where the potential mass casualties exists shall immediately notify the Hallowell Police Department and relay the information they have received to Kennebec County Emergency Management Agency, who will then notify the Maine Emergency Management Agency Duty Officer.
- The State Police will, without further confirmation, notify MEMA there is a potential of a Mass Casualty Incident under direction of the Kennebec Emergency Management Agency.

##### Response Protocol

- The first arriving unit; state or local police, sheriff, fire officer, or EMS crew chief; will then confirm the nature of the incident to include the safety and

stability of the scene, the approximate number and severity of the injured, or cause to be reported, the information to the State Police.

- Based on the information received from the scene a Mass Casualty Incident may be declared.
- The basic criteria for the declaration shall be any incident that will overload capabilities and resources of the local medical community.
- Hallowell Fire Dispatch will provide a secondary dispatch center to handle non-emergency dispatch for notification of back-up crews, additional equipment, etc.
- All emergency responders shall follow their department's standard operating procedures for a mass casualty incident.

Communications

- All responding units shall switch to P. F. C/H 158.7675 P. W. 155.1375 after signing on with the State Police.
- The following channels/frequencies shall be used by the specified officers/agencies

17. Annex M – School Plans

Purpose

- Emergency procedures are used by schools to protect students and staff.

List of Schools

- Hall-Dale Elementary School                      Hallowell, Maine, 04347

Coordinate emergency activity with the Emergency Management Director.

[Derivation: Ord. No. 08-04, effective May 22, 2008]