2014

City of Waterville, Maine, Selected Ordinances

Waterville (Me.)

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ARTICLE I - PURPOSE AND ESTABLISHMENT

Certain areas of the City of Waterville, 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 Waterville, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the City of Waterville, 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 Waterville has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the City of Waterville 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 Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the City of Waterville, Maine.
The areas of special flood hazard, Zones A and AE for the City of Waterville, Kennebec County, Maine, identified by the Federal Emergency Management Agency in a report entitled “Flood Insurance Study – Kennebec County” dated June 16, 2011, with accompanying “Flood Insurance Rate Map” dated June 16, 2011 with panels:

158, 159, 162, 163, 164, 167, 168, 169, 178, 190

derived from the county wide digital flood insurance rate map entitled “Digital Flood Insurance Rate Map, Kennebec County,” are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

Before any construction or other development (as defined in Article XIII), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the City of Waterville, Maine.

ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

A. The name, address and phone number of the applicant, owner, and contractor;

B. An address and a map indicating the location of the construction site;

C. 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;

D. A statement of the intended use of the structure and/or development;

E. A statement of the cost of the development including all materials and labor;

F. A statement as to the type of sewage system proposed;

G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.2 apply only to new construction and substantial improvements.]

H. 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:

1. base flood at the proposed site of all new or substantially improved structures, which is determined:
   a. in Zones AE, from data contained in the “Flood Insurance Study- Kennebec County,” as described in Article I; or,
   b. in Zone A:
      (1) 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 Article VI.K. and VIII.D.;
      (2) 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,
      (3) 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.

2. highest and lowest grades at the site adjacent to the walls of the proposed building;
3. lowest floor, including basement; and whether or not such structures contain a basement; and,

4. level, in the case of non-residential structures only, to which the structure will be floodproofed;

I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;

J. 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;

K. The following certifications as required in Article VI by a registered professional engineer or architect:

1. a Floodproofing Certificate (FEMA Form 81-65, 03/09, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;

2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;

3. a certified statement that bridges will meet the standards of Article VI.M.;

4. a certified statement that containment walls will meet the standards of Article VI.N.;

L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,

M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee of $25 for all minor development and $50 for all new construction or substantial improvements 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 Zoning 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 town 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 Zoning Board of Appeals.

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

A. 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 Article VI (Development Standards) have been, or will be met;

B. Utilize, in the review of all Flood Hazard Development Permit applications:

1. the base flood and floodway data contained in the "Flood Insurance Study – Kennebec County, Maine," as described in Article I;

2. 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 Article III.H.1.b.; Article VI.K.; and Article VIII.D., in order to administer Article VI of this Ordinance; and,

3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.

C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
D. 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;

E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;

F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:

1. 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 Article VI, paragraphs F, G, or H. 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,

2. 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 Article VI.G.1.a.,b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,

3. 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 Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.

G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Zoning Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

A. **All Development** - All development shall:

1. 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;

2. use construction materials that are resistant to flood damage;

3. use construction methods and practices that will minimize flood damage; and,

4. 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.

B. **Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
C. **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.

D. **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.

E. **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 the watercourse.

F. **Residential** - New construction or substantial improvement of any residential structure located within:
   1. Zones AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
   2. 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 Article III.H.1.b.; Article V.B; or Article VIII.D.

G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within:
   1. Zones 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:
      a. 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 the passage of water;
      b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
      c. 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 Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
   2. 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 Article III.H.1.b.; Article V.B; or Article VIII.D., or a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.

H. **Manufactured Homes** - New or substantially improved manufactured homes located within:
   1. Zones AE shall:
      a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
      b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
      c. 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:
         1. 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,
         2. 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).
         3. all components of the anchoring system described in Article VI.H.1.c.(1)&(2) shall be capable of carrying a force of 4800 pounds.
2. **Zone A shall:**
   a. be elevated on a permanent foundation, as described in Article VI.H.1.b., 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 Article III.H.1.b.; Article V.B; or Article VIII.D.; and
   b. meet the anchoring requirements of Article VI.H.1.c.

I. **Recreational Vehicles** - Recreational Vehicles located within:
   1. Zones A and AE shall either:
      a. be on the site for fewer than 180 consecutive days,
      b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its 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,
      c. be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in Article VI.H.1.

J. **Accessory Structures** - Accessory Structures, as defined in Article XIII, located within Zones AE and A, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:
   1. be 500 square feet or less and have a value less than $3000;
   2. have unfinished interiors and not be used for human habitation;
   3. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
   4. be located outside the floodway;
   5. 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,
   6. 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.

K. **Floodways** -
   1. In Zones 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.
   2. 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 Article VI.K.3. 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:
      a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
      b. 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).
3. 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.

L. 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 Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H 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:

1. Enclosed areas are not "basements" as defined in Article XIII;

2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
   a. be engineered and certified by a registered professional engineer or architect; or,
   b. meet or exceed the following minimum criteria:
      (1) 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;
      (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
      (3) 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;

3. The enclosed area shall not be used for human habitation; and,

4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

M. Bridges - New construction or substantial improvement of any bridge in Zones AE and A shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and

2. a registered professional engineer shall certify that:
   a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
   b. 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.

N. Containment Walls - New construction or substantial improvement of any containment wall located within:

1. Zones AE and A shall:
   a. have the containment wall elevated to at least one foot above the base flood elevation;
   b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
   c. 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 Article III.K.
O. **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:

1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and

2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

**ARTICLE VII - CERTIFICATE OF COMPLIANCE**

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:

A. 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 Article VI, paragraphs F, G, or H.

B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.

C. Within 10 working days, the Code Enforcement Officer shall:

   1. review the Elevation Certificate and the applicant's written notification; and,
   2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

**ARTICLE VIII - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS**

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:

A. All such proposals are consistent with the need to minimize flood damage.

B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.

C. Adequate drainage is provided so as to reduce exposure to flood hazards.

D. 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.

E. 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 Article VI of this ordinance. 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.

**ARTICLE IX - APPEALS AND VARIANCES**

The Zoning Board of Appeals of the City of Waterville 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 Ordinance.
The Zoning Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

B. Variances shall be granted only upon:
   1. a showing of good and sufficient cause; and,
   2. 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,
   3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
   4. a determination that failure to grant the variance would result in "undue hardship," which in this subsection means:
      a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
      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; and,
      c. that the granting of a variance will not alter the essential character of the locality; and,
      d. that the hardship is not the result of action taken by the applicant or a prior owner.

C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Zoning Board of Appeals may impose such conditions to a variance as it deems necessary.

D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
   1. other criteria of Article IX and Article VI.K. are met; and,
   2. 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.

E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
   1. the development meets the criteria of Article IX, paragraphs A. through D. above; and,
   2. 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.

F. Any applicant who meets the criteria of Article IX, paragraphs A. through E. shall be notified by the Zoning Board of Appeals in writing over the signature of the Chairman of the Zoning Board of Appeals that:
   1. 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;
   2. such construction below the base flood level increases risks to life and property; and,
   3. 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.

G. Appeal Procedure for Administrative and Variance Appeals

1. An administrative or variance appeal may be taken to the Zoning Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.

2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Zoning Board of Appeals all of the papers constituting the record of the decision appealed from.

3. The Zoning Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.

4. The person filing the appeal shall have the burden of proof.

5. The Zoning 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.

6. The Zoning 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.

7. Any aggrieved party who participated as a party during the proceedings before the Zoning Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Zoning Board of Appeals.

ARTICLE X - ENFORCEMENT AND PENALTIES

A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.

B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.

C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:

1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;

2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;

3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;

4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,

5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XI - VALIDITY AND SEVERABILITY

If any section or provision of this Ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

ARTICLE XII - CONFLICT WITH OTHER ORDINANCES
This 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 Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

ARTICLE XIII - DEFINITIONS

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 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.

**Accessory Structure** - means a small detached structure that is incidental and subordinate to the principal structure.

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

**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 Article I of this Ordinance.

**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.

**Basement** - means any area of the building having its floor subgrade (below ground level) on all sides.

**Building** - see Structure.

**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.

**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.

**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.

**Elevated Building** - 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 Article VI.L.:

**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.

**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.

**Flood Elevation Study** - means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**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.

**Flood Insurance Study** - see Flood Elevation Study.

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

**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.

**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.

**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.

**Floodway** - see Regulatory Floodway.

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

**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.

**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.

**Historic Structure** - means any structure that is:

a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior, or
2. Directly by the Secretary of the Interior in states without approved programs.

**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.

**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 Article VI.L. of this ordinance.

**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.

**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.

**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.

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

**National Geodetic Vertical Datum (NGVD)** - means the national vertical datum, whose standard was established in 1929, which is the new vertical datum 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)".

**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.

**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.

**100-year flood** - see Base Flood.

**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.

**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.

Riverine - means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area - see Area of Special Flood Hazard.

Start of Construction - means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of 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.

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.

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.

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 Zoning Board of Appeals.

Variance - means a grant of relief by a community from the terms of a floodplain management regulation.

Violation - means the failure of a structure or development to comply with a community’s floodplain management regulations.

ARTICLE XIV - ABROGATION

This 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).

*Cross references: Buildings, Ch. 7; electricity, Ch. 9; fire protection and prevention, Ch. 10; housing, Ch. 15; planning, Ch. 19; sewers, drains and sewage disposal, Ch. 21; streets and sidewalks, Ch. 22; zoning, App. A; floodplain development permit, App. D.

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ARTICLE 1. PURPOSE, APPLICABILITY, AND STANDARDS OF REVIEW

1.1. Purpose.

1.1.1. The purpose of this ordinance is to assure the comfort, convenience, safety, health and welfare of the people of the City of Waterville, Maine; to protect the environment and to promote the development of an economically sound and stable community. In reviewing site plans and approving subdivisions, the planning board shall consider the requirements of this ordinance before granting approval, approval with conditions, or denial, and shall make findings of fact that the provisions of this ordinance have been met and that proposed standards meet the guidelines of the state law Title 30-A MRSA section 4404, as amended from time to time.

1.2. Applicability.

1.2.1. The provisions of this ordinance shall apply to all site plans reviewed by the planning board as required by the city's zoning ordinance, and all proposed subdivisions as defined by state law in Title 30-A MRSA section 4404, as amended from time to time.
1.2.2. For those site plans and proposed subdivision plans approved by the planning board or the municipal officials prior to the enactment of this ordinance, the developer shall provide affirmative evidence that such a project complied with all laws then in effect at the time of approval. If such a plan was also required to be legally recorded in the Kennebec Registry of Deeds, the developer shall also provide evidence that this was done.

1.2.3. If the provisions in section 1.2.2. are applicable and cannot be satisfied, the developer shall be required to reapply for approval according to the terms and conditions of this ordinance.

1.3. Standards of review.

1.3.1. The planning board shall consider the following criteria before granting approval and shall make findings of fact that for all site review or subdivision applications, the proposed development:
1.3.1.A. Will not result in undue water or air pollution on and off site. In making this determination, it shall at least consider:
1.3.1.A(1) The elevation of land above sea level and its relation to the floodplain;
1.3.1.A(2) The nature of soils and subsoils and their ability to adequately support waste disposal;
1.3.1.A(3) The slope of land and its effect on effluents;
1.3.1.A(4) The availability and capacity of streams and other vehicles for disposal of effluents; and
1.3.1.A(5) The applicable state and local water resources regulations.
1.3.1.B. Has sufficient water available for the reasonably foreseeable needs of the development including, but not limited to, potable water and fire control water.
1.3.1.C. Will not cause an unreasonable burden on existing water supply including private water systems or the Kennebec Water District, whichever is to be utilized. The developer shall provide the planning board with a letter from the Kennebec Water District stating this fact.
1.3.1.D. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result either on or off site. If the development proposed to discharge stormwater runoff at an increased rate compared to preapplication rate into a municipal stormwater system, then the developer shall improve or pay for the improvement of that municipal storm water system so that it will have the capacity to handle such an increase.
1.3.1.E. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads, existing or proposed, both on and off site. If the developer is required to submit a traffic impact analysis for off-site traffic, as required in 8.2.2.AE and as a result changes and/or improvements are needed on state or municipally owned or maintained public ways, the developer shall make or pay for such changes and/or improvements. The developer shall provide the planning board with letters from the city engineer and appropriate state agencies stating that the development will not cause unreasonable congestion or unsafe conditions. If there is a determination of unreasonable congestion or unsafe conditions, the developer must provide specifics of any requested changes made by the city engineer or state agencies.
1.3.1.F. Will provide for adequate solid and sewage waste disposal.
1.3.1.G. Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage whether by municipal or quasi-municipal sources, private hauler, or other approved means, and has made adequate provision for that disposal. If demolition debris, stumps, and brush are to be disposed of, they shall be disposed of on site if possible, and if they are to be disposed of at a municipal site, the cost of that disposal shall be paid for by the developer. If the development will use more than one-third of the available excess capacity of any portion of the sewage collection systems, treatment facility, and/or its discharge permits, the developer shall pay for the replacement of the available excess capacity needed by the
development if so required by the Waterville Sewerage District. The developer shall provide the planning board with a letter from the Kennebec Water District stating this fact.

1.3.1.H. Will not have an undue adverse effect on the scenic or natural beauty of the area, esthetics, historic sites, or rare and irreplaceable natural areas, or any public rights for physical or visual access to shoreline.

1.3.1.I. Is in conformance with any duly-adopted City of Waterville regulation or ordinance, comprehensive plan, development plan, and/or land use plan. In making this determination, the planning board is authorized to interpret these ordinances and plans in conjunction with the solicitor.

1.3.1.J. The developer has adequate financial and technical capacity to meet the above-stated standards.

1.3.1.K. Whenever situated, in whole or in part, within two hundred fifty (250) feet of any pond, lake, river, will not adversely affect the quality of that body of water or unreasonably affect shoreline of that body of water, and complies with section 4.3.26, of the zoning ordinance.

1.3.1.L. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater both on and off site; and if a hydrological assessment is requested, such assessment will comply with section 4.3.18. of the zoning ordinance.

1.3.1.M. Will at least meet all of the requirements of the city's floodplain development permit ordinance, Appendix D, Revised Code of Ordinances.

1.3.1.N. Will identify on any maps submitted as a part of an application under this ordinance all potential freshwater wetlands within the proposed site or subdivision regardless of the size of these wetlands, and any river, stream, or brook, as defined in Title 38 MRSA section 480-B, 9, as amended from time to time, that is within or abuts the subject property of the application.

1.4.

The planning board may, for purposes of protecting and assuring access to direct sunlight for solar energy systems, prohibit, restrict, or control development through the site plan review and subdivision ordinance.

1.5.

The regulations may call for subdivision development plans containing restrictive covenants, height restrictions, side yard and setback requirements or other permissible forms of land use controls.

ARTICLE 2. AUTHORITY AND ADMINISTRATION

2.1. Authority.

2.1.1. These standards have been prepared in accordance with the provisions of Title 30-A MRSA section 4404, as amended from time to time, and all amendments thereto.

2.1.2. The standards shall be known and may be cited as "Site Plan Review and Subdivision Ordinance of the City of Waterville, Maine".

2.2. Administration.

2.2.1. The planning board of the City of Waterville, hereinafter called the board, shall administer this ordinance. The code enforcement officer shall have enforcement responsibilities for this ordinance.

2.2.2. No building permit or plumbing permit or certificate of occupancy shall be issued by the municipal officers or code enforcement officer for any use or development within the scope of this ordinance unless and until a site plan of development or subdivision application has been reviewed and approved by the planning board.
2.2.3. Consistent with requirements of this ordinance, the planning board shall promulgate and shall annually update a checklist summarizing the tasks, studies, and activities, that the developer will need to undertake, the data that must be furnished and the specific individuals, agencies and offices to which this information must be submitted by the developer. This checklist and the steps it prescribes, must be completed by the developer and declared complete by the planning board in order to initiate thereview process.

ARTICLE 3. DEFINITIONS

3.1.

In general, words and terms used in these standards shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined as follows:

- **Abutting property owner:** One whose property abuts, is contiguous, or joins at a border or boundary including the property across the street, road, public way or private way.
- **Authorized agent:** Anyone having written authorization to act in behalf of a property owner, signed by the property owner.
- **Comprehensive plan or policy statement:** Any part or element of the overall plan or policy for development of the city as defined in Title 30-A MRSA section 4301(3) as amended from time to time.
- **Construction drawings:** Drawings showing by way of example only the location, profile, grades, size and type of drains, sewers, water mains, underground fire alarm ducts, underground power ducts and underground telephone ducts, pavements, cross-section of streets, miscellaneous structures.
- **Development/project:** Any property and/or structure subject to the regulations of this ordinance.
- **Dwelling unit:** A "dwelling unit" means any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, time-share units, and apartments.
- **Easement:** The authorization of a property owner for the use by another, and for a specified purpose, of any designated part of his property.
- **Effluents:** Waste material discharged into the environment including, but not limited to, storm waters and surface waters.
- **Engineer:** City engineer or his/her agent, licensed by the State of Maine.
- **Final plan:** The final drawings on which the developer's plan of subdivision or applicable site is presented to the planning board for approval and which, if approved, shall be filed for record with the code enforcement officer and the Kennebec Registry of Deeds; provided that the final drawings are in conformity with the requirements of Title 33 MRSA Section 652 as amended from time to time.
- **Legislative body:** City council.
- **Municipality:** City of Waterville.
- **Official map:** The map adopted by the municipality showing the location of public property, ways used in common by more than two (2) owners of abutting property, and approved subdivisions; and any amendments thereto adopted by the municipality or additions thereto resulting from the approval of subdivision plans by the planning board and the subsequent filing for record of such approved plans.
- **Official submittal date:** The time of submission of a preapplication plan, final plan for minor subdivision, preliminary plan for major subdivision or final plan for major subdivision shall be considered the submission date of the application for such plan approval to the board, complete and accompanied by any required fee and all data required by these standards.
Open space land: Any area of land, the preservation or restriction of the use of which would conserve scenic resources, enhance public recreation opportunities, promote game management, or preserve wildlife.

Person: Includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.

Planning board: The planning board of the municipality which acts as the municipal reviewing authority as provided for in Title 30-A MRSA sections 4301(12) and 4403(1), as amended from time to time.

Planting screen easement: A visual buffer consisting of dense vegetation which at maturity is sufficient to substantially screen the use indicated.

Preliminary plan: The preliminary drawings indicating the proposed layout of the development to be submitted to the planning board for its consideration.

Private road: A minor residential street serving no more than three (3) dwelling units, which is not intended to be dedicated as a public street. This definition includes driveways serving as few as one (1) dwelling unit, when there is insufficient frontage on a public street. Private roads are subject to the performance standards of the Zoning Ordinance.

Quasi-municipal services: Including but not necessarily limited to, the Kennebec Water District, the Waterville Sewerage District, and the Kennebec Sanitary Treatment District.

Resubdivision: The further division of an existing subdivision or any change of lot size therein or the relocation of any street or lot line in a subdivision.

Street: The word "street" means an existing state, county, or city way or a street dedicated for public use and shown upon a plan duly approved by the planning board and recorded in the Kennebec Registry of Deeds. The term "street" shall not include those ways which have been discounted, vacated or abandoned.

Structure or structures, new: New structure or structures include any structure for which construction began on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure for the purpose of this ordinance.

Structure, principal. Principal structure is defined to mean the building or structure in which the main use of the premises takes place.

Subdivider: An individual, firm, or association, syndicate, partnership, corporation, trust, or any other legal entity, or agent thereof, who or which proposes to build a subdivision. The term "subdivider" includes "developer" and "builder."

Subdivision: A subdivision is the division of a tract or parcel of land into three (3) or more lots within any five-year period, which period begins after September 23, 1971, whether accomplished by sale, lease, development, buildings or otherwise, provided that a division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption or a gift to a municipality, or by transfer of any interest in land to the owner of land abutting that land unless the intent of that transfer is to avoid the objective of this section, shall not be considered to create a lot or lots for the purpose of this section.

The term "subdivision" shall also include the division of a new structure or structures on a tract or parcel of land into three (3) or more dwelling units within a five-year period, the construction of three (3) or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into three (3) or more dwelling units within a five-year period. The area included in the expansion of an existing structure is deemed to be a new structure for the purpose of this paragraph.

In determining whether a tract or parcel of land is divided into three (3) or more lots, the first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first two (2) lots and the next dividing of either of the first two (2) lots, by whomever accomplished, unless otherwise exempted herein, shall be considered to create a third lot, unless both those dividings are accomplished by a subdivider who shall have retained one of the lots for his own use a single-family residence or for open space land as defined in Title 36, section 1102 for a period of at least five (5) years prior to that second dividing.
A lot of at least forty (40) acres shall not be counted as a lot, except:
a. Where the lot or parcel from which it was divided is located wholly or partly within any shoreland area as defined in Title 38, section 435 as amended from time to time; or
b. In determining the number of dwelling units in a structure, the provisions regarding the determination of the number of lots shall apply, including exemptions from the definition of a subdivision of land.

Notwithstanding the provisions of this definition, leased dwelling units are not subject to subdivision review if the planning board has determined that the units are otherwise subject to municipal review under the site review provisions of this ordinance or the multifamily provisions contained in the zoning ordinance.

For the purposes of this section, a tract or parcel of land is defined as all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

Subdivision, major: Any subdivision containing five (5) or more lots, or any subdivision requiring any new street extension or construction, or the construction or extension of public utilities.

Subdivision, minor: A subdivision containing three (3) or four (4) lots and no street or utilities extension.

Undue hardship:

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 prior owner;
e. That the variance is the minimum variance that will make possible reasonable use of the land, building or structure; and
f. That a variance may only be granted for a use permitted in a particular zone.

Wetlands, freshwater: Freshwater wetlands means freshwater swamps, marshes, bogs, and similar areas which are:
a. Inundated or saturated by surface or groundwater 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 great pond, river, stream or brook.

The areas defined herein may contain small stream channels or inclusions of land that do not conform to the criteria of freshwater wetland as defined herein.

(Ord. No. 15-1992, 10-20-92; Ord. No. 4-1993, 6-15-93)

ARTICLE 4. INFORMAL PREAPPLICATION REVIEW

4.1. Procedure.

4.1.1. Whenever any subdivision or site review plan, as required by the zoning ordinance, is proposed to be made, and before making a formal application for approval of a plan or permit, the applicant shall submit to the planning board a sketch plan of the subdivision or site, buildings, and surrounding land for informal review.

4.1.2. In order to avoid unnecessary delays in processing applications, the board shall prepare an agenda for each regularly scheduled meeting. Applicants shall request to be placed on the board's agenda at least two (2) weeks in advance of a regularly scheduled meeting by contacting the chairman. Applicants who attend the informal preapplication review meeting but who are not on the board's agenda may be heard but only after all agenda items have been completed and then only if a majority of the board so votes.
4.1.3. At the time the sketch plan is submitted, there will be a question and answer period. The board may make specific suggestions to be incorporated into subsequent submissions.

4.1.4. If the planning board desires a view of the site, the applicant shall arrange inspection of the site with the planning board or a committee member or individual appointed by the chairman to act as the board's representative for that inspection.

4.1.5. Within thirty (30) days the board shall determine and inform the applicant in writing of the required contour interval on the plan, and hold an on-site inspection of the property if requested by the board.

4.1.6. The submittal or review of the preapplication sketch plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1 MRSA section 302, as amended from time to time. In the case of a subdivision as defined in Title 30-A MRSA section 4404, as amended from time to time, and herein, after preliminary inspection, the planning board will classify the sketch plan into categories as defined herein: Minor subdivision; major subdivision.

4.1.7. If classified as a minor subdivision, the subdivider shall then comply with the procedures outlined in Article 7 of these standards. If classified as a major subdivision the subdivider shall comply with the procedures outlined in Articles 8 and 9 of these standards.

4.1.8. All site review plans in excess of ten thousand (10,000) square feet of total gross floor area to which this ordinance is applicable shall comply with the procedures outlined in Article 8 and Article 9 of these standards; otherwise, the procedures outlined in Article 7 shall apply.

4.1.9. No fee shall be charged for the informal preapplication review.

4.2. Submissions.

4.2.1. The applicant shall submit the sketch plan to the planning board at least two (2) weeks in advance of a regularly scheduled meeting.

4.2.2. The sketch plan shall show, in simple sketch form on a topographic map the proposed layout of streets and lots, location of all existing and proposed buildings and structures, and other features in relation to existing conditions. The sketch plan, which may be a free-hand penciled sketch, should include the data listed in section 7.3 or such of it as the planning board determines is necessary for its consideration of the proposed sketch plan.

4.2.3. General information shall describe or outline existing conditions of the site and the proposed development as necessary to supplement the drawing required above. This information shall include data on existing covenants, soils, and available community facilities and utilities, as well as information specific to the proposal itself.

ARTICLE 5. APPLICATION FEES AND ESCROW ACCOUNT

5.1. Fees.

5.1.1. All applications for final plan approval for minor subdivisions with four (4) or less dwelling units, lots or rental units, and site plan review permits for projects with structures having a total gross floor area of less than ten thousand (10,000) square feet, shall be accompanied by an application fee of one hundred dollars ($100.00) plus an additional fifty dollars ($50.00) for each lot or dwelling unit, or two thousand (2,000) square feet of gross floor space. The application fees shall be made by check payable to the City of Waterville, Maine.

5.1.2. All applications for preliminary plan approval for major subdivisions with five (5) or more dwelling units, lots or rental units or site plan review projects which have a total gross floor space in excess of ten thousand (10,000) square feet, shall be accompanied by an application fee of one hundred dollars ($100.00) plus fifty dollars ($50.00) per lot, dwelling unit, or each two thousand (2,000) square feet of gross space.
5.1.3. All applications for final plan approval for major subdivisions or site plans for more than ten thousand (10,000) square feet of gross floor space shall be accompanied by an application fee of twenty dollars ($20.00) per lot, dwelling unit, or each two thousand (2,000) square feet of gross space.

5.2. Escrow account.

5.2.1. There shall be an additional payment of one hundred fifty dollars ($150.00) for each lot or dwelling unit or each two thousand square feet of gross space area. This portion of the application fee shall be known as the planning board review escrow account. Payment shall be made by check payable to the City of Waterville, Maine, and shall be deposited in a special interest bearing bank account which is separate and distinct from all other municipal bank accounts. These funds or portions thereof may, from time to time be used by the city at the request of the planning board for purposes to be determined by the planning board in order to make payments for reasonable costs, expenses and services incurred by or contracted for by the city through the planning board at its discretion which relate directly to the review of the subdivision and/or site plan review application.

5.2.2. Such services may include, but need not be limited to, clerical costs, consulting engineering fees, architectural fees, attorney fees, recording fees, and appraisal fees. All such fees must relate to the review of the application pursuant to the review criteria of the City of Waterville ordinances and the laws of the State of Maine, and in addition may be used for providing notice to abutting landowners and conducting public hearings related to the planning board review of the application.

5.2.3. The planning board shall refund all of the remaining monies in the account upon the payment of all costs and services related to the planning board review, as indicated in section 5.2.2. Payment of the remaining money shall be made no later than ninety (90) days after the application for final plan approval has been granted, denied, or granted with conditions. This refund shall be accompanied by a final accounting of expenditures from the fund. The monies in the fund shall not be used by the planning board for any enforcement purposes, nor shall the applicant be liable for costs incurred by or costs of services contracted for by the planning board which exceed the amount deposited to the escrow account.

ARTICLE 6. PERFORMANCE GUARANTEES

6.1. Types of guarantee.

With submittal of the application for final plan approval, the applicant shall provide one of the following performance guarantees for an amount adequate to cover total construction of all required improvements, taking into account the time span of the construction schedule and the inflation rate for construction cost:

6.1.1.A. Either a certified check payable to the City of Waterville or a savings account or certificate of deposit naming the city as owner, for the establishment of an escrow account;

6.1.1.B. A performance bond payable to the City of Waterville issued by a surety company, with a BEST's A rating or better, and approved by the municipal officers, or city administrator;

6.1.1.C. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision of site plan, which the city may draw from if construction is inadequate, approved by the municipal officers, or city administrator; or

6.1.1.D. An offer of conditional agreement limiting the number of units built or lots sold until all required improvements have been constructed.

6.1.2. The conditions and amount of the performance guarantee shall be determined by the board with the advice of the city engineer, director of public works, municipal officers, and/or city solicitor.

6.2. Contents of guarantee.
The performance guarantee shall contain a construction schedule, estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the developer will be in default and the city shall have access to the funds to finish construction.

6.3. Escrow account.

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the City of Waterville, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the subdivider or site plan developer, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the account shall be returned to the subdivider or site plan developer, unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the subdivider or developer and the amount withdrawn to complete the required improvements.

6.4. Performance bond.

A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the municipality. The bond documents shall specifically reference the subdivision or site plan for which approval is sought.

6.5. Letter of credit.

An irrevocable letter or credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the subdivision or site plan and may not be used for any other project or loan.

6.6. Conditional agreement.

The board, at its discretion, may provide for the subdivider or site plan developer to enter into a binding agreement with the municipality in lieu of other financial performance guarantees. Such an agreement shall provide for the approval of the final plan on the condition that up to four (4) lots may be sold or built upon until either;

6.6.1. It is certified by the board or its agent that all of the required improvements have been installed in accordance with these regulations and the regulations of the appropriate utilities; or
6.6.2. A performance guarantee, acceptable to the municipality, is submitted in an amount necessary to cover the completion of the required improvements in an amount adjusted for inflation and prorated for the portions of the required improvements already installed.

6.7. Phasing of development.

The board may approve plans to develop a major project in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed development street which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of the requirements pertaining to previous phases.


Prior to the release of any part of the performance guarantee, the board shall determine to its satisfaction, in part upon the report of the code enforcement officer or city engineer and whatever other agencies and departments may be involved, that the proposed improvements
meet or exceed design and construction requirements for that portion of the improvements for which the release is requested.

6.9. Default.

If, upon inspection, the code enforcement officer or city engineer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the municipal officers, the board, and the subdivider, developer or builder. The municipal officers shall take any steps necessary to preserve the city's rights.

6.10. Private roads.

6.10.1. Private roads are subject to the performance standards contained in 4.3.41, private roads, of the zoning ordinance.

Where the development streets are to remain private roads, the following words shall appear on the recorded plan:
"All listed roads in this Development shall remain private roads to be maintained by the Developer or the lot owners (specify which) and shall not be accepted or maintained by the City of Waterville."
(Ord. No. 4-1993, 6-15-93)

6.11. Improvements guaranteed.

Performance guarantees shall be tendered for all improvements required by these regulations, as well as any other improvements required by the board.

ARTICLE 7. REVIEW AND APPROVAL OF MINOR SUBDIVISIONS AND DEVELOPMENT SITES

7.1. General.

7.1.1. The planning board may require, where it deems it necessary for the protection of public health, safety and welfare, that a minor subdivision or site plan comply with all or any of the requirements specified for major subdivisions or site plans.

7.2. Procedure.

7.2.1. Within six (6) months after classification of the sketch plan as a minor subdivision or site plan by the planning board, the developer shall submit an application for approval of a final plan at least fourteen (14) days prior to a scheduled meeting of the board. Failure to do so shall require submission of the sketch plan to the planning board for reclassification. The final plan shall conform to the layout shown on the sketch plan plus any recommendations made by the planning board.

7.2.2. Upon receiving an application, the planning board shall issue the applicant a dated receipt. Within thirty (30) days from receipt of an application, the planning board shall notify the applicant in writing either that the application is complete or if incomplete, the specific additional material needed to make a complete application. After the planning board has determined that a complete application for final plan has been submitted, it shall notify the applicant in writing within seven (7) days and begin its full evaluation of the proposed subdivision or site plan.

7.2.3. The developer, or his duly authorized representative, shall attend the meeting of the planning board to discuss the final plan.

7.2.4. The time of submission of the final plan shall be as defined in Article 3, "Official Submittal Date".

7.2.5. The planning board shall hold a public hearing within thirty (30) days of the submission of a completed application. Notice of the day, time, and place of the hearing shall be
given to the applicant and shall be published at least two (2) times in a newspaper of general circulation in the city, the date of the first publication to be at least ten (10) days prior to the date of the hearing.

7.2.6. As soon as the hearing date is established, and at least fourteen (14) days prior to that hearing, the developer shall notify by certified mail, all owners of property abutting the proposed development specifying the location of the proposed development and a general description of the project. The developer shall provide the planning board with a copy of the certified mail receipt of all owners of property abutting the proposed development. Failure to provide all receipts may be the basis for the postponement of the hearing by the planning board.

7.2.7. The planning board shall within thirty (30) days of the public hearing, issue an order denying or granting approval of the plan and/or site plan review permit, or granting approval upon those terms and conditions as it may deem advisable to satisfy the criteria listed in section 1.3 and satisfy any other regulations adopted by the planning board and to protect and preserve the public's health, safety, and general welfare. In issuing its decision, the planning board shall make findings of fact establishing the proposed development does or does not meet the foregoing criteria. Any order, including findings of fact, will be in writing, and will reflect decisions that were made in open sessions.

7.2.8. The time frame outlined in subsection 7.2.7 of this article may be extended for a period not to exceed thirty (30) days, subject to agreement of both the applicant and the board.

7.3. Submissions.

7.3.1. The plan for a minor subdivision or development site shall consist of one original and three (3) copies of one or more maps or drawings drawn to a scale of not more than forty (40) feet to the inch. The original shall be legibly drawn in India ink, on linen, or polyester film with archival photographic image; embossed with the seal of a professional land surveyor as defined in 32 M.R.S.A. section 13901(4), as amended from time to time; contain the signature and address of the person who prepared the plan; provide a space for recording the county, date, time, plan book and page, or file number, and registers attest; provide a title block containing the name of the plan, the record owner's name and address, the location by street and town and date of the plan; and be a minimum size of twelve (12) by eighteen (18) inches, and a maximum size of twenty-four (24) by thirty-six (36) inches in dimension. Space shall be reserved thereon for endorsement by all appropriate agencies. The application for approval of a minor subdivision or development site shall include all the information presented on the sketch plan plus the following:

7.3.1.A. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.

7.3.1.B. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor as defined in 32 M.R.S.A. § 13901(4), as amended from time to time. The corners of the tract shall be located on the ground and marked by monuments as herein required, and shall be referenced as shown on the plan.

7.3.1.C. Identification of the soils boundaries and names in the proposed development with the soils information superimposed upon the plot plan in accord with the USDA Soil Conservation Service National Cooperative Soil Classification. All potential freshwater wetlands within the proposed site or subdivision identified on maps regardless of the size of the wetlands.

7.3.1.D. All on-site sewerage and water supply facilities shall be shown designed to meet at least the minimum specifications of these standards and all pertinent state laws and local ordinances. Compliance shall be stated on the plan and signed by the superintendent or engineer of each utility.

7.3.1.E. Proposed name of the development or identifying title, and the name of the municipality in which it is located.
7.3.1.F. The date, north point, graphic map scale, name and address of record owner and developer, and the names of adjoining property owners.
7.3.1.G. A soil erosion and sediment control plan containing the endorsement of the city engineer.
7.3.1.H. Any and all other recommendations and/or stipulations the board may make as a result of the informal preapplication review including, but not limited to, any and all requirements specified for major subdivisions or site plans.
7.3.1.I. Building plans showing, as a minimum, the first floor plan or other outside access plan and all elevations, with indication of proposed material and color of all proposed principal buildings and structures and all accessory buildings and structures.

7.4. Final approval and filing.

7.4.1. Upon completion of the requirements in this article and notation to that effect upon the plan, said plan shall be deemed to have final approval and shall be properly signed by a majority of the members of the planning board and a copy of said plan shall be filed by the applicant with the office of the code enforcement officer. The original plan shall then be filed with the Kennebec County Registry of Deeds. Any plan not so filed or recorded within ninety (90) days of the date upon which such plan is approved and signed by the planning board as herein provided shall become null and void, unless the particular circumstances of said applicant warrant the planning board to grant an extension which shall not exceed two (2) additional periods of ninety (90) days.

7.4.2. After final approval all projects must be commenced within twelve (12) months and completed within twenty-four (24) months unless a special schedule has been approved by the planning board or an extension has been granted by the planning board. Any project failing to meet the requirements of this section shall be required to resubmit an application for final approval. Upon determining that a subdivision’s approval has expired under this paragraph, the board shall place a notice in the registry of deeds to that effect.

7.5. Plan revision after approval.

7.5.1. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the planning board and endorsed in writing on the plan, unless the plan is first resubmitted and the planning board approves any modifications. In the event that a final plan is recorded without complying with this requirement, the same shall be considered null and void and the board shall institute proceedings to have the plan stricken from the records of the code enforcement officer and the registry of deeds.

7.6. Public acceptance of streets, recreation areas.

7.6.1. The approval of the planning board of a final 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.

7.6.2. When a park, playground, or other recreation area is shown on the plan, approval of the plan shall not constitute an acceptance by the municipality of such areas. The planning board shall require the plan to be endorsed with appropriate notes to this effect. The planning board may also require the filing of a written agreement between the applicant and the municipal officers covering future deeds and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such recreation area.

ARTICLE 8. PRELIMINARY PLAN FOR MAJOR SUBDIVISIONS AND DEVELOPMENT SITES

8.1. Procedure.
8.1.1. Within six (6) months after classification of the sketch plan as a major subdivision or applicable site plan by the planning board, the developer shall submit an application for the consideration of a preliminary plan. Failure to do so shall require resubmission of the sketch plan to the planning board for reclassification. The preliminary plan shall conform to the layout shown on the sketch plan plus any recommendations made by the planning board.

8.1.2. Upon receiving the application, the planning board shall issue the applicant a dated receipt. Within thirty (30) days of receiving the application, the planning board shall notify the applicant in writing that either the application is complete or, if incomplete, specific additional material needed to make a complete application. If a complete application has been submitted, the planning board shall notify the applicant in writing within seven (7) days and begin its full evaluation of the proposed project.

8.1.3. The developer, or his duly authorized representative, shall attend the meeting of the planning board to discuss the preliminary plan.

8.1.4. The time of submission of the preliminary plan shall be as defined in Article 3, "Official Submittal Date".

8.1.5. The planning board shall hold a public hearing within thirty (30) days of the submission of a complete application. Notice of the date, time and place of the hearing shall be given to the applicant and shall be published at least two (2) times in a newspaper of general circulation in the city, the date of the first publication to be at least ten (10) days prior to the hearing.

8.1.6. As soon as the hearing date is established, and at least fourteen (14) days prior to that hearing, the developer shall notify by certified mail, all owners of property abutting the development subdivision specifying the location of the proposed development and a general description of the project. The developer shall provide the planning board with a copy of the certified mail receipt of all owners of property abutting the proposed development. Failure to provide all receipts may be the basis for the postponement of the hearing by the planning board.

8.1.7. The planning board shall, within thirty (30) days of the public hearing, issue an order denying or granting preliminary approval of the preliminary plans, or granting approval upon those terms and conditions deemed advisable to satisfy the criteria listed in section 1.3 and to satisfy any other regulations adopted by the planning board and to protect the public's health, safety and general welfare. In issuing its decision, the planning board shall make findings of fact establishing that the proposed subdivision or site plan does or does not meet the foregoing criteria. Any order, including findings of fact, will be in writing, and will reflect decisions that were made in open sessions.

8.1.8. When granting preliminary approval to a preliminary plan, the planning board shall state in writing the conditions of such approval, if any, with respect to:

8.1.8.A. The specific changes which it will require in the final plan; and
8.1.8.B. The character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, and general welfare. The decision of the planning board plus any conditions imposed shall be noted on three (3) copies of the preliminary plan. One copy shall be returned to the applicant, one retained by the planning board and one forwarded to the municipal officers.

8.1.9. The final plan shall be submitted for approval of the planning board and for recording upon fulfillment of the requirements of these standards and the conditions of the preliminary approval, if any. Prior to approval of the final plan, the planning board may require additional changes as a result of new information obtained at the public hearing. If the preliminary plan meets all the requirements of the final plan, then that approval constitutes final approval.

8.2. Submissions.
8.2.1. Location map. The preliminary plan shall be accompanied by a location map to show the relation of the proposed development to the adjacent properties and to the general surrounding area. The location map shall show:
8.2.1.A. All the area within two thousand (2,000) feet of any property line of the proposed development, including:
8.2.1.A(1) All existing subdivisions, locations, widths and names of existing or proposed streets, easements, and alleys pertaining to the proposed development and to the adjacent properties.
8.2.1.A(2) An outline of the proposed development site or subdivision, and where applicable, its street system and an indication of the future probable street system of the remaining portion of the tract, if the preliminary plan submitted covers only part of the applicant's entire holding.

8.2.2. Preliminary plans. The preliminary plan shall be submitted in four (4) copies of one or more maps or drawings drawn to scale of not less than one inch equals one hundred (100) feet and not more than one inch equals four hundred (400) feet. The original shall be legibly drawn in India ink, on linen, or polyester film with archival photographic image; embossed with the seal of a professional land surveyor, as defined in 32 M.R.S.A. § 13901(4), as amended from time to time; contain the signature and address of the person who prepared the plan; provide a space for recording the county, date, time, plan book and page, or file number, and registers attest; and provide a title block containing the name of the plan, the record owner's name and address, the location by street and town and date of the plan; and be a minimum size of twelve (12) by eighteen (18) inches, and a maximum size of twenty-four (24) by thirty-six (36) inches in dimension. Space shall be reserved thereon for endorsement by all appropriate agencies. The application for approval of a major subdivision or development site shall include all the information presented on the sketch plan plus the following:
8.2.2.A. Proposed project name or identifying title and the name of the municipality, plus the assessor's map and lot numbers.
8.2.2.B. Name and address of record owner, developer and designer of the preliminary plan.
8.2.2.C. Number of acres within the proposed project, location of property lines, existing easements, buildings, watercourses, vegetative cover type, and other essential existing physical features. The location of any trees ten (10) inches or larger in diameter at chest height shall be shown on the plan.
8.2.2.D. Number of lots and lot boundaries.
8.2.2.E. An actual field survey of the boundary of the tract giving complete descriptive data, by bearings and distances, made and certified by a professional land surveyor; as defined in 32 M.R.S.A. § 13901(4), as amended from time to time. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each corner.
8.2.2.F. The proposed lot lines with building plans showing, as a minimum, the first floor plan or other outside access plan and all elevations, with indication of proposed material and color of all proposed principal and accessory buildings and structures.
8.2.2.G. Date, true north point and graphic scale.
8.2.2.H. Contour lines at intervals of not more than five (5) feet or at such intervals as the planning board may require, based on United States Geological Survey datum of existing grades where change of existing ground elevation will be five (5) feet or more.
8.2.2.I. A copy of the deed upon which the survey was based. A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
8.2.2.J. A copy of any covenants or deed restrictions to be proposed by the developer intending to cover all or part of the lots in the project.
8.2.2.K. The names of all subdivisions immediately adjacent and the names of owners of record of adjacent acreage.
8.2.2.L. The provisions of the zoning ordinance applicable to the area to be developed and any zoning district boundaries affecting the project.
8.2.2.M. The location and size of any existing sewers and water mains, culverts and drains on the property to be developed.
8.2.2.N. Connection with existing sanitary sewerage system or alternative means of treatment and disposal proposed; all to be in conformity with the requirements of section 12.6.5.

8.2.2.O. If a private sewage disposal system is proposed, location and results of tests to ascertain subsurface soil and groundwater condition, depth to maximum groundwater level, location and results of official on-site soils investigation report by a site evaluator certified by the State of Maine Department of Human Services. This report shall contain the types of soil, location of test sites and proposed location and design of the most appropriate and suitable subsurface sewage disposal system for each lot in the subdivision, and be signed by the site evaluator.

8.2.2.P. Identification of soils boundaries and names in the proposed development with the soils information superimposed upon the plot plan in accord with the USDA Soil Conservation National Cooperative Soil Classification. All potential freshwater wetlands within the proposed site or subdivision identified on maps regardless of the size of the wetlands.

8.2.2.Q. A soil erosion and sediment control plan containing the endorsement of the city engineer.

8.2.2.R. All subdivisions with more than four (4) dwelling units, lots, or rental units and all site plan review projects which will generate more than a daily average of five hundred (500) gallons of wastewater of any type, or when determined by the planning board to be required because of the unique characteristics of the plans and/or site, shall submit a hydrogeologic assessment to be in conformity with section 4.3.18 of the zoning ordinance prepared by the certified geologist with demonstrated groundwater hydrology impact assessment experience and training when the site is not served by a public sewer and

8.2.2.R(1) Any part of the subdivision or site is located over or within three hundred (300) feet of a sand and gravel aquifer as shown on the map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers", by the Maine Geological Survey, 1985, or as updated; or

8.2.2.R(2) The subdivision contains lots of five (5) acres or less in total area; or

8.2.2.R(3) The subdivision has an average density of less than five (5) acres per dwelling unit.

8.2.2.S. Connection with existing water supply or alternative means of providing water supply to the proposed subdivision; all to be in conformity with the requirements of section 12.5 and section 4.3.18.H. of the zoning ordinance.

8.2.2.T. A plan for the disposal of surface drainage waters, prepared by a registered professional engineer. Curbing is required and roadside open ditches are not acceptable.

8.2.2.U. Preliminary designs of culverts which map [may] be required.

8.2.2.V. If any portion of the subdivision or plan is subject to storm flooding that fact and portion shall be clearly shown and identified. Storm flooding shall mean standing water occurring on saturated soils after a heavy rain or land inundated when a surface water body overflows its banks.

8.2.2.W. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard area and the one hundred year flood elevation shall be delineated on the plan. If the subdivision or plan is subject to Appendix D, Floodplain Development Plan, Revised Code, compliance with that ordinance shall be evidenced.

8.2.2.X. Location of all existing and/or proposed utilities, on or adjacent to the development including size and elevation of buried or underground utilities.

8.2.2.Y. Location, names and present widths of existing proposed streets, highways, easements, building lines, alleys, parks and other public open spaces.

8.2.2.Z. The width and location of any streets or other public ways or places shown upon the official map and the comprehensive plan, if any, within the project area and the width, location, grades, and street profiles of all streets or other public ways proposed by the applicant.

8.2.2.AA. Typical cross-sections of the proposed grading for roads and sidewalks.

8.2.2.AB. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.

8.2.2.AC. The location of all natural features or site elements to be preserved.
8.2.2.AD. The location of any open space to be preserved and an indication of its improvement and management.

8.2.2.AE. Any development or subdivision which shall generate more than one hundred (100) vehicle trips per day shall submit a traffic impact analysis report by a professional engineer which demonstrates that the street giving access to the lot and neighboring streets can be expected to carry traffic to and from the development, has adequate traffic carrying capacity or can be suitably improved to accommodate the amount and types of traffic generated by the proposed use. The analysis shall demonstrate that the development shall neither increase the volume capacity ratio of any street above 0.8 nor reduce the street level of service to "D" or below determined by using the analysis procedure set forth in the 1985 Highway Capacity Manual Special Report 209 as published by the transportation board, and as hereafter amended.

8.2.2.AF. Evidence that all state law and performance standards contained in the City of Waterville land use ordinances can be met and that all of the subdivision criteria in 30-A MRSA section 4404, as amended from time to time, will be satisfied.


ARTICLE 9. FINAL PLANS FOR MAJOR SUBDIVISIONS AND DEVELOPMENT SITES

9.1. Procedure.

9.1.1. The applicant shall within six (6) months after the preliminary approval of the preliminary plan, file with the planning board an application for approval of the final plan in the form described herein. If the final plan is not submitted to the planning board within six (6) months after the approval of the preliminary plans, the planning board may refuse, without prejudice, to act on the final plan and require resubmission of the preliminary plan.

9.1.2. Upon receiving the application, the planning board shall give the applicant a receipt. Within thirty (30) days of receiving the application, the planning board shall notify the applicant in writing that either the application is completed or if incomplete, specific additional material needed to make a complete application. After the planning board has determined that a completed application for a final plan has been submitted it shall notify the applicant in writing within seven (7) days and begin its full evaluation of the proposed project.

9.1.3. The time of submission of the final plan shall be as defined in Article 3, Definitions, "Official submittal date".

9.1.4. The developer or his duly authorized representative shall attend the meeting of the planning board to discuss the final plan.

9.1.5. If the proposed development requires the approval and/or license from the State of Maine Department of Environmental Protection or other State of Maine agency, that approval and/or license shall be secured in writing before official submission of the final plan.

9.1.6. Water supply system proposals contained in the plan shall be in compliance with section 4.3.18.H. of the zoning ordinance, and shall be approved in writing by:

9.1.6.A. The Kennebec Water District if existing public water service is to be used; or

9.1.6.B. The State of Maine Department of Human Services if the subdivider proposes to provide a central water supply system; or

9.1.6.C. A civil engineer registered in the State of Maine if individual wells serving each building site are to be used. The board shall also require the subdivider to submit the results of water quality tests as performed by the Maine Department of Human Services. Such approval shall be secured before official submission of the final plan.

9.1.7. Sewage disposal system proposals contained in the plan shall be properly endorsed and approved in writing by:

9.1.7.A. The Waterville Sewerage District if existing public disposal systems are to be used; or
9.1.7.B. The State of Maine Department of Human Services if a separate central sewage collection and treatment system is to be utilized, or if individual septic tanks are to be installed by the developer.

9.1.7.C. The Maine Department of Environmental Protection if the waste is to be discharged, treated or untreated, into any body of water, or if the project in any way falls within the department's jurisdiction.

Such approval shall be secured before official submission of the final plan.

9.1.8. The planning board shall hold a public hearing within thirty (30) days of the submission of a complete application for a final plan approval. Notice of the date, time, and place of the hearing shall be given to the applicant and shall be published at least two (2) times in a newspaper of general circulation in the municipality in which the project is to be located, the date of the first publication to be at least ten (10) days prior to the hearing.

Notice of the hearing shall also be posted in at least three (3) prominent places at least ten (10) days prior to the hearing.

9.1.9. As soon as the hearing date is established, and at least fourteen (14) days prior to that hearing, the developer shall notify by certified mail, owners of the property abutting the project, specifying the location of the proposed project and its general description. The developer shall provide the planning board with a copy of the certified mail receipt of all owners of property abutting the proposed development. Failure to provide all receipts may be the basis for the postponement of the hearing by the planning board.

9.1.10. The planning board shall, within thirty (30) days of the public hearing, issue an order denying or granting final approval of the final plan, and/or site plan review permit, or granting approval upon those terms and conditions deemed advisable to satisfy the criteria listed in section 1.3 and to satisfy any other regulations adopted by the planning board and to protect the public's health, safety and general welfare. In issuing its decision, the planning board shall make findings of fact establishing that the proposed subdivision or site plan does or does not meet the foregoing criteria. Any order, including findings of fact, will be in writing, and will reflect decisions that were made in open sessions.

9.1.11. After final approval all projects must be commenced within twelve (12) months and completed within twenty-four (24) months unless a special schedule has been requested of and approval by the planning board or an extension has been granted by the planning board. Any project failing to meet the requirements of this section shall be required to resubmit an application for final approval.

9.2. Submissions.

9.2.1. The final plan shall consist of four (4) copies of one or more maps or drawings which shall be printed or reproduced in the same manner as the preliminary plan. Space shall be reserved thereon for endorsement by all appropriate agencies. The final plan shall show:

9.2.1.A. All of the information presented on the preliminary plan and location map and any amendments thereto suggested or required by the board.

9.2.1.B. The name, registration number and seal of the professional land surveyor, as defined in M.R.S.A. § 13901(4), as amended from time to time, who prepared the plan, and the date it was prepared.

9.2.1.C. Street names and lines, pedestrian ways, lots, easements and areas to be reserved for or dedicated to public use.

9.2.1.D. Street numbers for each lot to be given out by the city engineer.

9.2.1.E. Sufficient data acceptable to the city engineer to determine readily the location, bearing and length of every street line, lot line, boundary line and to reproduce such lines upon the ground. These shall be tied to reference points previously established.

9.2.1.F. The length of all straight lines, the deflection angles, radii, length of curves and central angles of all curves, tangent distances and tangent bearings for each street, existing and proposed.
9.2.1.G. By proper designation, all public open space for which offers of cession are made by the applicant and those spaces to which title is reserved by him.

9.2.1.H. Lots and blocks within the development numbered in accordance with local practice.

9.2.2. There shall be submitted to the board with the final plan:

9.2.2.A. Written offers of cession to the municipality of all public open spaces shown on the plan, and copies of agreements or other documents showing the manner in which spaces, title to which is reserved by the applicant are to be maintained.

9.2.2.B. Written evidence of a performance guarantee as required by Article 6 to secure completion of all improvements required by the board.

9.2.2.C. Written evidence that the municipal officers are satisfied with the legal sufficiency of documents referred to in paragraphs 9.2.2.A and B above. Such written evidence shall not constitute an acceptance by the municipality of any public open space referred to in paragraph 9.2.2.A above.

(Ord. No. 2-1996, 2-20-96)

9.3. Final approval and filing.

9.3.1. Upon completion of the requirements in Articles 8 and 9 above and notation to that effect upon the plan, or by incorporation by reference to an attached and identifiable document, it shall be deemed to have final approval and shall be properly signed by a majority of the members of the planning board and shall be filed by the applicant with the office of the code enforcement officer. The plan shall then be filed by the developer with the Kennebec County Registry of Deeds. Any plan not so filed or recorded within ninety (90) days of the date upon which such plan is approved and signed by the planning board as herein provided shall become null and void, unless the particular circumstances of said applicant warrant the planning board to grant an extension which shall not exceed two (2) additional periods of ninety (90) days.

(Ord. No. 4-1994, 5-3-94)

9.4. Plan revision after approval.

9.4.1. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the planning board and endorsed in writing on the plan, unless the plan is first resubmitted and the planning board approves any modifications. In the event that a final plan is recorded without complying with this requirement, the same shall be considered null and void and the board shall institute proceedings to have the plan stricken from the records of the municipal officers and the registry of deeds.

9.5. Public acceptance of streets, recreation areas.

9.5.1. The approval of the planning board of a final 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.

9.5.2. When a park, playground, or other recreation area shall have been shown on the plan, approval of the plan shall not constitute an acceptance by the municipality of such areas. The planning board shall require the plan to be endorsed with appropriate notes to this effect. The planning board may also require the filing of a written agreement between the applicant and the municipal officers covering future deeds and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such recreation area.

ARTICLE 10. VIOLATIONS, ENFORCEMENT AND FINES

10.1. Inspection of required improvements.

10.1.1. At least five (5) days prior to commencing a major phase of construction of required improvements, such as, but not so limited to, water, sanitary sewer, and storm drainage systems, and roads, the developer or building shall notify the code enforcement officer
and city engineer, in writing of the time when he proposes to commence construction of those improvements, so that, the municipal officers will cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of the required improvements, and to assure the satisfactory completion of improvements and utilities required by the board.

10.1.2. If the inspecting official 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 developer, he shall so report in writing to the municipal officers, building inspector, planning board and the developer or builder. The municipal officers shall take any steps necessary to preserve the municipality's rights.

10.1.3. If at any time before or during construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as, but not limited to, encountering hidden outcrops of bedrock or natural springs. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the board. Revised plans shall be filed with the city. For major modifications, such as, but not limited, relocation of rights-of-way, property boundaries, or changes of grade by more than one percent, the developer shall obtain permission to modify the plans from the board.

10.1.4. At the close of each summer construction season, the city shall, at the expense of the developer, have the site inspected by a qualified individual. By December 1st of each year during which construction was done on the site, the inspector shall submit a report to the board based on that inspection, addressing whether stormwater and erosion control measures (both temporary and permanent) are in place, are properly installed and appear adequate to do the job they were designed for. The report shall also include a discussion of and recommendations on any problems which were encountered.

10.1.5. Prior to the sale of any lot, the developer shall provide the board with a letter from a registered land surveyor, stating that all monumentation shown on the plan has been installed.

10.1.6. Upon completion of street construction and prior to a vote by the municipal officers to accept the dedication of a street as a town way, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the municipal officers at the expense of the applicant, certifying that the proposed city way meets or exceeds the design and construction requirements of this ordinance. 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.

10.1.7. The developer or builder shall be required to maintain all improvements and to provide for snow removal on streets and sidewalks until acceptance of the improvements by the legislative body.

10.2. Violations and enforcement.

10.2.1. No plan of a division of land within the municipal boundaries which would constitute a subdivision as defined by 30-A MRSA section 4404, as amended from time to time, shall be recorded or filed in the registry of deeds until a final plan has been approved by the board in accordance with this ordinance. Approval for the purpose of recording shall appear in writing on the face of the plat or plan.

10.2.2. No person, firm, corporation, board, or legal entity may convey, offer or agree to convey and property rights in a subdivision which has not been approved as required by the board and recorded in the registry of deeds.

10.2.3. No person, firm, corporation, or other legal entity may convey, offer or agree to convey any property rights in an approved subdivision which is not shown on the final plan as a separate lot.
10.2.4. Any person, firm, corporation, or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by this ordinance, shall be punished by a fine of not less than one hundred dollars ($100.00) and not more than two thousand five hundred dollars ($2,500.00) for each such conveyance, offering, or agreement. The City of Waterville may institute proceedings to enjoin the violation of this section, and may collect attorney’s fees and court costs if it is the prevailing party.

10.2.5. Any person, firm, corporation or other legal entity who violates the provisions of this ordinance or the conditions of a permit, shall be guilty of a civil violation and upon conviction shall be fined not less than one hundred dollars ($100.00) and not more than two thousand five hundred dollars ($2,500.00). Each day such a violation continues shall constitute a separate violation, to a maximum of twenty-five thousand dollars ($25,000.00). All fines shall be paid to the City of Waterville.

10.2.6. No public utility, water district, sanitary district, or any utility company of any kind shall provide any service to any lot in a development for which a final plan has not been approved by the board.

10.2.7. Development of a subdivision or applicable site without board approval shall be a violation of law. Development includes, but need not be limited to, grading or construction of roads, grading of land or lots, removal of trees six (6) inches in diameter measured at four and one-half (4 1/2) feet from the ground, or construction of buildings which require a final plan approved as provided in this ordinance and recorded in the registry of deeds.

10.2.8. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with this ordinance, up to and including the entire frontage of the lot. No unit in a multifamily development shall be occupied before the street upon which the unit is accessed is completed in accordance with this ordinance.

10.2.9. The code enforcement officer or city engineer, upon finding that any provision of this ordinance or the condition of a permit issued under this ordinance is being violated, is authorized to issue notices of violations, orders to correct, and schedules to correct. In carrying out his duties, the code enforcement officer may enter onto any property at reasonable hours and to enter any building with the consent of the property owner, occupant or agent, to inspect the property for compliance with these regulations. The City of Waterville acting through the city council may institute proceedings to enjoin the violation of this ordinance.

10.2.10. The administration of this ordinance shall be the responsibility of the planning board, and its enforcement shall be the responsibility of the code enforcement officer or city engineer. The administration and enforcement of these regulations shall not be deemed to infringe upon the authority of the city council to lay out and accept streets.

ARTICLE 11. GENERAL REQUIREMENTS

11.1. In reviewing applications for a subdivision or site plan, the board shall consider the following general standards and shall make written findings of fact that each applicable standard has been met prior to the approval of the final plan. In all instances, the burden of proof shall be upon the applicant.

11.2. Conformity with comprehensive plan. Any proposed subdivision or site plan shall be in conformity with the comprehensive plan or other policy statement of the municipality and with the provisions of all pertinent state and local codes and ordinances.

11.3. Relation of development to community services.
Any proposed development shall be reviewed by the board with respect to its effect upon existing services and facilities.

11.4. Retention of proposed public sites and open spaces.

11.4.1. In subdividing property, the developer shall give consideration to suitable sites for schools, parks, playgrounds, and other common areas for public use so as to conform to the comprehensive plan. Another provision for these uses should be indicated on the preliminary plat in order that it may be determined when and in what manner these areas will be dedicated to or acquired by the appropriate agency.

11.4.2. The board may further require that the developer provide space for future municipal uses, in accordance with a comprehensive plan or policy statement, on a reimbursable basis for a five-year option after which the space may be sold for other development.

11.4.3. In any subdivision other than a cluster development, the planning board may request that the developer either provide up to ten (10) percent of his total area as open space, or make a payment in lieu of dedication into a municipal land acquisition fund.

11.4.4. Land reserved for open space purposes shall be of a character, configuration, and location suitable for the particular use intended. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have a total frontage on one or more streets of at least two hundred (200) feet, and have no major dimensions less than two (200) feet. Sites selected primarily for scenic or passive recreation purposes shall have such access as the board may deem suitable at no less than twenty-five (25) feet of road frontage. The configuration of such sites shall be deemed adequate by the board with regard to scenic attributes to be preserved, together with sufficient areas for trails and, lookouts, where necessary and appropriate.

11.4.5. Reserved land acceptable to the board and developer may be dedicated to the municipality as a condition of approval.

11.4.6. Land reservation shall be calculated on the basis of one thousand three hundred (1,300) square feet per dwelling unit proposed, or three (3) acres per one hundred (100) dwellings units. Where land is unsuitable or insufficient in amount or when the planning board determines that land should be acquired in another location, a payment in lieu of dedication shall be calculated at the market value of land at the time of the subdivision, as determined by the municipal tax assessor, and deposited into a municipal land acquisition fund.

11.5. Preservation of natural and historic features.

11.5.1. The board may require that a proposed subdivision or site plan design include a landscape plan that will show the preservation of existing trees ten (10) inches or more at chest height, the replacement of trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally desirable areas. Cutting of trees on the northerly borders of lots should be avoided as far as possible, to retain a natural wind buffer. The street and lot layout should be adapted to topography. Extensive grading and filling shall be avoided as far as possible.

11.6. Land not suitable for development.

11.6.1. The board shall not approve such portions of any proposed development that:

11.6.1.A. Are located within the one hundred year frequency floodplain as identified by an authorized federal or state agency.

11.6.1.B. Are located on land which must be filled or drained or on land created by diverting a watercourse; except the board may grant approval if a central sewage collection and treatment system is provided.

11.6.1.C. Employs septic sewage disposal and is located on soils rated poor or very poor by the Soil Suitability Guide for Land Use Planning in Maine unless the lot size is a minimum of forty
thousand (40,000) square feet and a favorable soil suitability study is conducted by a registered professional engineer for the subdivision as a whole, and said study is approved by the State of Maine Department of Human Services, Division of Health Engineering. For soils rated fair or better, the forty thousand (40,000) square foot restriction may be waived if a soil suitability study conducted and approved as stated above is favorable.

11.7. Blocks.
11.7.1. The length, width and shape of blocks shall be determined with regard to:
11.7.1.A. Provision of adequate building sites suitable to the special needs of the type of use contemplated.
11.7.1.B. Zoning requirements as to lot sizes and dimensions.
11.7.1.C. Needs for convenient access, circulation, control and safety of street traffic.
11.7.1.D. Limitations and opportunities of topography.
11.7.2. In blocks exceeding eight hundred (800) feet in length, the planning board may require the reservation of a twenty-foot wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a four-foot wide paved footpath be included. The planning board shall require the subdivider to provide for the proper maintenance of any such easement.

11.8. Lots.
11.8.1. The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the development and for the type of development and use contemplated.
11.8.2. Lot configuration and area shall be designed to provide for adequate off-street parking and service facilities based upon the type and use of the development contemplated. Wherever possible, parking areas shall be laid out to coincide with building locations to maximize solar energy gain.
11.8.3. All lots shall meet the minimum requirements of the zoning ordinance for the zoning district in which they are located. The lot configuration should be designed to maximize the use of solar energy on building sites with suitable orientation.
11.8.4. Double frontage lots and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet, across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or disadvantageous use.
11.8.5. Side lot lines shall be substantially at right angles or radial to street lines wherever possible.
11.8.6. The subdivision of tracts into parcels substantially larger than the required minimum lot size shall be laid out in such a manner as to either provide for or preclude future resubdivision in accordance with the requirements contained in this ordinance, as the board may require. Where public utilities could be extended to the subdivision in the foreseeable future, the subdivision shall be designed to accommodate the extensions of utilities.
11.8.7. 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 that barrier to meet the minimum lot size.
11.8.8. Odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited. The ratio of lot length to width shall not be more than three to one (3:1).
11.8.9. Lots shall be numbered in such a manner as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the street, and odd numbers to the opposite side. Where the proposed subdivision contains the extensions of an existing street or street approved by the board, but not yet constructed, the lot numbers shall correspond with existing
lot numbers. The lot numbering shall conform with Chapter 22, sections 22-21, 22-22, and 22-23 of the Waterville Code.

11.9. Easements for natural drainage ways.
   11.9.1. Where a development is traversed by a natural watercourse, drainage way, channel, stream, or where the board feels that surface water runoff to be created by the development should be controlled, there shall be provided a storm water easement or drainage right-of-way with swales, culverts, catch basins, or other means of channeling surface water within the subdivision and over other properties. This will conform substantially with the lines of that watercourse and be of such width or construction or both as will assure that no flooding occurs and that all stormwater can be disposed of properly. That easement or right-of-way shall be not less than thirty (30) feet in width.
   11.9.2. The developer shall provide a statement from the designing engineer that the proposed subdivision or development will not create erosion, drainage or runoff problems either in the project or in other properties. Where the peak runoff from the project onto other properties is increased either in volume or duration, easements from the abutting property owners allowing for such additional discharge shall be obtained.
   11.9.3. A stormwater drainage plan showing ditching, culverts, storm drains, easements, and other proposed improvements, shall be submitted and approved.

11.10. Utilities.
   11.10.1. The board may require that all utilities be installed underground.
   11.10.2. The size, type and location of public utilities such as, but not so limited to, street lights, electricity, telephones, gas lines, and fire hydrants, shall be shown on the plan and approved by the board.
   11.10.3. All underground utilities and services therefrom shall be installed prior to the installation of the final gravel base of the road to prevent continued destruction of the road as houses are constructed.

11.11. Additional requirements.
   11.11.1. Street trees, esplanades, and open green spaces may be required at the discretion of the planning board. Where such improvements are required, they shall be incorporated in the final plan and executed by the developer as construction of the development progresses.
   11.11.2. The development design shall minimize the possibility of noise pollution either from within or without the development (from highway or industrial sources) by providing and maintaining a green strip at least twenty (20) feet wide between abutting properties that are so endangered, and wider if zoning standards required.

11.12. Required improvements.
   11.12.1. The following are required improvements: Monuments, street signs, streets, sidewalks, water supply, sewage disposal and stormwater management, except where the board may waive or vary such improvements in accordance with the provisions of these standards.

ARTICLE 12. DESIGN STANDARDS

12.1. Monuments.
12.1.1. Permanent monuments shall be set at the completion of construction at all corners and angle points of the development's boundaries, and at all street intersections and points of curvature.

12.1.2. Monuments shall be stone or concrete three (3) feet in length and located in the ground at final grade level, and indicated on the final plan. After they are set, drill holes one-half inch deep shall locate the point or points described above.

12.2. Street signs.

12.2.1. Street which join or are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality and shall be subject to the approval of the municipal officers.

12.2.2. Street name signs shall be furnished and installed by the city.

12.3. Streets.

12.3.1. Classification. In accordance with the comprehensive plan of the municipality, and for the purposes of these standards, streets are classified by function as follows:

12.3.1.A. Arterial streets: Arterial streets serve primarily as major traffic ways for travel between and through towns.

12.3.1.B. Collector streets: Collector streets serve as feeders to arterial streets, as collectors of traffic from local streets, for circulation and access in commercial and industrial areas, and may be the principal entrance streets of a residential development providing circulation within or through the development.

12.3.1.C. Local streets: Local streets are used primarily for access to abutting residential, commercial, or industrial properties, and do not have the potential of becoming collectors.

12.3.2. Layout:

12.3.2.A. Proposed streets shall conform, as far as practical, to such comprehensive plan or policy statement as may have been adopted, in whole or in part, prior to the submission of a preliminary plan.

12.3.2.B. All streets in the subdivision shall be so designed that, in the opinion of the board, they will provide safe vehicular traffic while discouraging movements of through traffic.

12.3.2.C. The arrangement, character, extent, width, grade, and location of all streets shall be considered in their relation to existing or planned streets, to topographical conditions, to public convenience and safety, and their appropriate relation to the proposed use of the land to be served by such streets. Grades of streets shall conform as closely as possible to the original topography.

Wherever existing or other proposed streets, topography and public safety will permit, streets shall run in east/west direction to maximum access for solar energy utilization.

12.3.2.D. In the case of dead-end streets, where needed or desirable, the board may require the reservation of a twenty-foot side easement in the line of the street to provide continuation of pedestrian traffic or utilities to the next street.

12.3.2.E. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the city under conditions approved by the planning board.

12.3.2.F. Adjacent to areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial use is contemplated by the municipality, the street right-of-way and/or pavement width shall be increased by such amount on each side as may be deemed necessary by the board to assure the free flow of through traffic without interference by parked or parking vehicles, and to provide adequate and safe parking space for such commercial or business district. In no case shall the street have a right-of-way width less than sixty (60) feet nor have less than two (2) twelve-foot travel lanes and two (2) eight-foot parking lanes.
12.3.2.G. Adequate off-street loading space, suitably surfaced, shall be provided in connection with lots designed for commercial use, as required by section 4.3.25 of the zoning ordinance.

12.3.2.H. Where a subdivision borders on or contains a railroad right-of-way, the planning board may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or for commercial or industrial purposes in appropriate district. Such distances shall also be determined with due regard for approach grades and future grade separations.

12.3.2.I. Where a subdivision borders an existing narrow road (below standards set herein) 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 subdivider shall be required use of some of the land in the subdivision, the subdivider shall be required to show areas for widening or realigning such roads on the plan, marked "Reserved for Road Realignment (or Widening) Purposes." It shall be mandatory to indicate such reservation on the plan when a proposed widening or realignment is shown on the official map. Land reserved for such purposes may not be counted in satisfying setback or yard area requirements of the zoning ordinance, including those requirements related to cluster development and open space.

When that widening or realignment is indicated on the official map, the reserved area shall not be included in any lot, but shall be reserved to be deeded to the municipality or state.

12.3.2.J. Where a subdivision abuts or contains an existing or proposed arterial street, the board may require marginal access streets (street parallel to arterial street providing access to adjacent lots), reverse frontage (that is, frontage on a street other than the existing or proposed arterial street) with screen planting contained in a nonaccess reservation along the rear property line, or such other treatments as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

The board may deny residential lot vehicular access directly to the arterial street. This shall be noted on the plan and in the deeds with any lot with the frontage on the arterial street.

12.3.2.K. Any subdivision containing more than twenty-one (21) lots shall have at least two (2) street connections with existing public streets shown on the official map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted. Any street serving more than twenty-one (21) dwelling units shall have at least two (2) street connections leading to existing public streets shown on the official map, or streets on an approved subdivision for which performance guarantees have been filed and accepted.

12.3.2.L. Entrances onto existing or proposed collector streets shall not exceed a frequency of one per two hundred fifty (250) feet of frontage. Entrances onto existing or proposed arterial streets shall not exceed a frequency of one per five hundred (500) feet of street frontage.

12.3.2.M. Local streets in the subdivision shall be so laid out that their use by through traffic will be discourage.

12.3.3. Design and construction standards:

12.3.3.A. All streets in a subdivision shall be designed and constructed to meet the following standards for streets according to their classification as determined by the planning board, and shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances:

**DESIGN AND CONSTRUCTION STANDARDS FOR STREETS**

<table>
<thead>
<tr>
<th>Item</th>
<th>Arterial Streets</th>
<th>Collector Streets</th>
<th>Local Streets</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Minimum right-of-way width</td>
<td>80’</td>
<td>66’</td>
<td>50’</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
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<td>---</td>
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</tr>
<tr>
<td>2.</td>
<td>Minimum width of pavement*</td>
<td>44'</td>
<td>32–36'</td>
</tr>
<tr>
<td>3.</td>
<td>Minimum grade</td>
<td>0.5%</td>
<td>0.5%</td>
</tr>
<tr>
<td>4.</td>
<td>Maximum grade</td>
<td>5%</td>
<td>6%</td>
</tr>
<tr>
<td>5.</td>
<td>Maximum grade at intersections</td>
<td>2% within 75' of intersections</td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>Minimum angle of intersections</td>
<td>90 degrees</td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td>Minimum width of shoulders each side, as required</td>
<td>9'</td>
<td>6'</td>
</tr>
<tr>
<td>8.</td>
<td>Minimum centerline radii on curves</td>
<td>800'</td>
<td>300'</td>
</tr>
<tr>
<td>9.</td>
<td>Minimum tangent length between reverse curves</td>
<td>300'</td>
<td>200'</td>
</tr>
<tr>
<td>10.</td>
<td>Road base (minimum)</td>
<td>27&quot;</td>
<td>24&quot;</td>
</tr>
<tr>
<td></td>
<td>Subbase--Bank gravel</td>
<td>18&quot;</td>
<td>18&quot;</td>
</tr>
<tr>
<td></td>
<td>Upper base--</td>
<td>6&quot;</td>
<td>4&quot;</td>
</tr>
<tr>
<td></td>
<td>Process gravel</td>
<td>Crushed</td>
<td>Crushed</td>
</tr>
<tr>
<td>11.</td>
<td>Bituminous paving</td>
<td>4&quot;</td>
<td>3.5&quot;</td>
</tr>
<tr>
<td>12.</td>
<td>Road crown (minimum)</td>
<td>3/8&quot; (1/4&quot;) per 1 foot</td>
<td></td>
</tr>
<tr>
<td>13.</td>
<td>Sidewalks width (minimum where required)</td>
<td>5'</td>
<td>5'</td>
</tr>
<tr>
<td></td>
<td>Base course (gravel)</td>
<td>8&quot;</td>
<td>8&quot;</td>
</tr>
<tr>
<td></td>
<td>Surface</td>
<td>2 1/2&quot; bituminous hot-top</td>
<td></td>
</tr>
<tr>
<td>14.</td>
<td>Dead-end or cul-de-sac streets width</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Length, not more than</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Radii of turn-around at enclosed end property line (minimum)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Pavement (minimum)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>15.</td>
<td>Property line radii at intersection (minimum)</td>
<td>20'</td>
<td>10'</td>
</tr>
<tr>
<td>16.</td>
<td>Curb radii at intersections</td>
<td>30'</td>
<td>20'</td>
</tr>
</tbody>
</table>
*In addition to the minimum pavement width, all streets in a mobile home park shall have a cleared area (no vegetation or appurtenances over three (3) feet high) of forty (40) feet within the right-of-way to provide for maneuvering of mobile homes. Any changes or modifications of the above must be by written approval of the city engineer and in accord with Article 13 herein. Under drain may be required on collector and arterial streets, depending upon groundwater conditions, by the city engineer.

12.3.3.B. Grades of all streets shall conform in general to the terrain and shall be in conformity with section 12.3.3.

12.3.3.C. All changes in grade shall be connected by vertical curves of such length and radius as meet with the approval of the board so that clear visibility shall be provided for a distance of two hundred (200) feet.

12.3.3.D. Intersections of streets shall be at angles as close to ninety (90) degrees as possible and in no case shall two (2) streets intersect at an angle smaller than sixty (60) degrees. To this end, where one street approaches another between sixty (60) -- ninety (90) degrees, the former street should be curved approaching the intersection.

12.3.3.E. Cross (four-cornered) street intersections shall be avoided insofar as possible, except as shown on the comprehensive plan or at other important traffic intersections. A distance of at least two hundred (200) feet shall be maintained between center lines of offset intersecting streets.

12.3.3.F. Street lines at intersections shall be cut back to provide for curb radii in conformity with section 12.3.3.

12.3.3.G. Street intersections and curves shall be so designed as to permit adequate visibility for both pedestrian and vehicular traffic. That portion of any corner lot which is necessary to allow twenty-foot sight lines between intersecting streets shall be cleared of all growth (except isolated streets) and obstructions above the level of three (3) feet higher than the center line of the street. If directed, ground shall be excavated to achieve visibility.

12.3.3.H. A dead-end street or cul-de-sac shall not exceed one thousand (1,000) feet in length and shall be provided with a suitable turnaround at the closed end. When a turning circle is used, it shall have a minimum outside curb radius of sixty-five (65) feet.

12.3.3.I. All streets shall be provided with adequate drainage facilities to provide for the removal of storm water to prevent flooding of the pavement and erosion of adjacent surfaces.

12.3.3.J. Side slopes shall not be steeper than three (3) feet horizontal and one foot vertical, graded, loamed, (six (6) inches compacted) and seeded as required.

12.3.3.K. Streets shall be rough-graded as required by the city engineer. Existing first magnitude trees shall be saved wherever possible.

12.3.3.L. Street curbs and gutters shall be required on all streets.

12.3.3.M. All roadways within the subdivision shall be constructed according to road specifications herein as overseen by the city engineer.

12.3.4. Planting:

12.3.4.A. All esplanade or planting strip areas at sides of streets shall receive at least three (3) inches of compacted topsoil (loam) free of stones over one inch in diameter, sods and clay. Base material shall be removed prior to placement of topsoil.

12.3.4.B. Planting strips to be limed at the rate of one pound per ten (10) square feet and fertilized at the rate of one pound of a 10-10-10 fertilizer per fifty (50) square feet or equivalent and seeded with a conservation mix endorsed by the Kennebec County Soil and Water Conservation District.

12.3.4.C. When required by the planning board, street trees shall be planted in the esplanade areas of all new streets.

12.3.4.D. Trees of the first magnitude (birch, beech, linden, oak, pine, sugar maple, basswood) shall be planted at forty- to sixty-foot intervals.

12.3.4.E. Trees of second magnitude (hawthorn, flowering crabapple, etc.) may be planted at intervals of less than forty (40) feet.
12.4. Sidewalks.

12.4.1. Sidewalks shall be installed at the expense of the developer where the development abuts or fronts onto an arterial street, and at collector streets as the board may deem necessary to provide adequate pedestrian safety.

12.5. Water supply.

12.5.1. A public water supply system complete with fire hydrants shall be installed at the expense of the developer, or, if in the opinion of the board, service to each lot by a public water system is not feasible, the board may allow individual wells or a private community water system to be installed, also at the expense of the developer and shall comply with section 4.3.18.H of the zoning ordinance.

12.5.2. The developer shall demonstrate by actual test or by a signed affidavit from an authorized representative of the servicing water company that water meeting the current Maine Department of Human Services, Bureau of Health, Division of Health and Engineering, Drinking Water Control Program Rules Related to Drinking Water can be supplied to the development at a rate of at least three hundred fifty (350) gallons per day per dwelling unit and at an adequate pressure and volume for fire-fighting purposes.

12.5.3. Storage shall be provided as necessary to meet peak domestic demands and fire protection needs.

12.5.4. The developer shall demonstrate in the form of signed affidavits from the servicing water company or by engineering reports prepared by a civil engineer registered in the State of Maine that the proposed development will not result in an undue burden on the source, treatment facilities or distribution system involved. The developer shall be responsible for paying the costs of modifying the source, treatment facility, or distribution system necessary to serve the development.

12.5.5. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the servicing water company and the fire chief.

12.5.6. Because they are difficult to maintain in a sanitary condition, dug wells shall be permitted only if it is demonstrated by the developer not to be economically or technically feasible to develop other groundwater sources. Dug wells shall be constructed so as to prevent infiltration of surface water into the well. Unless otherwise permitted by the board, the developer shall prohibit dug wells by deed restrictions and a note on the plan.

12.5.7. If a central water supply system is provided by the developer, location and protection of the source, and design, construction and operation of the distribution system and appurtenances and treatment facilities shall be approved by the department of human services and shall conform to the standards of the Maine Rules Relating to Drinking Water.

12.5.8. The developer shall construct ponds and dry hydrants as necessary to provide for adequate water storage for fire-fighting purposes. An easement shall be granted to the municipality granting access to the dry hydrants where necessary. The board may waive the requirement for fire ponds only upon submittal of evidence that the soil types in the subdivision will not permit their construction.

12.6. Sewage disposal.

12.6.1. A sanitary sewer system shall be installed at the expense of the developer, along with service stubs to the right-of-way line of the street at each proposed lot or, if in the opinion of the board, the developer has demonstrated that service to each lot by a sanitary sewer system is not feasible, the board may allow individual septic tanks to be used.

12.6.2. The developer shall submit evidence of soil suitability for a subsurface sewage disposal prepared by a licensed site evaluator in compliance with the requirements of the State of Maine Subsurface Wastewater Rules. In addition, on lots in which the limiting factor has been identified as being within twenty-four (24) inches of the surface, a second site with suitable soils
shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan, and restricted so as not to be built upon.

12.6.3. In no instance shall a disposal area be permitted on soils or on a lot which requires a new system variance from the subsurface wastewater disposal rules.

12.6.4. The developer shall submit plans for sewage disposal designed by a professional civil engineer in full compliance with the requirements of the State of Maine Plumbing Code and/or Department of Environmental Protection.

12.6.5. Where a public sanitary sewer line is located within one thousand five hundred (1,500) feet of a proposed subdivision at its nearest point, the subdivider at his expense shall connect with that sanitary sewer line with a main not less than eight (8) inches in diameter, provided that the appropriate municipal agencies certify that extending the services will not be a burden on the system.

12.6.6. The sewer district shall review and approve in writing the construction drawings for the sewage system.

12.7. Stormwater management.

12.7.1. All new construction and development shall provide an adequate stormwater control and conveyance system, including appurtenances such as sediment and detention basins as needed, and catch basins, manholes, and piped or professionally designed ditch conveyance systems to assure that stormwaters discharged from the site are in compliance with the guidelines contained in section 1.3 and all other requirements of this ordinance.

12.7.2. The developer shall provide a statement from a civil engineer, registered in the State of Maine, that the proposed development will not create erosion, drainage or runoff problems either in the development or in adjacent properties. The developer shall submit a surface drainage plan with profiles and cross-sections drawn by a registered professional engineer. This plan shall show culverts, ditches, easements, and other proposed improvements. The plan shall also contain a soil erosion and sediment control plan.

12.7.3. All stormwater systems within the development shall be designed to meet the criteria of a twenty-five-year storm based on rainfall data from the National Weather Service records in Portland. Flows shall be computed by the rational method or by another generally accepted method as approved by the city engineer.

12.7.4. Upstream drainage shall be accommodated by an adequately sized drainage system through the proposed development for existing and future potential development in the upstream drainage area, or areas tributary to the proposed development, as determined by the board.

12.7.5. Existing downstream drainage facilities shall be studied to determine the effect of the proposed development's drainage. The developer shall demonstrate to the satisfaction of the board that the storm drainage from the proposed development will not, in any way, overload existing storm drainage systems downstream from the proposed development. The developer must arrange with the Waterville Sewerage District for any improvements to existing drainage systems that are required to handle the increased drainage caused by the development.

12.7.6. Where open ditches, (other than roadway ditches), channels, streams, or natural drainage courses are used to collect, discharge, and/or transmit water through the development, an adequately sized perpetual drainage easement shall be provided. This easement shall be centered as closely as possible to the middle of the watercourse and shall be no less than thirty (30) feet in width.

12.7.7. Where subsurface soils are poorly drained, an underdrain system may be required by the board. Underdrains shall be installed and discharged in a positive manner.

12.8. Soil erosion control.

12.8.1. Topsoil shall be considered part of the development. Except for surplus topsoil for roads, parking areas and building excavations, it is not to be removed from the site.
12.8.2. Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by the following erosion control management practices:

12.8.2.A. The stripping of vegetation, removal of soil, regrading or other development of the site shall be accomplished by limiting the duration of the exposure and area of the site to be disturbed. Dust control methods shall be employed during dry conditions.

12.8.2.B. Temporary vegetation, mulching, and/or siltation fabrics shall be used to protect critical areas during the development. Sedimentation of runoff waters shall be trapped by debris basins, silt traps, sediment basins, or other methods determined acceptable by the city.

12.8.2.C. Permanent vegetation and/or other erosion control measures should be installed prior to the completion of the construction, but no later than six (6) months after completion of the construction.

12.8.2.D. The top or bottom of a cut or fill shall not be closer than ten (10) feet to a property line unless otherwise mutually agreed to by the affected landowner and the city, but in no instance shall this cut or fill exceed three to one (3:1) slope.

12.8.3. To prevent soil erosion of shoreline areas, the provisions of section 4.3.39. of the zoning ordinance shall control.

ARTICLE 13. VARIANCES AND WAIVERS

13.1. Where the board makes written findings of fact that undue hardship would result from strict compliance with these submission requirements or standards, or that there are special circumstances of a particular site or lot proposed to be subdivided, it may waive or modify portions of the submission requirements or the standards so that substantial justice may be done and the public interest secured; provided that such waivers or variances will not have the effect of nullifying the intent and purpose of the official map, the comprehensive plan, the zoning ordinance, the provisions of this ordinance, or the criteria contained in state law, such as but not so limited to, 30-A MRSA section 4404, as amended from time to time, and provided that this waiver does not unduly restrict the review process.

13.2. Where the planning board makes written findings of fact that, due to special circumstances of a particular plan, the provision of certain required improvements is not requisite in the interest of public health, safety and general welfare, or is inappropriate because of inadequacy or lack of connection facilities, adjacent or in proximity to the proposed development, it may waive those requirements, subject to appropriate conditions, and provided that all criteria contained in state law at 30-A MRSA section 4404, as amended from time to time, are met.

13.3. If the initial approval of a development, or subsequent amendment of an approved development involves the grant of a variance from the standards set forth in Articles 11 and 12, that fact shall be expressly noted on the face of any plan that is to be registered in the Kennebec Registry of Deeds. If, in the case of an amendment to an approved plan that constitutes a variance, and the amended plan is not to be recorded, then the planning board must issue a certificate in accordance with the provisions set forth in 30-A MRSA section 4406(1)(B)(2), as amended from time to time. Failure by the applicant or his heirs, successors or assigns to record the plan or certificate in the registry within ninety (90) days of the variance approval, renders the variance invalid.
ARTICLE 14. APPEALS

14.1. An appeal from a decision of the planning board may be taken to the Superior Court, State of Maine, pursuant to Rule 80(B), Maine Rules of Civil Procedure, provided the decision is a final decision and not a report such as, but not so limited to, a report under section 7.1.4. of the zoning ordinance.

ARTICLE 15. VALIDITY AND SEPARABILITY AND CONFLICT WITH OTHER ORDINANCES

15.1. Should any section or provision of this ordinance be declared by any court to be invalid, that decision shall not invalidate any other section or provision of the ordinance.

15.2. Whenever the requirements of this ordinance are inconsistent with the requirements of any other ordinance, code, or statute, the more restrictive requirements shall apply.

15.3. The subdivision standards of the planning board of the City of Waterville, Maine, Ordinance 2-1976, enacted July 20, 1976, and all amendments thereto, are hereby repealed.

15.4. This ordinance shall take effect April 1, 1990.

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APPROVED

Waterville City Council
Effective: April 1, 1990
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ARTICLE 1. INTRODUCTION

1.1 Authority.
1.1.1. Pursuant to authority conferred by Title 30-A M.R.S.A. Sections 4352 and 4353 and in accordance with the provisions of Title 38 M.R.S.A. Sections 435-449, as amended from time to time, the following ordinance is enacted by the City Council.

1.2. Title.
1.2.1. This ordinance and the accompanying official zoning map shall be known and may be cited as the "Zoning Ordinance, City of Waterville, Maine."

1.3. Purpose.
1.3.1. The purpose of this ordinance is to promote the health, safety, and general welfare of the residents of the city; to encourage the most appropriate use and prevent the overcrowding of all land; to lessen danger from congestion, fire, and other elements; to provide adequate light and air; to promote good civil design and arrangement; to avoid undue concentration of population and to promote wholesome home environments; to improve and beautify the city; to provide harmonious arrangement of residential, commercial, and industrial areas; to conserve natural resources and amenities; to provide an adequate street system; to promote the coordinated development of unbuilt areas; to encourage the formation of community units; to provide an allotment of land area in new developments sufficient for all the requirements of community life; to provide for affordable housing for low income and moderate income households.

1.4. Jurisdiction.
1.4.1. The provisions of this ordinance regulate the use of all land and water areas; the location, use, construction, repair, alteration, height, number of stories, and bulk of all buildings and structures; the size and open spaces of real estate, population density, and the setback of structures along public rights-of-way and boundary lines. The provisions further provide for traffic safety and general welfare.

1.5. Minimum requirements established.
1.5.1. In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for promotion of health, safety, convenience, and general welfare in the City of Waterville.

1.6 Availability. A certified copy of this ordinance is filed with the city clerk and is accessible to any member of the public. Copies are available to the public at reasonable cost at the expense of the person making the request. Notice of the availability of this ordinance is posted.

ARTICLE 2. ESTABLISHMENT OF DISTRICTS; PROVISION FOR OFFICIAL ZONING MAP

2.1. City divided into zones; identification of official zoning map; changes in district boundaries and map; location of map.

2.1.1. The city is hereby divided into zones or districts as shown on the official zoning map and a metes and bounds description which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance.

2.1.2. The official zoning map shall be identified by the signature of the mayor, attested by the city clerk, and bearing the seal of the city under the following words:

"This is to certify that this is the Official Zoning Map referred to in Article 2, Section 2.1 of Ordinance 1-2010 of the City of Waterville, Maine, and effective May 10, 2010."
2.1.3. If, in accordance with the provisions of this ordinance and title 30-A M.R.S.A. as amended, changes are made in district boundaries or other matter portrayed on the official zoning map or shoreland zoning map, such changes shall be entered on said map promptly after the amendment has been approved by the City Council with an entry on the official zoning or shoreland zoning map indicating the number of the ordinance that revised the map and the date that the ordinance was adopted. In addition, changes to the official shoreland zoning map must be made within thirty (30) days after approval of the amendment by the Commissioner of the Department of Environmental Protection.

Each revised official zoning or shoreland zoning map shall be signed by the mayor and attested by the city clerk. [Duplicate copies of the official map need not be signed.]

2.1.4. No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this ordinance and punishable as provided under Article 6, Section 6.1.

2.1.5. Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map, which shall be located in the office of the city clerk, shall be the final authority as to the current zoning status of land in the city.

2.2. Replacement of the official zoning map.
2.2.1. In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council, by resolution, may adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the mayor, attested by the city clerk, and bearing the seal of the city under the following words:

"This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted as part of Ordinance No. 1-2010 of the City of Waterville, Maine."

Unless the prior official zoning map has been lost or totally destroyed, the prior map, or any significant parts remaining, shall be preserved together with all available documents pertaining to its adoption or amendment.

2.3. Zoning districts.
2.3.1. For the purposes of this ordinance, the City of Waterville is divided into the following classes of use districts, or zones, as shown on the official zoning map. See also Section 4.3.25.I Shorelands Classified.

2.3.1.A. Residential districts.

2.3.1.A.(1) Low-density residential district (R-A), minimum lot fifteen thousand (15,000) square feet.

2.3.1.A.(2) Medium density residential district (R-B), minimum lot ten thousand (10,000) square feet.

2.3.1.A.(3) General residential district (R-C), minimum lot seven thousand five hundred (7,500) square feet.

2.3.1.A.(4) General residential district (R-D), minimum lot fifteen thousand (15,000) square feet.

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2.4. Interpretation of district boundaries.
2.4.1. Where uncertainty arises as to the boundaries of districts as shown on the official zoning map, the following rules apply:

2.4.1.A. Unless indicated otherwise, district boundary lines are the centerlines of streets, alleys, parkways, streams and other waterways, the boundaries of the shoreland area as defined, rights-of-way of public utilities and roads or such lines extended, platted at the time of adoption of this ordinance.

2.4.1.B. Other boundary lines which are not listed in the preceding paragraph shall be considered as lines paralleling a street at distances from the sidelines of such street as stated on the official zoning map; and in certain instances, well defined property lines; or lines indicated as midway between nonparallel streets.

2.4.1.C. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.

2.4.1.D Where uncertainties exist which are not covered by subsections A through C above, the zoning board of appeals shall interpret the district boundaries. Any conflict between the zoning map and the metes and bounds description shall be resolved in favor of the metes and bounds.

ARTICLE 3. DEFINITIONS

3.1. General definitions.
3.1.1. In the interpretation and enforcement of this ordinance, all words not defined in this ordinance shall carry their customary dictionary meanings.

For the purpose of this ordinance, certain words and terms used herein are defined as follows:

"City" means the City of Waterville.
"Municipal officers" means the mayor and council.

Words used in the present tense include the past and future; and words used in the plural include the singular.

The word "shall" is always mandatory; the word "may" is permissive.

The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual. See the definition of "person" in Section 3.2.

The word "building" includes the word "structure".

The term "used or occupied" as applied to any land or building shall be construed to mean, also, "intended, arranged, or designed to be used or occupied".

3.2. Additional definitions.

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

Accessory building or structure: A building or structure on the same lot with and of a nature customarily subordinate to the principal building or structure. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Accessory use: Accessory uses, when aggregated, shall not subordinate the principal use of the lot. The term "accessory use" shall include and apply only to the following:

1. A subordinate use of land or buildings which is customarily incidental to the main building or to the principal use of the land and which is located on the same lot with the principal building or use.

2. Required off-street parking: See Section 4.3.21 of this ordinance.

3. Signs as provided in Section 4.3.26.

Aggrieved person or party: A person who suffers a particularized injury as a result of the grant or denial of a permit, approval, or variance under this ordinance.

Agriculture: The cultivation of soil for the production or raising of food, crops, or other valuable or useful products including commercial gardening and the growing of nursery stock, but not including any agricultural industry such as fruit or poultry processing plants or fur farms. Agriculture does not include forest management and timber harvesting activities.

Air emissions: See Section 4.3.2. Air emissions.

Alteration: A change, addition, or modification requiring construction, including any change in the location of the structural members of buildings such as bearing walls, columns, beams or girders, but not including cosmetic or decorative changes.

Amusement center: Any private, commercial premises which are maintained or operated primarily for the amusement, patronage, or recreation of the public containing four (4) or more table sports, pinball machines, video games, or similar mechanical or electronic games, whether activated by coins, tokens, or discs, or whether activated through remote control by the management.
Animal husbandry: Keeping and raising of animals for sale or for any commercial use. See Section 4.3.3 Animal husbandry and boarding kennels.

Apartment: See "dwelling unit".

Apartment house: See "dwelling, multifamily".

Apartments, cluster type: See "cluster developments/planned unit developments".

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

Authorized agent: Anyone having written authorization to act on behalf of a property owner, signed by the property owner.

Automobile business: Auto repair garages, auto service stations, car washes, machinery repair, auto sales, farm machinery sales and service, house trailer sales, and similar activities. See Section 4.3.4 Automobile businesses.

Auto service station: A building and premises where gasoline or any other automobile engine fuel, kerosene, or motor oil and lubricants or grease (for operation of motor vehicles), batteries, tires, and automobile accessories may be supplied and dispensed at retail, and where, in addition, the following services may be rendered and sales made and no other:

1. Sales and servicing of spark plugs, batteries, distributors and distributor parts;

2. Tire servicing and repair but not recapping or re-grooving;

3. Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers, and wiper blades, grease retainers, wheel bearings, mirrors and the like;

4. Radiator cleaning and flushing;

5. Washing and polishing inside an enclosed building and sale of automotive washing and polishing equipment;

6. Greasing and lubrication;

7. Providing and repairing fuel pumps, oil pumps, and lines;

8. Minor servicing and repair of carburetors;

9. Emergency wiring repairs;

10. Adjusting and repairing brakes;

11. Motor adjustments;

12. Sales of cold drinks, packaged foods, and similar convenience goods for auto service station customers, as accessory and incidental to the principal operation.

Uses permissible at auto service stations do not include major body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in auto service stations.

An auto service station is not a repair garage or a body shop. See Section 4.3.4. Automobile Business.
Auto repair garage: A place where, with or without the attendant sale of engine fuels, the following services may be carried out: general repair and equipping, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service, such as body frame or fender straightening and repair, overall painting and undercoating of automobiles, or hiring, selling or storing motor vehicles.

Automobile or motor vehicle wrecking or junkyard or graveyard: An open outside area occupied by two (2) or more unregistered, unserviceable, discarded or junked automotive vehicles or bodies, engines or their parts sufficient in bulk to equal two (2) vehicles, including all vehicles which cannot pass the state inspection test in their existing condition or which are otherwise inoperable. This definition includes the commercial salvaging of any other goods or merchandise, but excludes temporary storage by an establishment or place of business which is engaged primarily in doing auto repair work for the purpose of making repairs to render a motor vehicle serviceable.

Basal area: The area of cross-section of a tree stem at four and one-half (4 1/2) feet above ground level and inclusive of bark.

Base flood: A flood having a one percent chance of being equaled or exceeded in any given year, alternatively referred to as the one hundred year flood.

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

Bed and breakfast inns: See Section 4.3.5 Bed and breakfast inns.

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

Boarding kennel: A boarding kennel means any place, building, tract of land, abode, or vehicle wherein or whereon privately owned dogs or other pets, or both, are kept for their owners in return for a fee. This definition includes the temporary keeping of animals for grooming purposes in return for a fee and animal shelters for lost or stray animals. This definition does not apply to dogs or cats under the age of six (6) months. See Section 4.3.3 Animal husbandry and boarding kennels.

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.

Buildable area: See "Net residential acreage".

Building: Any structure and its attachments such as decks, breezeways, and porches, having a roof supported by columns or walls for the housing, shelter, or enclosure of persons, animals, or property of any kind. Buildings separated only by party walls or abutting walls without openings shall be deemed to be separate buildings.

Building height: The vertical height from the sidewalk or finished grade at the center of the front of the building to the highest portion of the roof surface, if a flat roof, to the deck line for mansard roofs, and to the mean height between eaves and ridges for gable, hip, and gambrel roofs.

Business service: A service listed under U.S. Standard Industrial Classification Code 73, including by way of example: advertising, credit reporting and collection, mailing and reproduction services, services to buildings, personnel supply services, computer and data processing services, management and public relations, similar services to businesses, and the business offices of corporations or firms. A commercial activity which renders a service performed on the customer's property where a business is the end use, and which involves no retail sales upon the premises.

Campground: See Section 4.3.7 Campgrounds.
Cluster development/planned unit development: A form of development which allows the developer flexibility in subdivision and housing design including use of detached or attached single-family, two-family, and/or multifamily dwellings, in return for setting aside a portion of the tract of land as permanent open space, in accordance with the performance standards of this ordinance. All cluster developments are subject to the provisions of the site plan review and subdivision ordinance.

Code enforcement officer: The official responsible for administering and enforcing this ordinance.

Commercial recreation, indoor: A business establishment providing indoor recreation facilities such as, but not limited to, bowling alleys, skating rinks, swimming pools, tennis or racket ball courts, but not including amusement centers.

Commercial recreation, outdoor: A business establishment providing outdoor recreational facilities such as, but not limited to, golf courses, tennis courts, swimming pools, ice skating rinks, or riding stables, but not including campgrounds.

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

Community living arrangements: A housing facility for 8 or fewer persons with disabilities, that is approved, authorized, certified, or licensed by the State. A community living arrangement may include a group home, foster home, or intermediate care facility. Disability has the same meaning as the term "handicap" in the Federal Fair Housing Act, 42 U.S.C. Section 3602.

Community service facility: A governmental or public service use for the general benefit of the citizens funded in whole or in part by the City of Waterville or quasi-public organization, including by way of illustration and without limitation, municipal buildings, schools, public parks, and recreational facilities, fire stations, ambulance service and sewage treatment plants.

Congregate housing: "Congregate housing" means residential housing consisting of private apartments and central dining facilities and within which a congregate housing supportive services program serves functionally impaired elderly occupants who are unable to live independently, yet do not require the constant supervision or intensive health care available at intermediate care or skilled nursing facilities. For purposes of this ordinance, congregate housing includes only those facilities which have been certified by the State of Maine as meeting all certification standards and guidelines for congregate housing facilities as promulgated by the Department of Human Services pursuant to the provisions of Maine State Statutes.

Convenience store: A retail establishment which accommodates neighborhood needs for groceries and sundries and which may sell, as accessory uses, prepared food for carry-out.

Convenience store with gas pumps: A convenience store which sells, as an accessory use, gasoline or other motor fuels at the pumps. See Section 4.3.4 Automobile businesses.

Daycare centers: See Section 4.3.9 Daycare centers.

Driveway (in the shoreland zone only): A vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

Dwelling, one-family: A residential dwelling unit designed for and occupied by one family only. "One-family dwelling" includes modular housing.

Dwelling, two-family: A residential building used or intended to be used by not more than two (2) families living independently of one another.
Dwelling, multifamily: A dwelling or group of dwellings in one structure designed for or occupied by three (3) or more families living independently of one another with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling unit, residential: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping, and toilet facilities. The term includes mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units. [This definition is from the Guidelines for Municipal Shoreland Zoning Ordinances.]

Emergency operations: Operations conducted for the public health, safety, or general welfare, such as, but not limited to, protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings and livestock from the threat of destruction or injury.

Essential services: Facilities for the transmission or distribution of water, gas, electricity, or communications or for the collection, treatment, or disposal of wastes, including, without limitation, towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants, and similar accessories, but not buildings. The provisions of this ordinance apply to those buildings and structures located outside of public rights-of-way, but do not apply to facilities, either above or below ground, lying wholly within public rights-of-way.

Expansion of a structure: An increase in the floor area or volume of a structure, including all extensions such as, but not limited to: attached decks, garages, porches, and greenhouses.

Expansion of use: The addition of one or more months to the operating season, or the use of more floor area or ground area devoted to a particular use.

Family: One or more persons occupying a dwelling unit and living as a single housekeeping unit.

Farm stand: A roadside stand not exceeding four hundred (400) square feet in floor area selling only farm, garden, greenhouse, or nursery products and, between Labor Day and Christmas, Christmas trees, garlands, wreaths and wreath materials.

Financial service: A service listed under U.S. Standard Industrial Classification Codes 60 through 67, inclusive, and including banking, other credit agencies, security and commodity brokers, services, insurance, real estate, and investment offices.

Fire wall: A wall of noncombustible construction, capable of resisting the spread of fire.

Floodplain: The lands adjacent to a body of water which have been or may be covered by the base flood.

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

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

Forest management activities: Forest resource evaluation activities, pesticide or fertilizer application, timber stand improvement, pruning, and other forest harvesting and regeneration activities, but excluding timber harvesting and the construction or maintenance of roads.

Foundation: The supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frost walls.
Frontage, road: The linear distance measured along the front lot line which separates a lot from a public street or a private road approved in accordance with Section 4.3.22.

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

Frost wall: A masonry foundation wall extending below the ground surface, supported by footings located below the frost line to protect structures from frost heaves.

Functionally water-dependent uses: those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, inland waters and that can not be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities (excluding recreational boat storage buildings), 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 inland waters.

Garage sale: See “Yard sale”.

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

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

High water line or elevation, normal: 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 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 during the period of normal high-water are considered part of the river.

Home occupation. See Section 4.3.14 Home occupations.

Hotel or Motel: A commercial building or group of buildings built to accommodate, for a fee, travelers and other transient guests who are staying for a limited duration, with sleeping rooms, with or without cooking facilities, 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 or motel may include restaurant facilities where food is prepared and meals served to its guests and other customers.

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

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

Individual private campsite: An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fireplace, or tent platform.

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

Institutional: Related to some public, governmental, educational, charitable, religious, medical or similar purpose.

Lots:

Lot status:

Lot: A recorded parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. To be buildable, lots must have frontage on an improved and accepted public street or on an approved and constructed private road.

Lot of record: Land designated as a separate and distinct parcel in a legally recorded deed and plan filed in the Kennebec County Registry of Deeds.

Lot, legal nonconforming: A single lot of record which, at the effective date of adoption or amendment of this ordinance does not meet the lot area, lot area per dwelling unit, lot coverage, frontage, or other dimensional requirements of the district in which it is located. It is allowed solely because it was in lawful existence at the time that Ordinance 2-1971 or subsequent amendments took effect.

Lot types:

Lot, corner: A lot with at least two (2) contiguous sides abutting a street or private road. A regularly-shaped corner lot has two front yards and two rear yards. A corner lot, however, may satisfy the less restrictive side setback requirements rather than the rear setback requirements. All front setback and lot coverage requirements apply.

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

Lot, through: A lot that runs between parallel streets.

Lot lines:

Front: The line separating any lot from a street or streets. A regularly-shaped corner lot has two fronts.

Rear: A lot line which is opposite and most distant from the front lot line. In the case of a triangular or irregularly-shaped lot, a line ten (10) feet long within the lot, parallel to and farthest from the front lot line. Notwithstanding the above, a corner lot may satisfy the less restrictive side setback requirement rather than the rear setback requirement. All front setback and lot coverage requirements apply.

Side: Any lot line not a front or rear lot line.

Lot measurements:
Lot frontage: See “Frontage, road” and “Lot lines, front”. The front of a lot is the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered “frontage” and yards shall be provided as indicated under “Yards” in this section.

Lot depth: The depth of a lot is the distance between the midpoints of two straight lines, one line connecting the foremost points of the side lot lines in front and the other line connecting the rearmost points of the side lots lines in the rear. See the definition of “rear” lot line above.

Lot width, minimum: The closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines are side lot lines.

Lot area: The total horizontal area within the lot lines as measured on a horizontal plane.

Lot area, minimum: The lot area, less the area of any land subject to rights-of-way or easements, other than utility easements serving the lot, and also excluding lands which are below the normal high water line or which are covered with water for at least three (3) months per year.

Lot coverage: The percentage of the lot covered by structures. However, in the shoreland zone, lot coverage is the percentage of the lot with unvegetated surfaces.

Yard, front: A yard adjoining the front lot line, extending between the side lot lines across the full width of a lot between the principal building and the street.

Yard, rear: A required yard adjoining the rear lot line extending across the full width of the lot behind the principal building.

Yard, side: A yard adjoining a side lot line extending from the front to the rear yard as required by district regulations.

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

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

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

Mineral extraction: See Section 4.3.10 Earth material removal regulations and 4.3.25.H.8 Mineral exploration and extraction.

Minimum lot width: See Lot width, minimum.

Minor waterway: Excluding rivers and streams, as defined, a channel between defined banks including the floodway and associated floodplain wetlands, where the channel is created by the action of surface water and characterized by the lack of upland vegetation or the presence of aquatic vegetation. The surface water may be intermittent or perennial. See Maine Department of Environmental Protection (DEP) regulations pursuant to the Natural Resources Protection Act.

Mobile homes: Mobile homes include:
Newer mobile homes: Those single- or double-wide units constructed after June 15, 1976, 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 fourteen (14) feet or more in width and are seven hundred fifty (750) or more square feet in area, 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 requirement 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.

Older mobile homes: Those vehicular, portable structures built on a chassis and designed to be used without a permanent foundation as a dwelling when connected to indicated utilities, but which do not meet the requirements of a "newer mobile home".

Mobile home park: A tract of land of two (2) or more acres which is used for the placement of three (3) or more mobile homes or older mobile homes according to the requirements of Section 4.3.17 of this ordinance.

Mobile home space: An area within a mobile home park containing at least the minimum square footage required per family and designed to accommodate one mobile home or older mobile home.

Modular homes: Those units which the manufacturer certifies are constructed in compliance with 10 MRSA 9042, as amended, 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. Modular homes must be a minimum of 24 feet wide by 40 feet long. This requirement is intended to assure that modular homes are compatible with site-built homes and do not have the appearance of single-wide mobile homes.

Motel: See "hotel".

Native: Indigenous to the local forests.

Net residential area: The area available for development, excluding the area for streets or access and the areas which are unsuitable for development as provided for in Performance Standards for the City of Waterville.

Net residential density: The number of dwelling units per net residential area.

Nonconforming, legal: Any lot, use of land, or building legally in existence at the time that Ordinance 2-1971 or subsequent amendments took effect, which does not conform to the provisions of this ordinance. [See also lot status.]

Nonconforming lot: See lot, legal nonconforming.

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

Nonconforming use: Use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this ordinance or subsequent amendments took effect.
Normal high water line: See high water line or elevation, normal.

Nursery school: A school offering an educational program, or a limited educational program, to children who are ineligible to attend pre-primary or kindergarten classes as offered by either the public or private school systems in the city.

Open space:

1. Any area of land, the preservation or restriction of the use of which would conserve scenic resources, enhance public recreation opportunities, promote game management, or preserve wildlife.

2. The portion of a lot or site which is maintained in its natural state or planted with grass, shrubs, trees or other vegetation and which is not occupied by buildings, structures, or other impervious surfaces such as parking.

Outdoor recreation facilities: Non-commercially operated recreation facilities open to the general public including, but not limited to, playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, restrooms, bath houses, and the maintenance of such land and facilities. The term does not include campgrounds or commercial recreation and amusement centers as defined elsewhere in this ordinance.

Permanent structures: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months. Examples include: piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland.

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.

Personal service: A service listed under U.S. Standard Industrial Classification Code 72, and including laundry and cleaning services, photography studios, shoe repair shops, funeral homes, and similar services to the general public.

Principal building or structure: The building or structure occupied by the chief or principal use on the premises.

Principal use: The primary use to which the premises are devoted or for which the premises are arranged, designed, or intended to be used.

Private road: See Section 4.3.22 Private roads.

Professional office: A structure or space which houses the business office of a person or persons who supply a professional service other than a business service, financial service, or personal service, as defined in this ordinance. Notwithstanding the above, real estate offices are permitted.

Public service facility: Public service facilities include public parks, recreation areas, and community centers, public utilities including water supply areas, radio, television and telephone service, and electric power service.

Quasi-municipal facility: A facility for recognized public purpose, such as an auditorium, library, park, or museum which is operated by a not-for-profit organization or by a public agency other than the municipality.

Quasi-municipal services: Includes, but is not necessarily limited to, the Kennebec Water District, the Waterville Sewerage District, and the Kennebec Sanitary Treatment District.
Recent floodplain soils: Recent floodplain soils include the following soils as described and identified by the national Cooperative Soil Survey: Alluvial land, Hadley silt loam, Limerick silt loam, Ondawa fine sandy loam, Podunk fine sandy loam, Rumney fine sandy loam, Saco silt loam, Suncock loamy sand, and Winooski silt loam.

Recreational vehicle: A vehicle or vehicular attachment which is designed for temporary sleeping or living quarters for one or more persons and which is not a dwelling. The term may include, but is not limited to, pickup campers, travel trailers, tent trailers, motor homes, or converted vans or trucks. In order to be considered a vehicle and not a structure subject to the building code or Federal Manufactured Housing Standards, the unit must remain with its tires on the ground and must be road worthy (i.e., possess a current registration sticker from any state division of motor vehicles).

Recharge area: Any area composed of porous sand and/or gravel or other areas that collect precipitation or surface water and carry it to aquifers.

Reconstruction: The restoration, remodeling or rebuilding of a nonconforming structure, whether necessitated by deterioration, obsolescence, casualty or other occurrence where the costs of such work equal or exceed the value of the property in its existing condition. In determining the total cost of such work, the costs of all work other than repair performed within the preceding five (5) years or since the effective date of this ordinance, whichever period is shorter, shall be taken into account.

Residential dwelling unit: See "dwelling unit, residential."

Residual basal area: The average of the basal area of trees remaining on a harvested site.

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

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

Road: A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by a repeated passage of motorized vehicles, excluding driveways as defined.

School: An institution for education or instruction including a college, university, and public or private school conducting classes pursuant to a program approved by the State Board of Education or similar governmental agency. This definition does not include commercially-operated schools such as schools of beauty culture, business, dancing, driving, music, or recreation which are commercial establishments.

Service establishment: The offering within a building or on the premises of services to persons or property, excluding automobile business uses, and also excluding any other use which by nature of noise, odor, or as a heavy generator of traffic, would be detrimental to the immediate neighborhood. The sale of goods is permitted only when incidental to the providing of services. The following are examples of "service establishments": barbershops, beauty parlors, clothes pressing and tailor shops, laundries, repair shops, hotels, motels, restaurants, (including establishments which primarily prepare and serve food), taverns, bowling centers, miniature golf and pool rooms, financial institutions, banks, and insurance companies.

Setback: The minimum horizontal distance from a street or property line to the nearest part of a structure.

Setback from water or shoreline setback: The horizontal distance from the normal high water elevation to the nearest part of the structure.

Shore frontage: The length of a lot bordering on a water body measured in a straight line between the intersections of the lot lines with the shoreline at normal high-water elevation.
Shoreland: All land areas within two hundred fifty (250) feet, horizontal distance, of the normal high water line of the Kennebec River and the Messalonskee Stream; within seventy-five (75) feet, horizontal distance, of the normal high-water line of streams as defined; and within twenty-five (25) feet, horizontal distance, of the normal high-water line of minor waterways designated on the shoreland zoning appendix to the official zoning map or as defined.

Shoreland acre: Forty-three thousand five hundred sixty (43,560) square feet of land located between the normal high water line and a distance of two hundred fifty (250) feet, measured horizontally, from the normal high water line and paralleling the shoreline. [Note: 43,560 square feet = 250’ X 174.24’. Nevertheless, the minimum shore frontage required is 200 feet. See Section 4.3.25.J.(1).]

Shoreline: The normal high-water line.

Special exception: A use which is allowed subject to the approval of the code enforcement officer. In order to approve the use, the code enforcement officer must find that it meets all applicable performance standards.

Special exception permit: A permit authorized and issued by the code enforcement officer for a special exception use. Any special exception permit shall be considered valid and shall exist for so long as that particular property owner continues to operate the specific special exception use and remains in compliance with all of the provisions of this zoning ordinance. Cessation of the special exception use by that particular property owner for any reason or the sale of the property by the owner to whom the permit was issued will cause the permit to expire.

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 flows to another water body within the shoreland zone.

Street: An existing state, county, or city way or a road dedicated for public use and shown upon a subdivision plan duly approved by the planning board, accepted by the City Council, and recorded in the Kennebec County Registry of Deeds. The term "street" also includes a road dedicated for public use, built and accepted by the City Council and shown on a plan duly recorded in the Kennebec County Registry of Deeds prior to the establishment of the planning board. The term "street" does not include ways which have been discontinued, vacated, or abandoned.

Street line: The right of way line of the street.

Structure: Anything constructed or erected, the use of which requires a fixed location on or in the ground or an attachment to something having a fixed location on the ground, including, but not limited to, buildings, commercial park rides and games, satellite receiving dishes, carports, decks, porches, and other building features, but not including signs, sidewalks, fences, driveways, and parking lots.

Structural alterations: Changes in supporting members of a building, such as supporting walls, beams, columns, and girders.

Substantial completion: Complete to the point where the owner can move in.

Substantial improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage had occurred. For purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or structural part of the building commences whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to comply with existing state or local, health, sanitary or safety code...
specifications which are solely necessary to ensure safe living conditions or for any alteration of a structure listed on the National Register of Historic Places or a state or local inventory of historical places.

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

Timber harvesting: The cutting and removal of 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 is regulated pursuant to Section 4.3.25.H(5) Clearing or removal of vegetation for activities other than timber harvesting.

Tributary stream: A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits or exposed soil, parent material or bedrock, and which flows to a water body. This definition does not include the term "stream" as defined elsewhere in this ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body.

Use: The purpose for which land or building or structure or a part thereof is arranged, designed, intended, occupied or maintained.

Usable open area: See "Open space".

Used merchandise sales: This term refers to so-called “garage sale businesses” which may be described as the indoor or outdoor sale of used articles, conducted for more than three (3) consecutive days or for more than two (2) weekends during the period May 1st through September 30th. This term shall include extended yard sales, but shall not include flea markets, or shops for second-hand clothing or second-hand books. Used merchandise sales shall require a permit, which shall be conditional upon the provision of adequate off-street parking. See definition of "Yard sale" herein.

Undue hardship: See Section 6.2.5.D(2) Variances.

Variance: A variance is a relaxation of the terms of this zoning ordinance where, owing to circumstances or conditions peculiar to the individual property but not generally to land and buildings in the same district, and not the result of actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of a claimed financial hardship or because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district. See Section 6.2.5.D Variances.

Vegetation: All live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

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

Water body: The Kennebec River, the Messalonskee Stream, and streams as defined.

Water crossing: Any project extending from one bank to the opposite bank of a river, stream, or tributary stream, whether under, through, or over the water. Such projects include but are not limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings.

Wetland: Any swamps, marshes, bogs and similar areas.
1. Wetlands are areas 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.

2. For the purposes of the Resource Protection District, wetland means the above and areas of two (2) or more contiguous acres of forested wetland within the shoreland zone of the Kennebec River or the Messalonskee Stream designated on the shoreland zoning appendix to the official zoning map.

3. Wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

This definition of freshwater wetlands is the one referred to in Section 7.3.1.C. and Section 8.2.2.P. of the Subdivision and Site Plan Review Ordinance.

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

Yard [front, side, and rear]: See Lot measurements.

Yard sale: The term "yard sale" shall include so-called garage sales, porch sales, tag sales, and the like. Unless they occur on more than three (3) consecutive days within sixty (60) days, they shall not be considered to be "used merchandise sales" as defined in this ordinance and shall not require a permit.

ARTICLE 4. GENERAL PERFORMANCE STANDARDS

4.1. Zoning affects every building and use.

4.1.1 Conformity to requirements of zoning ordinance.

4.1.1.A. No building or structure shall be erected, altered, enlarged, moved, or used, and no land shall be used except in conformity to the requirements of this ordinance. Any use not specifically listed or otherwise permitted in a district shall be deemed prohibited.

4.1.1.B. The provisions of this ordinance apply equally to all uses of land and to all buildings and structures. The provisions of this ordinance apply to all departments of the City of Waterville and apply to any quasi-municipal corporation such as, but not limited to, the water, sewer, and sewage treatment corporations. The permit fees set forth in this ordinance and the application fees and performance guarantees set forth in Articles 5 and 6 of the Subdivision and Site Plan Review Ordinance do not apply to the City of Waterville and quasi-municipal corporations.

4.1.2. Division of lots by zoning.

4.1.2.A. Except in the shoreland zone, where a zoning district boundary line divides a lot or parcel of land of the same ownership of record, at the time such line is adopted, the regulations applicable to the less restrictive portion of such lot or parcel may apply to the other portion of the lot. However, no commercial or industrial use shall be expanded or extended into any residential zone.

4.1.3. Aviation clearances.

4.1.3.A. No part of any new structure or planting shall be allowed to protrude into the air sufficiently to interfere with aviation requirements of the Waterville Robert LaFleur Municipal Airport as determined by the FAA criteria applicable to the current airport development plans as submitted and approved by FAA.

4.2. Nonconforming uses.
4.2.1. Uses permitted.  
The use of land, building, or structure, lawful at the time of the effective date of Ordinance 2-1971 and subsequent amendments may be continued although such use does not conform with the provisions of this ordinance.

Such land, building or structure may be repaired, maintained, and improved but the area in nonconforming use may not be extended or expanded except in accordance with Section 4.2.7 below and 4.3.25.K Nonconformance if applicable.

4.2.2. Discontinuance of nonconforming use.  
A nonconforming use which is discontinued or is changed to a conforming use for a period of one year may not be resumed as nonconforming. The uses of the land, building or structure thereafter shall conform with the requirements for the zone.

4.2.3. Rule of precedence.  
Whenever a nonconforming use is superseded 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 requirements of the district and the nonconforming use may not thereafter be resumed.

4.2.4. Transfer of ownership.  
Ownership of land and structures which remain lawful but become nonconforming by the passage of this ordinance may be transferred, and the new owner may perpetuate the nonconforming uses subject to the regulations herein.

4.2.5. A legal nonconforming use of land, building, or structure which is partially or totally destroyed by fire or other disaster, or voluntarily removed with the intention of replacing with another structure, may be resumed within a year of the time of such loss.

4.2.6. The code enforcement officer may issue a permit for the following modifications to existing lawful nonconforming land, buildings, and structures. Modifications to nonconforming land, buildings, and structures in the shoreland area shall be in conformance with the provisions of Section 4.3.25.H Shoreland performance standards and 4.3.25.K Nonconformance.

   (1) Expansion of the floor area in nonconforming use within an existing structure.

   (2) Structural alteration and addition to a building in nonconforming use or exceeding maximum lot coverage restrictions, provided that the addition meets all building and parking setback requirements.

   (3) Increase in the area of land in nonconforming use.

4.2.7. The zoning board of appeals may allow a conforming use to expand into a zone where it would be nonconforming, provided that:

   (1) No structure or land use which would be non-conforming shall extend more than fifty (50) feet into the Resource Protection District. However, within the shoreland zone, no expansion is allowed.

   (2) The expansion conforms to the requirements of Section 4.1.2 and is on land which is adjacent to and contiguous with the conforming use at the time of adoption of this ordinance;

   (3) The expansion is the same use as the conforming use; and

   (4) The zoning board of appeals may require appropriate conditions and safeguards as to the use of the land.
4.2.8. Any legal nonconforming use of a structure or structure and premises may be changed to another nonconforming use provided that the zoning board of appeals finds that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the zoning board of appeals may impose appropriate conditions and safeguards in accordance with the provisions of this ordinance. With respect to such changes in shoreland areas, the zoning board of appeals must find that the proposed use is in conformance with the provisions of Section 4.3.25.K(1)(g).

Change of use of a nonconforming structure.

4.2.9. Nonconformance by reason of lack of required off-street parking or off-street loading space.
A building or structure which is nonconforming as to the requirements for off-street parking space shall not be enlarged or altered to create additional dwelling units, seats, floor area, or accommodations, unless required off-street parking is provided for such addition or enlargement.

A building which is nonconforming as to the requirements for off-street loading space shall not be enlarged unless off-street loading space is provided sufficient to satisfy the requirements of this ordinance for both the addition and the original building.

4.2.10. Nonconforming lots of record.
In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record established and recorded before July 6, 1971, without the need for a variance, provided that: such lot is in separate ownership and not contiguous with any other lot in the same ownership, all provisions of this ordinance can be met, except for lot area, lot width, road frontage, and shore frontage, and such lot has a minimum of five thousand (5,000) square feet of lot area and a minimum of fifty (50) feet of road frontage.

Notwithstanding the above, see Section 4.2.11. Contiguous lots in common ownership.

Variance relates to yard setback, shoreline setback, or other dimensional requirements not related to lot area, lot width, road frontage, or shore frontage, shall be obtained only through action of the zoning board of appeals upon finding that the variance requirements contained in Section 6.2.5.D have been met. [See the provisions for septic systems.]

4.2.11. Contiguous lots in common ownership.

Side-by-side lots: If two (2) or more nonconforming contiguous lots in common ownership having continuous frontage are of record at the time of adoption of this ordinance, such lands shall be considered to be an undissected parcel for the purposes of this ordinance, and no portion of such parcel shall be used or sold not in compliance with the requirements for lot width, frontage, and area stated in this ordinance. See Section 6.2.5.D(3)(d).

Back-to-back lots: If two (2) or more nonconforming contiguous lots in common ownership do not have frontage on the same street, they may be divided, provided that they are lots of record established and recorded before July 6, 1971, and each lot has an area of at least 10,000 square feet.

4.3. Performance standards.

4.3.1. Access to property.

4.3.1.A. Each property shall be provided with vehicular access from abutting private or public ways. Private rights-of-way shall be protected by permanent easements.

4.3.1.B. The proliferation of access points from developments to public ways causes traffic hazards and congestion. Therefore, in congested areas, the planning board may require the developer to dedicate a fifty-foot-wide strip of land adjacent to the public way for controlled access and landscaping. This strip, which shall run along the entire road frontage of the parcel to be developed, shall be constructed in
accordance with minimum city street standards and shall connect in a proper fashion with the roadways of adjoining developments. Access roadways shall not be considered part of the required setback.

4.3.1.B(1) The developer shall file with the city a performance guarantee in an amount sufficient to defray the cost of improving the fifty-foot-wide strip for marginal landscaping or vehicle access. The condition and amount of the performance guarantee shall be determined by the planning board with the advice of the city engineer, director of public works, municipal officers, and/or city solicitor.

4.3.1.B(2) The city reserves the right to select areas within the fifty-foot-wide marginal access for the placement of signs and traffic directional signs.

4.3.1.B(3) The city reserves the right to designate all ingress and egress points to the public or private way from the fifty-foot-wide marginal access as may be needed to meet current and future traffic control needs.

4.3.1.C. Residential driveways which are less than 500 feet in length and serve no more than 2 dwelling units shall have an average slope of (8) eight percent or less within (50) feet of the point of intersection with a public or private street. The angle of intersection between the driveway and the public or private street shall be sixty (60) degrees or more.

4.3.1.D. The following criteria shall be followed for driveways to any use other than single- and two-family dwellings. Driveways providing access to, from, or within multifamily and commercial, industrial, or institutional developments must meet the street standards in the subdivision ordinance unless waived by the planning board.

4.3.1.D(1) No access drive or driveway or other means of ingress or egress shall be located in any residential zone to provide access to uses other than those permitted in that residential zone.

4.3.1.D(2) All entrance and exit driveways shall be located and designed in profile and grade to afford safety to traffic, provide for safe and convenient ingress and egress, and minimize conflict with the flow of traffic. Driveways shall not have an average slope in excess of eight (8) percent within fifty (50) feet of the point of intersection.

4.3.1.D(3) The dimensions of driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated to be attracted daily to the development for which a site plan is prepared.

4.3.1.D(4) Provision shall be made for convenient and safe emergency vehicle access to all buildings and structures at all times.

4.3.1.D(5) Any exit driveway or lane shall be so designed in profile and grade and so located as to provide the following minimum sight distance measured in each direction. The measurements shall be from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of ten (10) feet on the curb line or edge of shoulder, with the height of the eye three and three-fourths (3.75) feet to the top of an object four and one-half (4.5) feet above the pavement.

<table>
<thead>
<tr>
<th>Allowable speed (Miles per hour)</th>
<th>Required Sight Distance (Feet)</th>
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<tbody>
<tr>
<td>25</td>
<td>160</td>
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<tr>
<td>35</td>
<td>240</td>
</tr>
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<td>40</td>
<td>275</td>
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<td>45</td>
<td>325</td>
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<td>50</td>
<td>350</td>
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<td>55</td>
<td>425</td>
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Unless the board waives this requirement, the developer shall provide the planning board with a letter from a licensed professional engineer stating that the driveway not only provides the above minimum sight distance, but also meets the standards of the American Association of State Highway and Transportation Officials (AASHTO). The developer shall also provide the board with a letter from the city engineer to the effect that the driveway meets these sight distance standards.

4.3.1.D(6) Where a site occupies a corner of two (2) intersecting roads, no driveway entrance or exit shall be located within fifty (50) feet of the point of tangency of the existing or proposed curb radius of that site.

4.3.1.D(7) Where two (2) or more driveways on a single site connect to any one road, a minimum clear distance of one hundred (100) feet measured along the right-of-way shall separate the closest edges of any two (2) such driveways. If one driveway is two-way and one is a one-way driveway, the minimum distance shall be seventy-five (75) feet.

4.3.1.D(8) Angles. Driveways used for two-way operation shall intersect the road at an angle of ninety (90) degrees or as near ninety (90) degrees as site conditions will permit and in no case less than sixty (60) degrees. Driveways used by vehicles in one direction of travel (right-turn only) shall not form an angle smaller than forty-five (45) degrees with the road.

4.3.1.D(9) Dimensions. The dimensions of driveways shall be designed to accommodate adequately the volume and character of vehicles anticipated to be attracted daily to the development. The required maximum and minimum dimensions for driveways are indicated below. Driveways serving large volumes of traffic or more than fifteen (15) percent truck traffic shall be required to utilize high to maximum dimensions.

<table>
<thead>
<tr>
<th></th>
<th>One-Way Operation</th>
<th>Two-Way Operation</th>
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<tbody>
<tr>
<td>Driveways*</td>
<td>Width in Feet</td>
<td>Width in Feet</td>
</tr>
<tr>
<td>Three to ten dwelling units</td>
<td>10 to 15</td>
<td>15 to 25</td>
</tr>
<tr>
<td>Ten dwelling units or over</td>
<td>15 to 25</td>
<td>20 to 35</td>
</tr>
<tr>
<td>Commercial and Industrial</td>
<td>15 to 30</td>
<td>25 to 35</td>
</tr>
</tbody>
</table>

*All driveways shall be five (5) feet wider at the curb line and this additional width shall be maintained for a distance of twenty (20) feet into the site.

4.3.1.D(10) Grades. Driveways shall not have grades in excess of fifteen (15) percent over the entire length. Driveways onto arterials shall not have grades in excess of five (5) percent for the first twenty-five (25) feet from those arterials unless approved by the planning board. In addition, driveways shall not be located where visibility is limited because of curves or topography.

4.3.1.D(11) Acceleration lanes. Where a driveway serves right-turning traffic from a parking area providing two hundred (200) or more parking spaces and the road has an A.D.T. volume exceeding seventy-five hundred (7,500) vehicles, an acceleration lane shall be provided which is at least two hundred (200) feet long and at least ten (10) feet wide measured from the curb line. A minimum thirty-five-foot curb return radius shall be used from the driveway to the acceleration lane.

4.3.1.D(12) Deceleration lanes. Where the same conditions exist as in the previous paragraph and a driveway serves as an entrance to a development, a deceleration lane shall be provided for traffic turning right into the driveway from the road. The deceleration lane shall be at least two hundred (200) feet long...
and at least ten (10) feet wide measured from the road curb line. A minimum thirty-five-foot curb return radius shall be used from the deceleration lane into the driveway.

4.3.1.D(13) Stacking or queuing space standards for drive-through businesses. Stacking or queuing spaces shall be located on-site and shall not be located within the required parking setbacks. Stacking or queuing spaces shall not interfere with the stall and aisle space requirements as described in the off-street parking and loading requirements, Section 4.3.21, and may not block fire doors.

4.3.1.D(13)(a) Banks or other commercial uses. There shall be a minimum of eight (8) spaces for the first drive-in window and two (2) spaces for each additional window.

4.3.1.D(13)(b) Drive-through restaurant. There shall be eleven (11) spaces for the drive-up window, with a minimum of five (5) of those spaces for the ordering station. In addition, wherever possible, there shall be an escape lane for those wishing to exit the drive-through before ordering.

4.3.1.D (14) All driveways shall be set back a minimum of five (5) feet from side and rear property lines.

4.3.1.D(15) Curb cut permits must be obtained in accordance with the Streets and Sidewalks Ordinance.

4.3.1.D(16) Corner clearances. To assure safe vehicular operation, adequate sight distance at intersections shall be maintained. No plantings, fences, or other obstructions may be installed at any intersection that would diminish the minimum required sight distance as defined in Section 4.3.1.D(5).

4.3.2. Air emissions.
The emission of odorous or toxic matter in such quantities as to be readily detectable at any point along lot lines so as to produce a public nuisance or hazard is prohibited. Such activities will comply with applicable minimum federal, state, and local requirements and detailed plans shall be submitted to the code enforcement officer for approval before a permit is granted. Violations of this standard shall be considered public nuisances.

4.3.3. Animal husbandry and boarding kennels.

4.3.3.A. Animal husbandry and boarding kennels as defined in this ordinance shall require a lot area of at least five (5) acres. See Section 4.3.31 Chickens for the exception to this requirement.

4.3.3.B. Structures or pens for housing or containing the animals (such as but not limited to chicken coops, barns, stables, or dog runs) shall be located not less than five hundred (500) feet from the nearest residence existing at the time of permit issuance (other than the dwelling on the same lot).

4.3.3.C. All pens, runs, or kennels, and other facilities shall be designed, constructed, and located on the site in a manner that will minimize the adverse effects upon the surrounding properties. Among the factors that shall be considered are the relationship of the use to the topography, natural and planted horticultural screening, the direction and intensity of the prevailing wind, the relationship and location of the residences and public facilities on nearby properties, and other similar factors.

4.3.3.D. The owner or operator of a use approved under these standards shall maintain the premises in a clean, orderly, and sanitary condition at all times. No garbage, feces, or other waste material shall be allowed to accumulate on the premises.

4.3.3.E. Temporary storage containers for any kennel wastes containing or including animal excrement shall be kept tightly covered at all times and emptied not less frequently than once every four (4) days. Such containers shall be made of steel or plastic to facilitate cleaning, and shall be located in accordance with the setbacks required for outdoor runs.

4.3.3.F. All enclosed kennels shall be constructed of materials to provide for cleanliness, ease of maintenance, and noise control.
4.3.3.G. Outdoor dog runs shall be completely fenced and shall be paved with cement, asphalt, or similar material to provide for cleanliness and ease of maintenance.

4.3.3.H. Any incineration device for burning excrement-soaked waste papers, and/or animal organs or remains shall be located in accordance with the setbacks required for outdoor runs and shall have chimney vents not less than thirty-five (35) feet above the average ground elevation. The applicant shall also provide evidence that he has obtained approval from the Maine Department of Environmental Protection for the proposed incinerator, and that it meets state standards for particulate emissions, flue gas temperature, and duration of required flue temperatures.

4.3.3.I. Animal husbandry shall be conducted according to acceptable agriculture practices as established and determined by the Maine Department of Agriculture.

4.3.3.J. All other relevant "good neighbor" performance standards in this ordinance (such as but not limited to noise and odor) shall be observed.

4.3.4. Automobile businesses.

4.3.4.A. Application. Any person desiring to construct, convert, or alter any new or existing structure for use as a public garage, carwash, convenience store with gas pumps, or auto service station shall make application to the planning board for a permit. [See the definitions of auto service station and automobile business at Section 3.2 Additional definitions.]

4.3.4.B. Required information. The application for the use permit shall contain the following information:

4.3.4.B(1) Site plan in accordance with that required for building permits.

4.3.4.B(2) The location of the premises, the building or buildings and structures thereon, or to be constructed thereon.

4.3.4.B(3) The width of the street or streets upon which said premises abut.

4.3.4.B(4) The location, and present use of all buildings within two hundred (200) feet of the boundary lines of the premises for which the use permit is desired.

4.3.4.B(5) The manner in which carwash, waste, drainage and storm water, as well as petroleum products, are to be disposed of.

4.3.4.B(6) The location of street entrances to, exits from, and driveways on the premises, and the precise location of all tanks, pumps, lifts, and other fixed equipment and appurtenances.

4.3.4.B(7) Regulations. Except where so indicated, every public garage, carwash, convenience store with gas pumps, and auto service station, the premises whereon the same are situated, and the use thereof, shall be subject to and comply with the following restrictions and regulations.

4.3.4.B(8) The site plan also shall show, and there shall be constructed and maintained, a landscaped island at least five (5) feet wide, extending across the front and any other street line abutting the public sidewalk, and no motor vehicles, signs or other objects or devices shall be parked or placed upon or permitted to obstruct any public sidewalk area.

4.3.4.B(9) On any premises upon which there is located a public garage, carwash, or auto service station, all services or repairs to motor vehicles shall be conducted within the confines of a building. However, the sale and supply of oil and gasoline, the inspection and filling of tires and batteries, and other services customarily incidental to the sale of gasoline, oil and automobile supplies and accessories, which do not include repairs, installations and replacements may be conducted outside.
4.3.4.B(10) Any person covered by the provisions of Section 4.3.11, Fire and explosive hazards, may apply for a permit to erect above ground containers for liquefied petroleum gases and flammable and combustible liquids. An application for a permit for an above ground container must be submitted to the code enforcement officer. Plans must conform to the current NFPA standard 30 or 58, whichever is applicable, and the fire chief must certify conformity to said standards on the face of the plan.

4.3.4.B(11) Every gasoline or oil tank, pump or filling appliance which is situated or erected out of doors shall be located at least fifteen (15) feet from any street line and at least ten (10) feet from the side and rear line of the premises whereon the same is situated. No gasoline pump shall be located or permitted within any enclosed or semi-enclosed building.

4.3.4.B(12) Lighting situated on or directed upon public garages, carwashes, convenience stores with gas pumps, or auto service stations shall be only by floodlights which are adjusted so that the light therefrom does not shine on any street or residential property. Such floodlights shall be extinguished when those businesses are not in operation. Security lights may be used after closing time provided the illumination therefrom does not extend beyond the premises.

4.3.5. Bed and breakfast inns.

4.3.5.A. Definition.
Bed and breakfast inn: An owner-occupied single-family dwelling in which the residents of the property provide short term overnight lodging to paying guests in rooms located within the dwelling or permitted attached structures. The inn shall function like a private home with house guests.

Breakfast shall be the only meal served and shall be served only to overnight guests. Commercial kitchens and provisions for cooking in guest rooms are prohibited. A victular's license is required.

Bed and breakfast inns are allowed in commercial zones and in residential zones which allow home occupations. In residential zones, bed and breakfast inns are subject to Section 4.3.14 Home occupations, in addition to the regulations below.

4.3.5.B. The application for approval of a bed and breakfast inn shall include a scale drawing of the lot showing the location of existing buildings, existing and proposed parking, and existing or proposed sewerage disposal systems.

4.3.5.C. There shall be no less than one parking space for each rental room in addition to the spaces required for the dwelling unit.

4.3.5.D. There shall be one bathroom provided for the rental rooms, in addition to the bathroom for the dwelling unit.

4.3.5.E. Each rental room shall have not less than one hundred twenty (120) square feet.

4.3.5.F. Each rental room, stairwell, and hallway on each level shall be equipped with a ULC approved smoke detector.

4.3.6. Camping or recreational equipment.

4.3.6.A. Camping or recreational equipment includes travel trailers, pickup coaches, camping trailers, motor homes, boats, and trailers. Equipment shall not exceed thirty (30) feet in length.

4.3.6.B. Any owner of camping or recreational equipment may park or store such equipment on private residential property subject to the following conditions:
4.3.6.B(1) At no time shall such parked or stored camping or recreational equipment be occupied or used for living, sleeping, or housekeeping purposes.

4.3.6.B(2) If the camping or recreational equipment is parked or stored outside of a garage, it shall be parked or stored at least ten (10) feet from all side or rear boundary lines and suitably screened.

4.3.6.B(3) Notwithstanding the provisions of Section 4.3.6.B(2), camping and recreational equipment may be parked anywhere on the premises for loading or unloading purposes.

4.3.6.B(4) The zoning board of appeals may grant a variance to the setback requirements of Section 4.3.6.B(2) if it finds that the variance requirements of Section 6.2.5.D have been met.

4.3.6.B(5) No major recreational equipment shall be stored outside of a garage on residential property unless it is in condition for safe and effective performance of the function for which it is intended or can be made so at a cost not exceeding the value of the equipment in its existing state. In no case shall any such equipment be so stored for a period of more than six (6) months if not in condition for safe and efficient performance of the function for which it is intended.

4.3.7. Campgrounds.

4.3.7.A. A campground is land accommodating one or more tents or recreational vehicles or other shelters for temporary dwelling use on sites arranged specifically for that purpose.

4.3.7.B. No recreational vehicle or tent shall be used for temporary dwelling except in an approved campground.

4.3.7.C The following minimum standards apply:

4.3.7.C(1) Campgrounds shall provide water and sewerage systems, sanitary stations, and convenience facilities in accordance with the regulations set forth by the Maine Department of Human Services.

4.3.7.C(2) Campgrounds shall contain a minimum of five thousand (5,000) square feet (not including roads and driveways) for each recreational vehicle site and a minimum of twenty-five hundred (2,500) square feet (not including roads and driveways) for each tent site. No recreational vehicle or tent site located within two hundred fifty (250) feet of the normal high water line of a water body shall be less than five thousand (5,000) square feet, not including roads and driveways.

4.3.7.C(3) No single site shall be less than fifty (50) feet in width.

4.3.7.C(4) Recreational vehicle and tent sites and utility and service buildings shall be set back a minimum of seventy-five (75) feet from the exterior lot lines of the campground and seventy-five (75) feet from the normal high water line of any water body.

4.3.7.C(5) All campgrounds shall be completely screened from abutting properties and from public roads by a twenty-five foot wide buffer of evergreen vegetation planted to attain a height of not less than six (6) feet within five (5) years except that safe visual clearances shall be provided at each vehicular entrance to and exit from the campground.

4.3.7.C(6) A minimum of one hundred fifty-five (155) square feet of off-street parking space plus adequate maneuvering space shall be provided for each recreational site.

4.3.8. Cluster developments/planned unit developments.

4.3.8.A. Purpose. The purpose of these provisions is to allow for new concepts of housing development. Notwithstanding other provisions of this ordinance relating to dimensional requirements, the planning
board, in reviewing proposed residential developments, may modify dimensional requirements in accordance with the following standards. This section shall not be construed as granting variances to relieve hardship. [See the definition of cluster development/planned unit development in Section 3.2.]

4.3.8.B. Application procedure. The planning board may allow subdivided development on reduced lot sizes in return for open space where the board determines that the benefits of the cluster approach prevent the loss of natural features or preserve the rural character of the area without increasing the net density of the development. The developer shall follow the procedures outlined in the site plan review and subdivision ordinance of the City of Waterville and shall submit a written application to the board for a cluster development. Two (2) sketch plans shall be submitted with one layout as a standard subdivision and a second as a cluster development indicating open space and significant natural features. Each lot in the standard subdivision shall meet the minimum lot size and lot width requirements. The number of dwelling units in the cluster development shall in no case exceed the number of dwelling units in the standard subdivision.

4.3.8.C. The written statement shall describe the natural features which will be preserved or enhanced by the cluster approach. Natural features include, but are not limited to, moderate-to-high value wild life and waterfowl habitats, moderate-to-high yield aquifers and important or natural historic sites. The statement shall also compare the impacts upon the city from each plan. Examples of the impacts are the municipal cost for roads, school busing, solid waste removal, utility efficiencies, recreational opportunities, protection of flood water storage areas, environmental impacts on sensitive lands.

4.3.8.D. The board shall determine whether to allow the subdivision to be developed in accordance with the cluster standards of this section based upon written findings that:

4.3.8.D(1) The site contains natural features of the type described above which are worthy of preservation; and

4.3.8.D(2) Those natural features could not adequately be preserved in a standard subdivision layout; or

4.3.8.D(3) A clustered development will permit more efficient creation and utilization of infrastructure and provision of municipal and quasi-municipal services than would a standard subdivision layout.

4.3.8.E. Basic requirements for cluster developments:

4.3.8.E(1) Cluster developments shall meet all site plan review and subdivision requirements and all other applicable city ordinances and performance standards, except those dealing with lot layout and dimensions.

4.3.8.E(2) Allowable density shall be based on net residential density, and shall be calculated in the following manner:

4.3.8.E(2)(a) Determine the net residential area of the parcel as prescribed in Section 4.3.19 Net residential acreage calculation.

4.3.8.E(2)(b) For single-family cluster developments, divide the net residential acreage by the minimum lot size required in the district to obtain the net residential density. If individual lots are then reduced in size, the residual open space accumulated by modifying space and bulk requirements and the areas which are subtracted from the gross area to calculate net residential area shall be designated as open space.

4.3.8.E(2)(c) Within the shoreland zone, the net residential acreage must provide the total lot area, lot width, and shore frontage necessary for each residential unit on land partially or wholly within the shoreland zone.
4.3.8.E(2)(d) For multiple-family cluster developments, divide the net residential acreage by the minimum area per family required in the district to obtain the net residential density.

4.3.8.E(3) The minimum area of land in a cluster development shall be ten (10) acres except where there is public water and sewer, in which case the minimum area shall be five (5) acres.

4.3.8.E(4) The plan shall identify the location of all proposed roads, structures, parking areas, foot paths, common open space, and private yards related to individual dwelling units.

4.3.8.E(5) No building shall be constructed on soil types classified by the State Conservation Service as being poorly or very poorly drained.

4.3.8.E(6) 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.

4.3.8.E(7) All dwelling units in a cluster development shall be connected to a common water supply and distribution system, either public or private, unless the developer clearly demonstrates to the planning board that:

4.3.8.E(7)(a) The costs of providing a common water supply and distribution system are prohibitive;

4.3.8.E(7)(b) Adequate groundwater is available at all locations proposed for individual water systems; and

4.3.8.E(7)(c) The groundwater source(s) proposed for individual water systems is safe from both on-site and off-site contamination.

4.3.8.E(8) All structures with required plumbing shall be connected to a public sanitary sewer system, if available, or to a private central collection and treatment system in accordance with minimum standards set forth in the State of Maine Plumbing Code unless the developer clearly demonstrates to the planning board that:

4.3.8.E(8)(a) The cost of connection to a public sanitary sewer system or of providing a central collection and treatment system are prohibitive;

4.3.8.E(8)(b) Adequate soils and land area are available at all locations proposed for individual septic systems;

4.3.8.E(8)(c) The proposed individual septic systems shall in no way endanger groundwater supplies which are currently being utilized as a water source for any existing development; and

4.3.8.E(8)(d) The proposed individual septic systems shall in no way endanger groundwater supplies which will be utilized by any common or individual water system in the cluster development.

4.3.8.E(9) Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography, south-facing slopes, and natural drainage areas, in accordance with an overall plan for site development and landscaping, and will be compatible in terms of physical size, visual impact, intensity of use, and proximity to other structures and uses within the zone.

4.3.8.E(10) Utilities shall be installed underground wherever possible.

4.3.8.F. Dedication and maintenance of common open space and facilities.

4.3.8.F(1) Common open space shall be dedicated upon approval of the project. There shall be no further subdivision of this land which shall be used only for noncommercial recreation, agriculture, or
conservation. However, easements for public utilities or structures accessory to noncommercial recreation, agriculture, or conservation may be permitted.

4.3.8.F(2) Common open space shall be shown on the plan with appropriate notation to indicate that it shall not be used for future building lots.

4.3.8.F(3) If any or all of the common open space is to be reserved for use by the residents of the subdivision, the bylaws of the proposed homeowners' association shall specify maintenance responsibilities and shall be submitted to the planning board prior to approval.

4.3.8.F(4) Covenants for mandatory membership in the homeowners' association setting forth the owners' rights, interests, and privileges in the association and the common land, shall be reviewed by the planning board and included in the deed for each lot at least by reference.

4.3.8.F(5) The association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of open space, other common and recreational facilities, and municipal assessments.

4.3.8.F(6) The developer or subdivider shall maintain control of the common property and be responsible for its maintenance at least until development sufficient to support the association has taken place.

4.3.9. Daycare centers.

4.3.9.A. Definition. Facilities providing daycare for children under sixteen (16) years of age.

4.3.9.A(1) In Residential-B, -C, and -D zones, no more than twenty (20) children may be served at any given time. [That limitation, however, does not apply to daycare centers located in schools and churches in residential zones.]

4.3.9.A(2) Daycare centers in commercial, Transitional, and Rural Residential zones, and in schools and churches in any zone, are not restricted to twenty (20) children.

4.3.9.A(3) Daycare centers in residential and Transitional zones are subject to the performance standards below.

4.3.9.B. Intent. Daycare centers function as schools and, therefore, are appropriately located in residential areas. The operator of a daycare center may reside in the facility, but is not required to do so.

4.3.9.C. Off-street parking.

4.3.9.C(1) Daycare centers must have sufficient off-street parking spaces for teachers, staff, and for persons dropping off or picking up children.

4.3.9.C(2) Any need for parking generated by the conduct of the daycare center located in a residential or Transitional zone shall be met in the side or rear yard to protect the residential character of the neighborhood.

4.3.9.C(3) Parking lots shall be set back five (5) feet from all property lines, and driveways shall be set back five (5) feet from side property lines.

4.3.9.C(4) The code enforcement officer may deny a special exception permit if the required parking area would be so large as to render the land use incompatible with the general character of the neighborhood.

4.3.9.C(5) The parking standard is one (1) space per teacher or employee plus one (1) space for every six (6) children.
4.3.9.D. Screening requirements. Dumpsters shall be screened, and parking shall be landscaped along the street line.

4.3.9.E. There shall be no more than one (1) sign, and that sign shall be no larger than five (5) by twenty-four (24) inches, as a permitted accessory use.

4.3.9.F. Hours of operation. Daycare centers serving more than six (6) children may be operated only from 6:00 a.m. to 7:00 p.m. Six (6) or fewer children may be cared for at any time.

4.3.9.G. Review.

4.3.9.G(1) The code enforcement officer may not grant a daycare center permit until the proposed business has been inspected and approved by the fire department. A five-pound fire extinguisher with a minimum 2A-10BC rating shall be installed in the daycare center.

4.3.9.G(2) In addition to the findings required for a special exception permit (Section 5.20.2), the code enforcement officer must further find that the proposed daycare center:

4.3.9.G(2)(a) Would not create or aggravate a traffic hazard. No traffic shall be generated by such daycare center in greater volumes than normally would be expected in the neighborhood where the daycare center would be located. The code enforcement officer may require the applicant to submit a traffic impact analysis by a professional engineer. The report shall include an estimate of the traffic that would be generated by the daycare center, as well as actual traffic counts on the street where the daycare center would be located;

4.3.9.G(2)(b) Would be in conformance with applicable building, housing, plumbing, and other safety codes, and Title 22 MRSA Chapter 32.

4.3.9.G(3) If a complaint is received concerning a daycare center, the code enforcement officer will investigate. If the complaint has merit, the code enforcement officer may revoke or suspend the permit.

4.3.10. Earth material removal regulations.

4.3.10.A. Filling, grading, lagooning, dredging, excavating, processing, and storing of soil, earth, loam, sand, gravel, rock, peat, or any other mineral or organic deposits which would result in erosion, sedimentation, or impairment of water quality and fish and aquatic life is prohibited.

4.3.10.B. Exclusions. Nothing herein shall be deemed to apply to normal excavation operations incidental to construction activities for which a valid permit is held. In addition, normal agricultural operations, including creation of fire ponds, shall not be considered “earth material removal”.

4.3.10.C. The excavation, removal, screening, or storage of soil (including top soil, peat, loam, sand, gravel, rock or other mineral deposits) within any twelve-month period shall be approved by the code enforcement officer if the amount is one hundred (100) to nine hundred ninety-nine (999) cubic yards, inclusive, and by the planning board if the amount is one thousand (1,000) or more cubic yards.

Plans shall be in compliance with applicable state laws and accompanied by all required state permits and/or licenses.

In addition, all soil disturbance within the shoreland zone must be in accordance with Section 4.3.25.H(8) Mineral exploration and extraction and 4.3.25.H(6) Erosion and sedimentation control.

4.3.10.D. The applicant shall submit to the planning board plans for the proposed extraction site prepared according to the site plan review and subdivision ordinance, including all property lines and names of abutting owners and ways, and grades existing and proposed upon completion of the extraction operation. Plans shall show proposed fencing, buffer strips, signs, lighting, parking and loading areas,
entrances, and exits, together with a written statement of the proposed rehabilitation and restoration of the site upon completion of the operation.

4.3.10.E. These plans and statement shall be submitted with the recommendations of the city engineer with respect to the effect of the proposed operation upon existing and foreseeable traffic patterns within the city, existing or approved land uses which may be affected by the operation, and implementation of comprehensive plan policies.

4.3.10.F. The planning board shall render a written decision specifying whether, and under what conditions, the proposed operation would be permitted. The planning board may require that the applicant provide a performance guarantee of the type approved in the site plan review and subdivision ordinance, payable to the city in such an amount and upon such conditions as the planning board may determine to be adequate to indemnify the city against any claims arising from the proposed operations and to assure satisfactory performance of all conditions imposed or otherwise applicable.

4.3.10.G. If abandoned for one year, restoration and rehabilitation of the site shall be in compliance with applicable state laws. A site plan review permit shall be required before operations may be resumed on any site abandoned for one year or more.

4.3.10.H. The planning board shall attach conditions of approval to assure compliance with the following requirements:

4.3.10.H(1) No part of any extraction operation shall be permitted within one hundred (100) 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 fifty (50) feet from such line. Natural vegetation shall be left and maintained on the undisturbed land.

4.3.10.H(2) If any standing water accumulates, the site must be fenced in a manner adequate to keep children out. Measures shall be taken to prevent or halt the breeding of harmful insects.

4.3.10.H(3) No slopes steeper than three (3) feet horizontal to one foot vertical shall be permitted at any extraction site unless a fence of at least four (4) feet high is erected to limit access to those locations.

4.3.10.H(4) Before commencing removal of any earth materials, the owner or operator of the extraction site shall present evidence to the planning board of adequate insurance against liability arising from proposed extraction operations, and that insurance shall be maintained throughout the period of operation.

4.3.10.H(5) To the extent required for restoration, any topsoil and subsoil suitable for purposes of restoring vegetation shall be stripped and stored on site until operations have ceased. Such stockpiles shall be protected from erosion according to the soil erosion control standards of the site plan review and subdivision ordinance. See also 4.3.25.H(6) Erosion and sedimentation control and 4.3.25.H(8) Mineral exploration and extraction, if the site is located in the shoreland zone.

4.3.10.H(6) Sediment shall be trapped by diversion, silting basins, terraces, and other measures designed by a professional engineer.

4.3.10.H(7) 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 the Maine Soil and Water Conservation Commission, Technical Guide, Standards and Specifications.

4.3.10.H(8) Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The applicant shall submit written approval from the Department of Inland Fisheries and Wildlife, as applicable, prior to consideration by the planning board.
4.3.10.H(9) The hours of operation at any extraction site shall be limited as the planning board deems advisable to ensure operational compatibility with residents of the city.

4.3.10.H(10) Load vehicles shall be suitably covered to prevent dust and contents from spilling or blowing from the load, and all trucking routes and methods shall be subject to approval by the director of public works.

4.3.10.H(11) All access/egress roads leading to/from the extraction site to public ways shall be treated with suitable materials to reduce dust and mud for a distance of at least one hundred (100) feet from those public ways.

4.3.10.H(12) 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 shall be removed within thirty (30) days following completion of active extraction.

4.3.10.H(13) Following the completion of extraction operations at any 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:

4.3.10.H(13)(a) All debris, stumps, boulders and similar materials shall be removed and disposed of in an approved location or, in the case of inorganic material, buried and covered with a minimum of two (2) feet of soil, provided these standards are in accordance with DEP regulations.

4.3.10.H(13)(b) The extent and type of fill shall be appropriate to the use intended. The applicant shall specify the type and amount of fill to be used.

4.3.10.H(13)(c) Storm drainage and watercourses shall leave the location at the original natural drainage points and in a manner such that the amount of drainage at any point does not significantly increase.

4.3.10.H(13)(d) At least four (4) inches of topsoil or loam shall be retained or obtained to cover all disturbed areas. Disturbed areas shall be reseeded and properly restored to a stable condition adequate to meet the provisions of the "Environmental Quality Handbook, Erosion and Sediment Control", as amended or revised, published by the Maine Soil and Water Conservation Commission.

4.3.11. Fire and explosive hazards.

4.3.11.A. Sprinkler systems, fire alarm systems, and key boxes.

4.3.11.A.(1) The fire chief shall determine whether or not a building or structure shall have a sprinkler system or a fire suppression system meeting the requirements of the International Building Code and the National Fire Protection Association Code.

4.3.11.A.(2) The fire chief and/or code enforcement officer shall determine whether or not a building or structure shall have a fire alarm system. The fire chief has the discretion to require fire alarm systems to connect to the Waterville Communication Center and/or Central Fire Station.

4.3.11.A.(3) When access to or within a structure or an area is unduly difficult because of secured openings, or when immediate access is necessary for lifesaving or fire-fighting purposes, a key box will be installed in an accessible location designated by the fire chief. The key box shall be a type approved by the fire chief and shall contain keys to gain necessary access as required by the fire chief. The key box will be connected to the local fire alarm that will signal the fire department when the box is opened or disturbed. The alarm will be transmitted to the Waterville Area Communications Center and/or Central Fire Station.
4.3.11.B. Storage, utilization, or manufacture of free burning and intense burning solid materials or products is permitted provided that these materials or products are stored, utilized, or manufactured within completely enclosed buildings having incombustible walls and protected throughout by an automatic fire extinguishing system.

4.3.11.C. The storage, utilization or manufacture of flammable liquids or materials which produce flammable or explosive vapors or gases, including finished products in original sealed containers, shall be permitted in accordance with all applicable federal, state, and local regulations.

4.3.11.D. Tanks or other underground storage facilities abandoned or not in use for a period exceeding one (1) year shall be removed at the expense of the owner of the property. Alternatively, the owner shall otherwise assure that safe conditions are present.

4.3.12. **Height regulations.**

Building heights shall be restricted to the limits of usefulness of the City's fire fighting equipment. When issuing a building permit, the issuing officer shall give serious consideration to the recommendation of the Fire Chief. In the shoreland zone, additional height restrictions apply.

4.3.13. **Homeless shelters.**

4.3.13.A. Definition. As used in this section, "homeless shelter" means emergency housing for persons who lack a "fixed, regular, and adequate nighttime residence."

4.3.13.B. Intent. Persons seeking to locate a homeless shelter within the community shall first investigate possible sites within approximately a half-mile radius of the downtown. In order to best serve the homeless, the shelter should be located near the majority of the social service facilities which provide assistance to the homeless. It is assumed that most of the homeless do not own cars, and need to be housed within easy walking distance of those services.

4.3.13.C. Homeless shelters are discouraged in areas of any zoning district in which a significant portion of the existing housing units are single-family dwellings.

4.3.13.D. Homeless shelters must provide sufficient and effective supervision to clients.

4.3.13.E. Homeless shelters must have sufficient off-street parking spaces for supervisors, housekeeping staff, and social service workers expected to provide assistance at the shelter. The parking standard is one (1) space for every three (3) shelter beds with a minimum of two (2) spaces regardless of the number of beds.

4.3.13.F. Homeless shelters must provide space for sleeping purposes in accordance with standards specified in 4-4d.1 of the Property Maintenance Ordinance. This floor area requirement will determine the number of persons allowed to stay in any shelter.

4.3.13.G. The planning board shall receive public comment on the proposed homeless shelter and shall find that the proposed shelter:

4.3.13.G(1) Would not create or aggravate a traffic hazard;

4.3.13.G(2) Would not hamper pedestrian circulation;

4.3.13.G(3) Would permit convenient access to commercial shopping facilities, medical facilities, public transportation, fire protection and police protection;

4.3.13.G(4) Would be in conformance with applicable building, housing, plumbing, or other safety codes and including municipal minimum lot size and building setback requirements for new construction.

4.3.14.A. Definition: An occupation conducted in a dwelling unit as an accessory use, subject to the provisions and performance standards below.

Notwithstanding the above, the following uses are not considered special exceptions and do not require such review by the Code Enforcement Officer: any business or professional use that is conducted within a dwelling unit by an occupant of the dwelling unit, which does not require clients or service or delivery vehicles to visit the premises regularly, and which has no sign.

4.3.14.B. The purpose of the home occupations provisions is to permit the conduct of only those businesses which are reasonably compatible with the residential district in which they are located. Any home occupation which is accessory to and compatible with a residential use in those districts where permitted as a special exception shall be approved by the code enforcement officer after due notice is given, provided that:

4.3.14.B(1) Not more than two (2) persons including the owner of the home shall be engaged in such occupation.

4.3.14.B(2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its owner-occupant. Not more than five hundred (500) square feet or twenty-five (25) percent of the floor area of the dwelling unit, whichever is less, shall be used in the conduct of the home occupation. The floor area of garages, common areas, basements, and accessory structures may not be used in calculating the total area of the dwelling unit.

4.3.14.B(3) There shall be no change in the outside appearance of the dwelling, no outside storage of materials, and no visible conduct of such home occupation other than one (1) sign, no larger than five (5) by twenty-four (24) inches. The sign must be affixed to the home, not free-standing.

4.3.14.B(4) The sale of goods is permitted only when incidental to the providing of services. No service to animals or automobiles [including, but not limited to, washing, painting, or repairing] is allowed. In addition, no taxicab companies are allowed.

4.3.14.B(5) No traffic shall be generated by such home occupation in greater volumes than normally would be expected in the neighborhood where the home occupation would be located. The code enforcement officer may require the applicant to submit a traffic impact analysis by a professional traffic engineer. The report shall include an estimate of the traffic that would be generated by the home occupation, as well as actual traffic counts on the street where the home occupation would be located.

4.3.14.B(6) Any need for parking generated by the conduct of such occupation shall be met off the street in the side or rear yard, not in the required front yard. The code enforcement officer may deny a home occupation permit if the required parking area would be so large as to render the land use incompatible with the general character of the neighborhood.

4.3.14.B(7) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, or odor.

4.3.14.B(8) The code enforcement officer may not grant a home occupation permit until the proposed business area has been inspected by the fire department. Additionally, home occupations must store an operable fire extinguisher within the business area.

4.3.14.B(9) The code enforcement officer may revoke or suspend the special exception permit of any home occupation found to be in violation of conditions set at the time of approval.

4.3.15. Hydrogeologic assessment of groundwater impacts.
4.3.15.A. When a hydrogeologic assessment is submitted in accordance with the site plan review and subdivision ordinance, the assessment shall contain at least the following information:

4.3.15.A(1) A map showing the basic soils types.

4.3.15.A(2) The depth to the water table at representative points throughout the development site.

4.3.15.A(3) Drainage conditions throughout the development site.

4.3.15.A(4) Data on the existing groundwater quality, either from test wells in the development or from existing wells on neighboring properties.

4.3.15.A(5) An analysis and evaluation of the impacts of the development on groundwater resources.

4.3.15.A(6) The location of any subsurface wastewater disposal systems and drinking water wells within the development and within two hundred (200) feet of the subdivision boundaries.

4.3.15.B. Projections of groundwater quality shall be made at any wells within the development and at the development's boundaries or at a distance of five hundred (500) feet from potential contamination sources, whichever is a shorter distance.

4.3.15.C. Projections of groundwater quality shall be based on the assumption of drought conditions (assuming sixty (60) percent of annual average recharge from precipitation).

4.3.15.D. Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the plan submitted with the assessment. If construction standards for drinking water wells 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.

4.3.15.E. If the development is within one thousand five hundred (1,500) feet of a public water line, the development must connect to the line at the developer's expense.

4.3.16. Lighting (glare).

Lighting may be used which serves security, safety, and operational needs but which does not directly or indirectly produce deleterious effects on abutting property or which would impair the vision of a vehicle operator on adjacent roadways. Lighting fixtures shall be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or residents of adjacent dwellings. Adequate buffers using either natural landscape or artificial screening are required to prevent unnecessary or undesirable light from being directed from lot lines onto adjacent properties.

4.3.17. Mobile homes and mobile home parks.

4.3.17.A. Single-wide mobile homes.

4.3.17.A(1) No single-wide mobile home or older mobile home shall be occupied permanently in the City of Waterville as a residence for living, sleeping, cooking, or for carrying on any occupation except in the Rural-Residential zone or in a properly licensed mobile home park.

4.3.17.A(2) A single-wide mobile home or older mobile home may be occupied as a temporary residence, not to exceed a period of one year, during residential construction on a lot for which a building permit has been issued.

A single-wide mobile home or older mobile home may be used as a temporary office incidental to construction on or development of the premises on which the single-wide mobile home or older mobile
home is located, for a period of one year, with the option of renewing for one year at the discretion of the code enforcement officer.

See also 4.3.29 Temporary structures.

4.3.17.B. Review of mobile home parks. Mobile home park site plans and revisions and expansions to mobile home parks must be reviewed and approved by the planning board in accordance with the procedures outlined in the site plan review and subdivision ordinance.

4.3.17.C. Site plans for mobile home parks. Applications shall be accompanied by a set of plans drawn to scale showing the following information:

4.3.17.C(1) The area and dimension of the tract of land;
4.3.17.C(2) The maximum number, location, and size of all mobile home or older mobile home spaces;
4.3.17.C(3) The location of any existing or proposed buildings or structures;
4.3.17.C(4) The location and width of roadways and walkways;
4.3.17.C(5) The location of water, sewer, and electrical lines and the sewage disposal system if public sewerage is not available.

4.3.17.D. Location of mobile home parks. Mobile home parks are permitted only in the Rural Residential zone.

4.3.17.E. Mobile home park requirements. Mobile home parks shall conform to the following minimum standards:

4.3.17.E(1) Location. No mobile home or mobile home park shall be so located as to be:
4.3.17.E(1)(a) Inaccessible from all-weather roads;
4.3.17.E(1)(b) Close to swamps or other potential breeding places for insects or rodents;
4.3.17.E(1)(c) On poorly drained land or on land unsuitable for septic systems, if public sewerage is unavailable;
4.3.17.E(1)(d) On land subject to flooding, erosion, or fire, traffic safety, or general welfare problems; or
4.3.17.E(1)(e) On land which is exposed to chronic nuisances such as noise, smoke, fumes, or odors.

4.3.17.E(2) Access. No mobile home park shall be developed unless adequate access is provided for mobile homes, fire-fighting equipment, fuel delivery, refuse and garbage collection, and other vehicles. Where the mobile home park does not abut directly on a street, paved access roads located within a right-of-way of not less than fifty (50) feet shall be provided.

4.3.17.E(3) Area. The area of every mobile home park shall be not less than two (2) acres including the provision for:
4.3.17.E(3)(a) Necessary access and internal roads;
4.3.17.E(3)(b) Adequate off-street parking for motor vehicles;
4.3.17.E(3)(c) Essential services, play areas, and maintenance and office facilities.
Grading. Every lot used for a mobile home park shall be pre-graded and drained for disposal of surface and storm water.

Screening of mobile home parks. A green strip at least twenty-five (25) feet in width and up to fifty (50) feet in width, if in conformity with 30-A MRSA section 4358(3) as amended from time to time, shall be maintained adjoining the boundary of the property and planted with trees or shrubs to provide a permanent screen.

Street construction. Every access road and service street within a mobile home park shall meet city street standards, if the street is to be accepted by the city. If streets are to be private ways, the rights of way must be a minimum of twenty-three (23) feet in width and paved as required for city streets. Roads shall have a gravel base at least twelve (12) inches in depth.

Individual mobile home and older mobile home spaces. No individual mobile home or older mobile home space shall contain less than five thousand (5,000) square feet of land, and such space shall be not less than fifty (50) feet in width and one hundred (100) feet in length. The bounds of each space shall be clearly marked and the space shall be well surfaced or seeded to provide adequate drainage beneath and adjacent to any mobile home or older mobile home parked thereon.

Each space shall provide for:

- A continuing potable supply of safe and sanitary water;
- Connection to adequate sewerage and storm water disposal systems;
- Adequate electric power service; and
- Compliance with state sanitary and health requirements for mobile home parks.

Parking spaces per unit. One additional parking space for each six (6) units shall be provided off-street in an easily accessible area of the mobile home park. Such parking spaces shall have well drained, stabilized, or paved surfaces maintained in good repair.

Parking of mobile homes or older mobile homes:

- No mobile home or older mobile home shall be parked nearer than fifteen (15) feet from the side of any mobile home space, and there shall be not less than thirty (30) feet between any mobile home or older mobile home and any service building.
- No mobile home or older mobile home or service building shall be placed or permitted within one hundred (100) feet of any public street, or within thirty (30) feet of a boundary line of a mobile home park. Every mobile home or older mobile home shall be set back twenty (20) feet from the right-of-way line of all mobile home park streets.
- No less than one hundred (100) square feet of recreation space per unit shall be provided and restricted in every mobile home park exclusively to recreational and playground use. Such recreation areas shall be protected from streets and parking areas, and shall have a well drained surface in good repair.

Utility services. Every mobile home or older mobile home shall be provided with adequate hygiene and sanitation facilities. Water supply and service, plumbing, sewage disposal and treatment, electric power and bottled gas service, heating equipment and fuels, refuse and garbage storage and disposal, and insect and rodent control shall be provided in full conformity with all pertinent state and local health regulations.

No unoccupied mobile home or older mobile home shall be stored in a mobile home park.
4.3.17.F. Mobile homes on house lots outside of mobile home parks. Mobile homes must be compatible with site-built homes and:

4.3.17.F(1) Must comply with current United States Department of Housing and Urban Development or International Building Code standards.

4.3.17.F(2) Must have a permanent foundation. Permanent foundation means all of the following:

4.3.17.F(2)(a) A full, poured concrete or masonry foundation;

4.3.17.F(2)(b) A poured concrete frost wall or mortared masonry frost wall, with or without a concrete floor;

4.3.17.F(2)(c) A reinforced, floating concrete pad. The code enforcement officer may require an engineer's certification if the pad is to be placed on soil with high frost susceptibility; and

4.3.17.F(2)(d) Any foundation which is permitted for other types of single-family dwellings.

4.3.17.F(3) Must have a pitched shingled roof. Pitched shingled roof means a roof with a pitch of two (2) or more vertical units for every twelve (12) horizontal units of measurement and which is covered with asphalt or bierglass composition shingles or other materials, but specifically excludes corrugated metal roofing materials.

4.3.17.F(4) Siding. The siding may be either clapboards, shingles or shakes, including synthetic or metal siding manufactured to closely resemble clapboards, shingles, and shakes. It may also be masonry, wood, board and batten, or texture 1-11 exterior plywood, but shall not include artificial masonry or fake board and batten made from metal. No other siding is permitted.

4.3.17.F(5) Oil storage tanks. Any oil storage tank must be placed in either the basement, crawl space, or an attached garage. No oil storage tank can be placed so that it is visible from adjacent properties or any street.

4.3.17.G. Penalty for violation. Any person found guilty of violating any provision of this section shall be subject to a penalty of not more than one hundred dollars ($100.00) for each offense. Each day in which a violation is proved to exist shall constitute a separate offense under this section.

4.3.18. Multifamily developments.
Multifamily developments [consisting of three or more dwelling units] may be authorized by the planning board subject to the following requirements.

4.3.18.A. Uses permitted: Dwelling units and accessory uses. The following uses are permitted in multifamily dwellings but only sufficient to serve the residents:

4.3.18.A(1) Coin-operated washing machines and dryers;

4.3.18.A(2) Lockers or additional storage space;

4.3.18.A(3) Recreational room or lounge;

4.3.18.A(4) Vending machines.

4.3.18.A(5) Meal service for residents and their guests only;

4.3.18.A(6) Beauty parlors for residents only.
4.3.18.B. Area and bulk requirements:

Multifamily Construction:* 

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<tr>
<td>Minimum Land: Sq. Ft. Per Family</td>
<td>7,500</td>
<td>5,000</td>
<td>3,750</td>
<td>2,500/first bedroom† plus 500/each additional bedroom</td>
<td>7,500 ‡</td>
<td></td>
</tr>
<tr>
<td>Min. Lot Size New Construction</td>
<td>5 acres</td>
<td>1 acre</td>
<td>15,000 sq. ft.</td>
<td>15,000 sq. ft.</td>
<td>22,500 ‡</td>
<td></td>
</tr>
<tr>
<td>Min. Frontage</td>
<td>100 ft.</td>
<td>100 ft.</td>
<td>75 ft.</td>
<td>100 ft.</td>
<td>150 ft. ‡</td>
<td></td>
</tr>
<tr>
<td>Min. Setbacks [Feet]:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Front</td>
<td>20</td>
<td>20</td>
<td>10</td>
<td>10</td>
<td>50 ‡</td>
<td></td>
</tr>
<tr>
<td>Side</td>
<td>15</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>25 ‡</td>
<td></td>
</tr>
<tr>
<td>Rear</td>
<td>30</td>
<td>30</td>
<td>20</td>
<td>20</td>
<td>25 ‡</td>
<td></td>
</tr>
<tr>
<td>Usable Open Area</td>
<td>50%</td>
<td>40%</td>
<td>35%</td>
<td>30%</td>
<td>50% ‡</td>
<td></td>
</tr>
<tr>
<td>Max. Bldg. Coverage</td>
<td>20%</td>
<td>25%</td>
<td>30%</td>
<td>35%</td>
<td>30% ‡</td>
<td></td>
</tr>
</tbody>
</table>

Parking space per unit **

*This table applies to both new construction and conversions of existing buildings. However, for conversions with no increase in building footprint only minimum land per dwelling unit, usable open area, maximum building coverage, and parking spaces per unit apply. For new construction, all apply.

†Includes efficiency apartments.
** See Section 4.3.21 Off-street parking and loading requirements.

‡Commercial Zones: Same criteria as required in existing commercial zones.

Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

4.3.18.C Design standards.

4.3.18.C(1) Storage. All storage, including containers for organic waste, shall be completely screened from view from any public right-of-way or any adjoining residential property. Screening shall consist of evergreen plantings or a visually appealing fence. All organic rubbish shall be contained in airtight, vermin-proof containers.

4.3.18.C(2) Landscaping. Any part of the site which is not used for buildings, other structures, loading or parking spaces, sidewalks, or designated storage areas shall be planted with an all season ground cover and appropriately landscaped with trees, shrubs, and flowering plants in accordance with an overall landscape plan.

4.3.18.C(3) Yard lighting shall be provided by the developer to illuminate the premises without affecting adjacent residential areas.

4.3.18.C(4) Access shall be provided in accordance with the street standards contained in Article 12 of the Subdivision and Site Plan Review Ordinance, unless the planning board waives those requirements. See also Section 4.3.1 Access to property.

4.3.18.D. Review and approval. The planning board shall review the site plan in accordance with the provisions of the Site Plan Review and Subdivision Ordinance.

4.3.18.E. The planning board may require enhancements such as, but not limited to, landscaping, lighting, fencing, planting screens, improved traffic circulation, and street access restrictions upon written findings of fact that these are necessary to fulfill the intent of the Site Plan Review and Subdivision Ordinance.

Net residential acreage shall be calculated for cluster developments by taking the total of the lot and subtracting, in order, the following:

4.3.19.A. Fifteen (15) percent of the area of the lot to account for roads and parking.

4.3.19.B. Portions of the lot which, because of existing land uses or lack of access, are isolated and unavailable for building purposes or for use in common with the remainder of the lot, as determined by the planning board.

4.3.19.C. Portions of the lot shown to be in a floodway as designated in the national flood insurance rate map prepared by the Federal Emergency Management Agency.

4.3.19.D. Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage, or subsoil conditions such as, but not limited to, the following:

(1) Slopes greater than thirty-three (33) percent;

(2) Organic soils;

(3) Wetland soils;
(4) Fifty (50) percent of the poorly drained soils unless the applicant can demonstrate specific engineering techniques to overcome the limitations to the satisfaction of the planning board.

4.3.19.E. Portions of the lot subject to rights-of-way or easements other than utility easements serving the lot.

4.3.19.F. Portions of the lot located in the Resource Protection District.

4.3.19.G. Portions of the lot covered by surface waters.

4.3.19.H. Portions of the lot utilized for stormwater management facilities.

4.3.20. Noise.

4.3.20.A. The maximum permissible sound pressure level of any continuous, regular, frequent, or intermittent source of sound produced by any activity shall be limited by the time period and land use which it abuts [listed below]. Sound levels shall be measured at least four (4) feet above the ground at the property boundary of the source.

<table>
<thead>
<tr>
<th></th>
<th>7:00 a.m. to 9:00 p.m.</th>
<th>9:00 p.m. to 7:00 a.m.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential...........</td>
<td>55</td>
<td>45</td>
</tr>
<tr>
<td>Commercial...........</td>
<td>65</td>
<td>55</td>
</tr>
<tr>
<td>Industrial...........</td>
<td>70</td>
<td>60</td>
</tr>
</tbody>
</table>

4.3.20.B. Noise shall be measured by a meter set on the A-weighted response scale, fast response. The meter shall meet the American National Standards Institute (ANSI S1 4-1961) "American Standard Specification for Neural Purpose Sound Level Meters."

4.3.20.C. No person shall engage in construction activities on a site abutting any residential use between the hours of 9:00 p.m. and 7:00 a.m. However, the following activities are exempt from these regulations:

4.3.20.C(1) Sound emanating from public road construction and maintenance activities.

4.3.20.C(2) Sound emanating from safety signals, warning devices, emergency pressure-relief valves and other emergency activities.

4.3.20.C(3) Traffic noise on public roads, or noise created by airplanes and railroads.

4.3.20.C(4) Temporary use of such machinery as, but not limited to, chain saws, lawnmowers, and snowmobiles.

4.3.20.D. Violations of these standards are considered public nuisances.

4.3.21. Off-street parking and loading requirements.

4.3.21.A. Off-street parking requirements. Off-street parking shall be provided either by means of open air spaces, each having an area of at least one hundred fifty-five (155) square feet (minimum 8.5' x 18.5') plus maneuvering space, or by garage space. Off-street parking shall be provided and maintained in the
case of new construction, alterations, and changes of use according to the following minimum requirements:

4.3.21.A(1) Residential structures [other than those specified below]: Two (2) parking spaces for each dwelling unit, plus one (1) additional parking space for every six (6) units.

Apartments in the Commercial-A zone: one parking space per residential unit, such space to be located within 1,000 feet of the building entrance and to be reserved for the exclusive use of the apartment occupant.

Subsidized elderly housing: One (1) parking space per unit.

4.3.21.A(2) Motels and hotels: One parking space for each guest room.

4.3.21.A(3) Hospitals, nursing homes, and assisted living facilities: One parking space for each five hundred (500) square feet of floor area or major fraction thereof, exclusive of cellars.

4.3.21.A(4) Retail stores: One parking space per two hundred (200) square feet of sales space.

4.3.21.A(5) Service establishments including banks [See the definition of service establishment in Section 3.2]: One parking space per two hundred (200) square feet of floor area.

4.3.21.A(6) Auditoriums, assembly halls, funeral homes, churches, restaurants, other eating establishments, places of indoor amusement or recreation: One parking space for three (3) seats or sixty (60) inches of permanent bench space and one for each thirty-six (36) square feet of area with temporary seating facilities. Theaters: One (1) parking space per four (4) seats.

4.3.21.A(7) Fraternities, private clubs and lodges: One parking space for every five (5) members.

4.3.21.A(8) Offices and clinics for medical, dental, and other professional practitioners: One parking space per two hundred (200) square feet of floor area.

4.3.21.A(9) Home occupations: As required by the code enforcement officer.

4.3.21.A(10) Warehouses and industrial buildings with floor area over two thousand (2,000) square feet: One parking space for each thousand (1,000) square feet of floor area or major fraction thereof, or one parking space for each two (2) employees.

4.3.21.A(11) Daycare centers: One (1) space per teacher or employee plus one (1) space for every six (6) children.

4.3.21.A(12) Shared parking. When a development is before the planning board for site plan review, the planning board may reduce the number of required off-street parking spaces if two or more uses on the site share parking. To reduce the required spaces by more than 10%, the developer must provide a written report from a Professional Traffic Operations Engineer demonstrating ample parking.

4.3.21.B. Off-street parking locations.

4.3.21.B(1) Required off-street parking in all districts shall be located on the same lot with the principal building or use, with the exception of parking for apartments in the Commercial-A zone and as allowed by either the planning board or the code enforcement officer. Either the planning board or the code enforcement officer may waive or modify the parking requirements if the parcel upon which a building is located is within 300 feet of an existing public parking area or a private parking area controlled by the developer for the sole use of the occupants of his building. Measurement of distance of parking areas from a principal building or use shall be along lines of public access.
4.3.21.B(2) Required off-street parking spaces shall be set back from all property lines, front, rear, and side, not less than five (5) feet. Commercial vehicles parked in residential zones shall be parked a minimum of ten (10) feet from any property line.

4.3.21.C. Off-street loading requirements. Off-street loading berths shall be provided and maintained in the case of new construction, alterations, and changes of use according to operational requirements.

4.3.21.D. Off-Street parking restrictions in residential zones.

4.3.21.D (1) No more than one commercial vehicle, registered as such by a state, may be parked on any lot in a residential zone. Such vehicle must be operable, registered, and solely for the use of the occupants of the residential property.

4.3.21.D (2) No maintenance or repair of commercial vehicles is allowed in residential zones.

4.3.21.D (3) The trailers of tractor trailer trucks may not be parked in any residential zone.

4.3.21.D(4) Commercial vehicles parked in the Residential-A (R-A) zone shall weigh no more than 5,000 pounds gross vehicle weight. Commercial vehicles parked in all other residential zones shall weigh no more than 34,000 pounds registered gross vehicle weight. Commercial vehicles parked in residential zones shall be parked a minimum of ten (10) feet from any property line.

4.3.22. Private roads.

4.3.22.A. Definition. A “private road” is a minor residential street serving no more than three (3) dwelling units, which is not intended to be dedicated as a public street. This definition includes driveways serving as few as one (1) dwelling unit, when there is insufficient frontage on a public street.

4.3.22.B. Review. Private roads must be approved by the planning board. The planning board shall obtain a written report from a review team which includes the city engineer, public works director, the fire department, and a code enforcement officer.

4.3.22.C. Submissions. Required submissions include:

4.3.22.C(1) A plan showing the private way, all lots to be served by the private way, and all abutting properties.

4.3.22.C(2) An actual field survey of the boundary lines of the properties to be served by the private road made and certified by a licensed land surveyor or a registered civil engineer.

4.3.22.C(3) A street plan, cross section, and drainage plan for private ways serving two (2) or three (3) lots.

4.3.22.C(4) The notation requirement of subdivision ordinance section 6.10, private roads.

4.3.22.C(5) The plan shall be labeled "Plan of a Private Road" and shall provide an approval block for the signatures of the planning board members.

4.3.22.D. Standards. The planning board has the authority to set standards as stringent as those contained in the subdivision ordinance regardless of whether or not the proposed private road will serve a subdivision as defined. At a minimum, private roads must meet the standards contained in section 12.3.3.A. of the subdivision ordinance except as modified below:
4.3.22.D(1) Right-of-Way: Fifty (50) feet minimum. The planning board has the authority to require a wider right-of-way if site conditions warrant, or if there is a reasonable possibility that the road might become a collector in the future.

4.3.22.D(2) Travel way:

4.3.22.D(2)(a) Serving one (1) dwelling unit: Fourteen (14) feet wide with one turnout every five hundred (500) feet to provide space for two (2) vehicles to pass.

4.3.22.D(2)(b) Serving two (2) or three (3) dwelling units: Twenty (20) feet wide.

4.3.22.D(3) Road base: A minimum of eighteen (18) inches of gravel composed of a fifteen-inch sub-base of bank run gravel and a three-inch upper base of screened processed gravel.

4.3.22.D(3)(a) Untreated aggregate surface course: A minimum of six (6) inches of surface aggregate with a cross slope of six (6) percent (three-quarters of an inch drop per foot of road width). Gravel roads will be treated with liquid calcium chloride at a rate of one (1) gallon per square yard with three-quarters of a gallon per square yard to be placed on road base prior to placement of surface course and one-quarter of a gallon to be applied to shaping of surface course.

4.3.22.D(3)(b) Recycled bituminous pavement: In lieu of an untreated aggregate surface course, a surface course of three (3) inches of recycled bituminous pavement with a cross slope of six (6) percent (three-quarters of an inch drop per foot of road width) may be used. Base course and surface course shall be treated with liquid calcium chloride as set forth in section 4.3.22.D.(3)(a).

4.3.22.D(4) Paving: At the discretion of the planning board, except that the developer must provide a paved apron in the right-of-way of the intersecting public road from the edge of the public pavement to the outer edge of the public right-of-way.

4.3.22.D(5) Culvert: The developer must provide a culvert in the right-of-way of the intersecting public road. The size, length, and location of the culvert must be approved by the planning board.

4.3.22.D(6) Curbs: If necessary to control drainage or erosion. At the discretion of the planning board.

4.3.22.D(7) Cul-de-sac: Cul-de-sacs must have a minimum diameter of sixty-five (65) feet. Maximum cul-de-sac length is one thousand (1,000) feet. Longer dead-end roads may be approved if they serve only one (1) dwelling unit. Alternatively, hammerhead or T turn-arounds may be approved by the planning board.

4.3.22.D(8) There shall be no more than two (2) private roads adjacent to each other at the public street line. In all instances where two (2) lots, created from a single parcel, have their private roads adjacent to each other at the street line, access to the lots shall be provided only by a single common private road, with a minimum travel width of twenty (20) feet.

4.3.22.E. Maintenance agreement. If the private road will provide access to two (2) or three (3) lots a maintenance agreement specifying the rights and responsibilities of each lot owner must be recorded in the Kennebec County Registry of Deeds. The agreement, which will run with the land by means of covenants in deeds, will set forth the responsibility of each lot owner for the long-term maintenance, repair, snow plowing, lighting and replacement of the private road and, where appropriate, private water, sanitary, and storm sewer systems. Additionally, the property owners will be responsible for transporting garbage for city collection to the intersection of the private road and the public street.

No building permit will be issued for the construction of any dwelling unit on a private road until the road has been constructed and deemed complete by the review team, and there is proof that the maintenance agreement has been recorded as required.
4.3.22.F. Further lot divisions utilizing the private road are prohibited without prior approval of the planning board.

4.3.22.G. Notice of any hearings under this subsection shall meet the standards provided for in Article 8, sections 8.1.5 and 6 of the Site Plan Review and Subdivision Ordinance.

4.3.23. Recreational facilities.
All recreational facilities shall meet the provisions below:

4.3.23.A. Adequate off-street parking shall be provided for the anticipated maximum attendance at any event.

4.3.23.B. Containers and facilities for rubbish collection and removal shall be provided.

4.3.23.C. Adequate screening, buffer areas, or landscaping shall be built or planted and maintained to protect adjacent residences from adverse noise, light, dust, smoke, and visual impact.

4.3.24. Screening and landscaping requirements.

4.3.24.A. Screening in commercial and industrial zones. A wall or fence of solid and uniform appearance or a compact evergreen hedge planted so as to attain a height of not less than six (6) feet within five (5) years shall be planted and maintained to conceal the following uses abutting residential uses or districts:

- Contractor’s yards for storage of supplies and equipment;
- Off-street parking and loading areas;
- Exposed storage areas;
- Exposed machinery;
- Sand and gravel extractions; and
- Areas used for the storage and collection of discarded automobiles, auto parts, metals, or any other articles of salvage or refuse.

4.3.24.B. Screening in residential zones.

4.3.24.B(1) Walls or fences not exceeding six (6) feet in height may be erected on property lines in residential zones, subject to the criteria for corner clearances [Section 4.3.1.D(16) Corner clearances] and shall be visually appealing, of uniform appearance, and well maintained.

4.3.24.B(2) Fences or screening exceeding six (6) feet in height may be erected on property in residential zones only upon approval of the code enforcement officer subject to the following conditions. The erection of such fence or screen:

- Shall not constitute a safety hazard.
- Shall not adversely affect neighboring property values.
- Shall be of sufficiently sturdy construction to warrant its height.

4.3.24.B(3) Outdoor in-ground pools must be enclosed by a fence not less than six (6) feet in height and designed to prevent ingress by children. Fences exceeding six (6) feet in height are allowed only if the code enforcement officer finds that the requirements of Section 4.3.24.B(2) above are met.
4.3.25. Shoreland zoning.

4.3.25.A. Purpose. The purpose of this ordinance is to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, plant, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland waters; to conserve natural beauty and open space; and to anticipate and to mitigate the impacts of development in shoreland areas.

4.3.25.B. Applicability. This ordinance applies to all land areas:

4.3.25.B(1) Within two hundred fifty (250) feet, horizontal distance, of the normal high-water line of the Kennebec River and the Messalonskee Stream;

4.3.25.B(2) Within seventy-five (75) feet, horizontal distance, of the normal high-water line of streams and tributary streams as defined; and

4.3.25.B(3) Within twenty-five (25) feet, horizontal distance, of the normal high-water line of minor waterways designated on the shoreland zoning appendix to the official zoning map or as defined. Minor waterways are regulated by Maine DEP pursuant to the Natural Resources Protection Act.

4.3.25.B(4) This ordinance also applies to any structure built on, over, or abutting a dock, wharf, or pier, or other structure extending below the normal high-water line of a water body.

4.3.25.C. Planning board review. No structure shall be erected, expanded, or moved, no new lot shall be created, no topography shall be altered by excavation or filling, and no natural vegetation shall be cleared until plans have been submitted to and approved by the planning board. Activity abutting minor waterways, however, need not be reviewed by the planning board; it is subject to Maine DEP regulations pursuant to the Natural Resources Protection Act.

4.3.25.D. Site plan required. The developer shall file with the planning board a written application for approval of a contemplated use in the shoreland zone, accompanied by a twenty-five dollar ($25.00) application fee, and a site plan of suitable scale containing the following information in addition to information required in Section 6.4. Site plan review.

4.3.25.D(1) The actual size, shape, and location of the lot to be built upon or used;

4.3.25.D(2) The exact size and location of all existing and proposed structures and off-street parking and loading areas, and/or the exact size and location of existing and proposed areas within which land use activities are to be conducted, together with the existing and proposed use of all structures and land areas;

4.3.25.D(3) The exact distance, measured horizontally, of any existing or proposed structure or land use area from each lot line and from the normal high water line;

4.3.25.D(4) The method of sanitary waste disposal and exact size and location of any subsurface waste disposal facilities. See 4.3.25.H(12) Septic waste disposal;

4.3.25.D(5) A soils report, as required in Section 4.3.28. See 4.3.25.H(14) Soils;

4.3.25.E. Other pertinent information. Any other pertinent information which will assist the planning board in considering adequately the effect that the proposed use may have on the quality and integrity of the city’s waterways and their adjacent shorelands, including but not limited to:
4.3.25.E(1) The type and location of existing and proposed vegetative cover and existing and proposed cleared land, together with the location of land to be cleared during construction and the period of time such land will remain unvegetated;

4.3.25.E(2) Contours, at not greater than five-foot intervals, showing the existing and proposed surface topography and drainage, together with the methods to be used for alteration of the topography, including provisions made to prevent and control erosion and sedimentation; and

4.3.25.E(3) The elevation of the lowest floor (including basement).

4.3.25.F. Planning board finding. The planning board shall, after submission of a completed application, including all information requested, approve the issuance of a permit by the code enforcement officer, if it makes a positive finding based on the information presented to it that the proposed use:

4.3.25.F(1) Will maintain safe and healthful conditions;

4.3.25.F(2) Will not result in water pollution, erosion, or sedimentation of surface waters;

4.3.25.F(3) Will not result in damage to spawning grounds, fish, aquatic life, bird, and other wildlife habitat;

4.3.25.F(4) Will adequately provide for the disposal of all wastewater;

4.3.25.F(5) Will conserve shoreland vegetation;

4.3.25.F(6) Will conserve visual as well as actual points of access to waters;

4.3.25.F(7) Will protect archaeological and historic resources as designated in the comprehensive plan;

4.3.25.F(8) Will avoid problems associated with floodplain development and use; and

4.3.25.F(9) Will be in conformance with the provisions of 4.3.25.H, Shoreland performance standards.

4.3.25.G. Conditions of approval. Conditions such as, but not limited to, types and coverage of vegetation, increased setbacks and yards, specified sewage disposal facilities, period of operation and operational controls, specified drainage and erosion control measures, locations of piers, docks, parking and signs, and flood-proofing of structures, may be required by the planning board upon findings that these are necessary to fulfill the purpose and intent of this ordinance. The planning board has the authority to require more stringent standards than contained herein, based upon amendments to the Mandatory Shoreland Zoning Act or rules and regulations issued by the Maine Department of Environmental Protection subsequent to the adoption of this ordinance.

4.3.25.H. Shoreland performance standards.

4.3.25.H(1) Agriculture.

4.3.25.H(1)(a) All spreading of manure shall be accomplished in conformance with "Manure Utilization Guidelines" published by the Maine Department of Agriculture, on November 1, 2001, or subsequent revisions thereof. A violation of these guidelines shall be considered a violation of this ordinance.

4.3.25.H(1)(b) Manure shall not be stored or stockpiled within seventy-five (75) feet horizontal distance of the normal high-water line of the Kennebec River, the Messalonskee Stream, streams, or tributary streams.
4.3.25.H(1)(c) Agricultural activities involving tillage of soil greater than twenty thousand (20,000) square feet in surface area, or the spreading, disposal or storage of manure within the shoreland zone shall require a Conservation Plan to be filed with the planning board. Nonconformance with the provisions of said plan shall be considered a violation of this ordinance. See also Section 4.3.27, Soil tillage.

4.3.25.H(1)(d) There shall be no new tilling of soil within seventy-five (75) feet, horizontal distance, of the normal high-water line of the Kennebec River, the Messalonskee Stream, or streams, or within twenty-five (25) feet, horizontal distance, of the normal high-water line of tributary streams.

4.3.25.H(1)(e) Livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance, of the normal high-water line of the Kennebec River, the Messalonskee Stream, or streams, or within twenty-five (25) feet, horizontal distance, of the normal high-water line of tributary streams.

4.3.25.H(2) Alteration of waterways. Dredging and filling of waterways require permits from the Maine Department of Environmental Protection.

4.3.25.H(3) Archaeological sites. 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 planning board, 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 planning board. The planning board shall consider comments received from the Commission prior to rendering a decision on the application.

4.3.25.H(4) Campgrounds shall conform to Section 4.3.7 Campgrounds and the minimum requirements imposed under state licensing procedures.

4.3.25.H(5) Clearing or removal of vegetation for activities other than timber harvesting.

4.3.25.H(5)(a) Except to allow for the development of permitted uses, within a strip of land extending seventy-five (75) feet, horizontal distance, inland from the high-water line of the Kennebec River, the Messalonskee Stream, streams, or tributary streams, a buffer strip of vegetation shall be preserved as follows:

4.3.25.H(5)(a)(1) There shall be no cleared opening greater than two hundred fifty (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.

4.3.25.H(5)(a)(2) Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. A "well distributed stand of trees" is defined as maintaining a minimum rating score of eight (8) per twenty-five foot by twenty-five foot square area (625 square feet). The score is determined by the following rating system:

<table>
<thead>
<tr>
<th>Diameter of Tree at 4 1/2 Feet Above Ground Level (inches)</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 to 4</td>
<td>1</td>
</tr>
<tr>
<td>Greater than 4 to 12</td>
<td>2</td>
</tr>
<tr>
<td>Greater than 12</td>
<td>4</td>
</tr>
</tbody>
</table>

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.

Other natural vegetation also must be well distributed. "Other natural vegetation" is defined as existing vegetation under three (3) feet in height and other ground cover, and retaining at least three (3) 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 25-foot square area. If three (3) saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 3 saplings have been recruited into the plot.

4.3.25.H(5)(a)(3) Pruning of tree branches on the bottom one-third of the tree is allowed.

4.3.25.H(5)(a)(4) 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.

4.3.25.H(5)(a)(5) 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 4.3.25.H(5) subsections (a) and (a)(1) above.

4.3.25.H(5)(b) At distances greater than seventy-five (75) feet, horizontal distance, from the normal high-water line of the Kennebec River or the Messalonskee Stream, there shall be permitted on any lot, in any ten-year period, selective cutting of not more than forty (40) percent of the volume of trees four and one half (4 1/2) inches or more in diameter, measured four and one-half (4 1/2) 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.

4.3.25.H(5)(b)(1) 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 twenty-five (25) percent of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to areas classified Shoreland C.

4.3.25.H(5)(b)(2) Cleared openings legally in existence on the effective date of this ordinance may be maintained, but shall not be enlarged, except as permitted by this ordinance.

4.3.25.H(5)(b)(3) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 4.3.25.H(5) Clearing or removal of vegetation for activities other than timber harvesting.

4.3.25.H(6) Erosion and sedimentation control.

4.3.25.H(6)(a) All activities which involve filling, grading, excavation, or other similar activities which result in un-stabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the planning board for approval and shall include, where applicable, provisions for:

4.3.25.H(6)(a)(1) Mulching and re-vegetation of disturbed soil.

4.3.25.H(6)(a)(2) Temporary runoff control features such as hay bales, silt fencing, or diversion ditches.

4.3.25.H(6)(a)(3) Permanent stabilization structures such as retaining walls or riprap.

4.3.25.H(6)(b) In order to create the least potential for erosion, development shall be designed to fit with the topography and soil 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.

4.3.25.H(6)(c) 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.
4.3.25.H(6)(d) 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:

4.3.25.H(6)(d)(1) 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.

4.3.25.H(6)(d)(2) Anchoring the mulch with netting, peg and twine, or other suitable method may be required to maintain the mulch cover.

4.3.25.H(6)(d)(3) 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.

4.3.25.H(6)(e) 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-year storm or greater, and shall be stabilized with vegetation or lined with riprap.

4.3.25.H(7) Essential services. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

4.3.25.H(8) Mineral exploration and extraction.

4.3.25.H(8)(a) 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 so as to restore disturbed areas and to protect the public health and safety.

4.3.25.H(8)(b) Mineral extraction may be permitted in accordance with Section 4.3.10 Earth Material Removal Regulations under the following conditions:

4.3.25.H(8)(b)(1) A reclamation plan shall be filed with and approved by the planning board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of 4.3.25.H(8)(b)(3) below.

4.3.25.H(8)(b)(2) No part of any extraction operation, including drainage and runoff control features, is permitted within seventy-five (75) feet of the normal high-water line of the Kennebec River, Messalonskee Stream, streams, or tributary streams. Extraction operations are not permitted within one hundred (100) feet of any property line. See 4.3.10.(H)(1) Earth material removal regulations.

4.3.25.H(8)(b)(3) Within twelve (12) months following the completion of extraction operations at any extraction site [operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve-month period] ground levels and grades shall be established in accordance with 4.3.10.H(13) and the following:

4.3.25.H(8)(b)(3)(a) Only materials generated on-site may be buried or covered on-site.

4.3.25.H(8)(b)(3)(b) The final graded slope shall be two to one (2:1) slope or flatter. See Section 4.3.10.H(3).

4.3.25.H(8)(b)(3)(c) All disturbed land areas shall be stabilized with vegetation native to the area. See 4.3.10.H(13)(d).
4.3.25.H(8)(b)(4) 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.

4.3.25.H(9) Parking areas. See 4.3.21, Off-street parking and loading requirements.

4.3.25.H(9)(a) Parking areas shall meet the shoreline setback requirements for structures in the district in which the parking lots are proposed, except that the setback requirement for parking areas serving public boat launching facilities may be reduced to no less than fifty (50) feet from the normal high-water line in Class A and Class B shorelands, if the planning board finds that no other reasonable alternative exists.

4.3.25.H(9)(b) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body and, where feasible, to retain all runoff on-site.

4.3.25.H(9)(c) In determining the appropriate size of proposed parking facilities, the following shall apply:

4.3.25.H(9)(c)(1) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

4.3.25.H(9)(c)(2) Internal travel aisles: Approximately twenty (20) feet wide.

4.3.25.H(10) Piers, docks, wharfs, bridges, and other structures and uses extending over or below the normal high-water line of a water body.

4.3.25.H(10)(a) New permanent piers and docks 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.

4.3.25.H(10)(b) No new structure shall be built on, over, or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a water body unless the structure requires direct access to the water as an operational necessity. Boat houses must meet the structure setback requirement.

4.3.25.H(10)(c) 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 shall not be wider than six feet for non-commercial uses.

4.3.25.H(10)(d) Structures built on, over, or abutting a pier, wharf, dock, or other structure extending below the normal high-water line of a water body shall not exceed twenty (20) feet in height above the pier, wharf, dock, or other structure.

4.3.25.H(10)(e) Access from the shore shall be developed on soils appropriate for such use and constructed so as to control erosion;

4.3.25.H(10)(f) The location shall not interfere with developed beach areas;

4.3.25.H(10)(g) The facility shall be located so as to minimize adverse effects on fisheries;

4.3.25.H(10)(h) No existing structures built on, over, or abutting a pier, dock, wharf, or other structure extending below the normal high-water line of a water body shall be converted to residential dwelling units in any district.

4.3.25.H(10)(i) A thirty-foot wide channel in the center of the Messalonskee Stream shall be maintained unobstructed.
4.3.25.H(11) Roads and driveways. The following standards apply to the construction of roads and/or driveways and drainage systems, culverts, and other related features:

4.3.25.H(11)(a) Roads and driveways shall be set back at least seventy-five (75) feet from the normal high-water line of the Kennebec River, the Messalonskee Stream, streams, or tributary streams, unless no reasonable alternative exists as determined by the planning board. If no other reasonable alternative exists, the planning board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body or tributary stream. 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 or tributary stream.

4.3.25.H(11)(b) On slopes of greater than twenty (20) percent, the road and/or driveway setback shall be increased by ten (10) feet for each five (5) percent increase in slope above twenty (20) percent.

Sections 4.3.25.H(11)(a) and (b) do 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 4.3.25.H(11)(a) and (b) except for that portion of the road or driveway necessary for direct access to the structure.

4.3.25.H(11)(c) Existing public roads may be expanded within the legal road right-of-way regardless of the required setback from a water body or tributary stream.

4.3.25.H(11)(d) 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 contained in 4.3.25.H (6) Erosion and sedimentation control.

4.3.25.H(11)(e) Road and driveway segments shall have grades no greater than ten (10) percent except for segments of less than two hundred (200) feet.

4.3.25.H(11)(f) In order to prevent road and driveway surface drainage from directly entering water bodies or tributary streams, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two (2) 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 or tributary stream. Road and driveway 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.

4.3.25.H(11)(g) 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:

4.3.25.H(11)(g)(1) 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:

<table>
<thead>
<tr>
<th>Grade (Percent)</th>
<th>Spacing (Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 2</td>
<td>250</td>
</tr>
<tr>
<td>3 to 5</td>
<td>200 to 135</td>
</tr>
<tr>
<td>6 to 10</td>
<td>100 to 80</td>
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<tr>
<td>11 to 15</td>
<td>80 to 60</td>
</tr>
<tr>
<td>16 to 20</td>
<td>60 to 45</td>
</tr>
<tr>
<td>21 and above</td>
<td>40</td>
</tr>
</tbody>
</table>
4.3.25.H(11)(g)(2) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

4.3.25.H(11)(g)(3) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty-degree angle down slope from a line perpendicular to the centerline of the road or driveway.

4.3.25.H(11)(g)(4) 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.

4.3.25.H(11)(h) 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.

4.3.25.H(12) Septic waste disposal.

4.3.25.H(12)(a) All subsurface sewage disposal systems in shoreland areas shall be located in areas of suitable soil of at least one thousand (1,000) square feet in size and set back one hundred (100) horizontal feet from the normal high-water line.

4.3.25.H(12)(b) No building permit shall be issued for any structure or use involving the construction, installation, or alteration of plumbing facilities unless a permit for such facilities has been secured by the applicant indicating conformance with the Maine State Plumbing Code.

4.3.25.H(12)(c) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules. In addition, 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. No holding tank is allowed in the shoreland zone for a first-time residential use.

4.3.25.H(13) Signs and billboards. See 4.3.26 Sign regulations.

4.3.25.H(13)(a) Signs and billboards. Billboards are prohibited in Class A shorelands and stream protection districts.

4.3.25.H(13)(b) Signs in Class A shorelands and stream protection districts shall not exceed two (2) such signs per premises, shall not be larger than two (2) square feet, shall not be higher than six (6) feet from the ground, and shall be limited to names of residents, notice of sale, and notice of no trespassing or hunting.

4.3.25.H(14) 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, 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 require a soils report. See Section 4.3.28 Soil suitability for construction. Suitability considerations shall be based primarily on criteria employed in the National Cooperative Soil Survey as modified by on-site factors such as depth to water table, depth to refusal, 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.

4.3.25.H(15) Stormwater runoff.

4.3.25.H(15)(a) All new construction and development shall be designed to minimize stormwater 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.

4.3.25.H(15)(b) Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

Repeal of Municipal Timber Harvesting Regulation.
The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. section 438-B(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M.R.S.A section 438-B(5), the following provisions of this Ordinance are repealed:

In Section 4.3.25.J: Timber harvesting;

Section 6.4.2.C. All forest management activities.

Section 4.2.25.H(16) Timber harvesting in its entirety; and

Definitions, the definitions of "forest management activities" and "residual basal area".

4.3.25.H(16) Timber harvesting.

4.3.25.H(16)(a) Timber harvesting shall conform with 4.3.25.H(5), Clearing or removal of vegetation for activities other than timber harvesting. In addition, at distances greater than 75 feet from the shoreline, timber harvesting operations shall not create single clearcut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5,000) square feet they shall be at least one hundred (100) feet apart. Such clearcut openings shall be included in the calculation of total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.

4.3.25.H(16)(b). No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a water body or tributary stream. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.

4.3.25.H(16)(c) Timber harvesting equipment shall not use stream channels as travel routes except when:

4.3.25.H(16)(c)(1) Surface waters are frozen; and

4.3.25.H(16)(c)(2) The activity will not result in any ground disturbance.

4.3.25.H(16)(d) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.

4.3.25.H(16)(e) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

4.3.25.H(16)(f) On slopes of up to ten (10) percent, except for water crossings, skid trails and exposed areas of mineral soil shall be located at least seventy-five (75) feet from the normal high-water line of a water body or tributary stream. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the water body or tributary stream, provided, however, that no portion of such exposed mineral soil on a back
face shall be closer than twenty-five (25) feet from the normal high-water line of a water body or tributary stream.

4.3.25.H(17) Water quality. No activity shall deposit on or into the ground or discharge to the waters of the city 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 or tributary stream. See also 4.3.30 Water quality impacts.

4.3.25.I. Shorelands classified. See 4.3.25.B Applicability.

4.3.25.I(1) Class A, Class B, and Class C shorelands. For the purposes of this section, the shorelands of the Kennebec River and the Messalonskee Stream are divided into the following classes which are identified on the shoreland zoning appendix to the official zoning map:

4.3.25.I(1)(a) Class A shorelands: Areas which are not developed or which are developed less intensively than Class B shorelands. In Class A shorelands, the first one hundred (100) feet inland from the high-water line are subject to the restrictions of the Resource Protection District.

4.3.25.I(1)(b) Class B shorelands: Areas which are devoted to intensive residential, recreational, commercial, institutional, or industrial activities or combinations of such activities.

4.3.25.I(1)(c) Class C shoreland: Areas in which the natural bank of the Kennebec River or the Messalonskee Stream were altered and structurally stabilized to support industrial buildings [the Wyandotte Woolen Mill] or utilities [the Kennebec Water District].

4.3.25.I(2) Stream protection district.

4.3.25.I(2)(a) The stream protection district includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream (as defined), exclusive of those areas within two hundred fifty (250) feet, horizontal distance, of the normal high-water line of the Kennebec River or the Messalonskee Stream. Where a stream and its associated shoreland area is located within two hundred fifty (250) feet, horizontal distance, of the above water bodies, that land area shall be regulated under the terms of the shoreland district associated with that water body. See Section 4.3.25.J(4) Uses permitted within the stream protection district and Section 4.3.25.J(5) Prohibited uses within the stream protection district.

4.3.25.I(3) Minor waterways. Minor waterways are those brooks designated on the shoreland zoning appendix to the official zoning map or as defined. See Maine Department of Environmental Protection regulations pursuant to the Natural Resources Protection Act.

4.3.25.I(4) Resource protection district. See Section 5.16 Resource Protection District.

4.3.25.J. Structures, lots, and uses in shoreland areas.

4.3.25.J.(1) Dimensional requirements.

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Minimum Lot Area* (Square Feet)</th>
<th>Minimum Shore Lot Frontage† (Feet)</th>
<th>Maximum Lot Coverage (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Class A</td>
<td>40,000</td>
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</tr>
<tr>
<td>Class B</td>
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<td>200</td>
<td>20</td>
</tr>
<tr>
<td>-----------------------</td>
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<td>------</td>
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<td>Industrial per Principal Structure*</td>
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<tr>
<td>Public and Private Recreation</td>
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Minimum Setback from Shoreline

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<tr>
<th></th>
<th>Principal Structure (Feet)</th>
<th>Accessory Structure‡ (Feet)</th>
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<tbody>
<tr>
<td>Class A</td>
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<td>100</td>
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<tr>
<td>Class B</td>
<td>75</td>
<td>75</td>
</tr>
<tr>
<td>Class C</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>Stream protection district</td>
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<td>75</td>
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<tr>
<td>Tributary streams</td>
<td>75</td>
<td>75</td>
</tr>
<tr>
<td>Minor waterways</td>
<td>**</td>
<td>**</td>
</tr>
</tbody>
</table>

*See 4.3.25.J(1)(a) and (c).
†Measured in a straight line between the points of intersection of the side lot lines with the shoreline at normal high-water elevation. See Section 4.3.25.J.(1)(e).
‡See 4.3.25.J(1)(b).
**See Maine Department of Environmental Protection regulations pursuant to the Natural Resources Protection Act.

4.3.25.J(1)(a) If more than one (1) residential dwelling unit, principal governmental, institutional, commercial, or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

4.3.25.J(1)(b) The following accessory structures are not subject to setback requirements: piers, docks, wharves, bridges, uses projecting into water bodies as an operational necessity, and accessory public utility installations.

4.3.25.J(1)(c) Land below the normal high-water line of a water body and land beneath roads serving more than two (2) lots shall not be included when calculating minimum lot area.

4.3.25.J(1)(d) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
4.3.25.J(1)(e) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

4.3.25.J(1)(f) The water body setback provision shall not apply to structures which require direct access to the water as an operational necessity, such as piers, docks, and retaining walls, or to other functionally water-dependent uses.

4.3.25.J(1)(g) Principal or accessory structures and expansions of existing structures shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

4.3.25.J(1)(h) The lowest floor elevation or openings of all buildings and structures including basements shall be elevated at least one (1) 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 floodplain soils.

4.3.25.J(1)(i) 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 (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-C), and that the applicant demonstrates that no reasonable access alternative exists on the property.

4.3.25.J(2) Permitted uses. Permitted uses are those allowed in the zone indicated on the official zoning map and listed in Article 5, unless specifically prohibited in Sections 4.3.25.J(3) and J(5).

4.3.25.J(3) Prohibited uses. The following uses are prohibited in the shorelands of the Kennebec River and the Messalonskee Stream unless connected to the sanitary sewer.

4.3.25.J(3)(a) Auto washing facilities (surface water runoff must be directed to the stormwater sewer).

4.3.25.J(3)(b) Auto or other vehicle service and/or repair operations, including body shops.

4.3.25.J(3)(c) Chemical and bacteriological laboratories.

4.3.25.J(3)(d) Storage of chemicals, including herbicides, pesticides, or fertilizers other than amounts normally associated with individual households or farms.

4.3.25.J(3)(e) Commercial painting, wood preserving, and furniture stripping.

4.3.25.J(3)(f) Dry cleaning establishments.

4.3.25.J(3)(g) Electronic circuit assembly.

4.3.25.J(3)(h) Laundromats.

4.3.25.J(3)(i) Metal plating, finishing, or polishing.

4.3.25.J(3)(j) Petroleum or petroleum product storage and/or sale, except storage on the same property as the use occurs and except for storage and sales associated with marinas.

4.3.25.J(3)(k) Photographic processing.

4.3.25.J(4) Uses permitted within the stream protection district.

4.3.25.J(4)(a) Approval of the planning board is required for the following uses:


4.3.25.J(4)(a)(2) Permanent piers, docks, wharfs, bridges, and other structures and uses extending over or below the normal high-water line.

4.3.25.J(4)(a)(3) Public and private recreational areas involving minimal structural development.


4.3.25.J(4)(a)(5) Filling and earthmoving of more than ten (10) cubic yards.

4.3.25.J(4)(a)(6) Clearing or removal of vegetation for activities other than timber harvesting.


4.3.25.J(4)(b) Approval of the code enforcement officer is required for the following uses:

4.3.25.J(4)(b)(1) Filling and earthmoving of less than ten (10) cubic yards.


4.3.25.J(4)(b)(3) Temporary piers, docks, bridges, and other structures and uses extending over or below the normal high-water line.

4.3.25.J(5) Prohibited uses within the stream protection district.


4.3.25.J(5)(b) Mineral extraction including sand and gravel extraction.

4.3.25.J(5)(c) Dwelling units.


4.3.25.J(5)(e) Industrial development.

4.3.25.J(5)(f) Governmental and institutional development, other than those uses specifically permitted in Section 4.3.25.J(4) Uses permitted.

4.3.25.J(5)(g) Campgrounds and individual private campsites.

4.3.25.J(5)(h) Parking facilities.

4.3.25.J(5)(i) The installation of essential services is not permitted in a stream protection district, except to provide services to permitted uses within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

4.3.25.K. Nonconformance. See Section 4.2 Nonconforming uses.

4.3.25.K(1) Nonconforming structures:
4.3.25.K(1)(a) Expansions: A nonconforming structure may be added to or expanded after obtaining a permit from the zoning board of appeals, if such addition or expansion does not increase the nonconformity of the structure and is in conformance with subsections (b) and (c) below if applicable.

4.3.25.K(1)(b) After the effective date of Ordinance 2-1971, if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream, that portion of the structure shall not be expanded, as measured in floor area or volume, by thirty (30) percent or more during the lifetime of the structure.

If a replacement structure conforms with the requirements of Section 4.3.25.K(1)(f) and is less than the required shoreline setback, the replacement structure may not be expanded if the original structure existing on the effective date of Ordinance 2-1971, had been expanded by 30% in floor area and volume since that date.

4.3.25.K(1)(c) Whenever a new, enlarged, or replacement foundation is constructed under a nonconforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the zoning board of appeals or its designee, basing its decision on the criteria specified in Section 4.3.25.K(1)(e) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure, it is not considered to be an expansion of the structure.

4.3.25.K(1)(d) No structure which is less than the required setback from the normal high-water line of a water body or tributary stream shall be expanded toward the water body or tributary stream.

4.3.25.K(1)(e) Relocation: A nonconforming structure 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 zoning board of appeals or its designee, and provided that the applicant demonstrates 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 no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the zoning board of appeals or its designee 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 setback area in order to relocate a structure, the zoning board of appeals shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

(a) Trees removed in order to relocate a structure must 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 must 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 must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.
(b) 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.

4.3.25.K(1)(f) Reconstruction or replacement, nonconforming structures. Any nonconforming structure which is located less than the required shoreline setback and which is removed, or damaged, or destroyed, regardless of the cause, by more than fifty (50) percent 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 shoreline setback requirement to the greatest practical extent as determined by the zoning board of appeals or its designee in accordance with the purposes of this ordinance. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity.

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 Sections 4.3.25.K(1)(a), (b), and (c) 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.

Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by fifty (50) percent 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.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent, the zoning board of appeals or its designee shall consider, in addition to the criteria in Section 4.3.25.K(1)(e) Relocation above, the physical condition and type of foundation present, if any.

When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 4.3.25.K(1)(e) above.

4.3.25.K(1)(g) Change of use of a nonconforming structure. The use of a nonconforming structure may not be changed to another use unless the zoning board of appeals, after receiving a written application, determines that the new use will have no greater adverse impact on the water body or tributary stream or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the zoning board of appeals shall 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, archaeological and historic resources, and functionally water-dependent uses.

4.3.25.L. Variances. See 6.2.5.D Variances. A copy of all variances granted by the zoning board of appeals shall be submitted to the Department of Environmental Protection within seven (7) days of the decision.

4.3.26. Sign regulations.

4.3.26.A. Signs in residential and institutional zones.

4.3.26.A(1) No sign in these zones shall be flashing or animated, no sign shall be illuminated by use of glaring light.
4.3.26.A(2) No sign shall be larger than sixteen (16) inches by twenty-four (24) inches for the identification of professional offices or for the advertising of other permitted uses. In any identifying type sign, each minor sign below the main sign shall not exceed five (5) inches by twenty-four (24) inches. Only one (1) sign shall be permitted per property, except that an identifying type sign which advertises more than one (1) business occupant of the property shall be considered one (1) sign.

4.3.26.A(3) Home occupations may have only one (1) sign which shall be no larger than five (5) by twenty-four (24) inches. The sign must be affixed to the home, not free-standing.

4.3.26.A(4) Exceptions to the size limitation may be made by the code enforcement officer in the case of institutional uses [including churches] provided that they are erected on the property to which the sign applies.

4.3.26.A(5) Exceptions to the size limitation may be made by the code enforcement officer for a temporary sign (no more than one (1) exception not to exceed six (6) months).

4.3.26.A(6) On single lots only one (1) real estate sign, i.e., for sale, for lease, etc., shall be permitted and shall not exceed three (3) feet by two (2) feet over-all dimensions. In cases where three (3) or more lots are for sale these signs shall not exceed four (4) feet by eight (8) feet.

4.3.26.A(7) Only the following advertising signs shall be permitted: signs pertaining to the sale, rent, or lease of rooms, apartments, houses, or property, and farm stands in Rural Residential zones.

4.3.26.A(8) Existing nonconforming funeral homes shall be permitted to have signs not to exceed twenty-four (24) by thirty-six (36) inches.


4.3.26.B(1) Free-standing signs advertising goods or services offered on the premises of a conforming business may be built in, or extend into, a required setback. The advertising space of such signs shall not exceed twelve (12) feet in height or twenty-five (25) feet in length. No more than three (3) advertising signs, having a combined area of less than three hundred (300) square feet, may be erected per one hundred (100) feet of road frontage. Both sides of such signs may be used for advertising.

4.3.26.B(2) No more than twenty (20) percent of a wall can be devoted to advertising. Signs attached to a wall shall not project above the roof or parapet line or extend beyond the wall line.

4.3.26.B(3) Total area of roof signs shall not be more than twenty (20) percent of the area of the wall directly in line with the face of the sign. Diagonal signs on roofs shall be limited to twenty (20) percent of the area of the smaller wall.

4.3.26.B(4) Existing nonconforming businesses shall be permitted to have signs with the size and lighting subject to the approval of the code enforcement officer.


4.3.26.B(5)(a) Where not otherwise controlled by the Maine Department of Transportation, the messages displayed on on-premises changeable signs in commercial and industrial zones may change as frequently as every five (5) seconds and no faster.

4.3.26.B(5)(b) Signs may not flash but may display continuous streaming of information or video animation.

4.3.26.B(5)(c) The display may comprise no more than 50% of the surface area of a changeable sign.

4.3.26.B(5)(d) No more than one changeable sign with 2 sides is allowed per lot of record.
4.3.26.B(5)(e) Changeable signs may not be located such that the message is readable from a controlled-access highway or ramp.

4.3.26.B(5)(f) The highest point of the display of a changeable sign may not exceed a height of 25 feet above either the centerline of the nearest public way or actual ground level adjacent to the sign, whichever is lower.

4.3.26.B(5)(g) The size, intensity of illumination, and acceptable rate of change between the time display and the temperature display of a time and temperature sign must comply with rules, policies, or guidelines adopted by the Maine Department of Transportation.

4.3.26.C. Signs in the industrial park zone.

4.3.26.C(1) One (1) identifying sign shall be permitted facing each public street and shall be located on the principal building of each industrial or other permitted use.

4.3.26.C(2) Identifying signs shall be permanently attached to, or constructed as part of, the face of the building or erected on a marquee. Signs or parts of signs shall not extend above the roof line of the building to which they are attached.

4.3.26.C(3) Area of signs. Signs shall not exceed one hundred (100) square feet in area for each three hundred (300) feet of road frontage.

4.3.26.D. Off-premises business directional signs. A maximum of six (6) off-premises business directional signs may be permitted a business or institutional facility which is located in a commercial, industrial, or institutional zone, unless specifically prohibited below.

Off-premises business directional signs are prohibited for businesses and institutional facilities which either:

(1) Are located in the congested business area as defined in Section 4.2 of the Licenses and Permits Ordinance (excluding businesses located on Front Street), or

(2) Have frontage on any of the following public ways:
   a. Armory Road;
   b. College Avenue;
   c. County Road;
   d. Kennedy Memorial Drive;
   e. Main Street;
   f. Trafton Road;
   g. Water Street.

Manufacturing firms employing a minimum of one hundred (100) full-time employees on site in a general industrial zone are exempt from the frontage restrictions in this section.

Businesses located on Airport Road will only be allowed one (1) sign each with the sign to be located at the intersection of Kennedy Memorial Drive and Airport Road. Businesses located on Industrial Park Road will only be allowed one (1) sign each with the sign to be located at the intersection of Armory Road and Industrial Park Road.

The applicant must pay a one-time fee of five dollars ($5.00) to the City of Waterville. Upon receiving a written statement from the code enforcement officer that the business is eligible under this section, the applicant may apply to the Maine Department of Transportation for a maximum of six (6) off-premises business directional signs. The size, shape, color, lighting, manner of display and lettering are subject to the regulations of the Department of Transportation. The applicant is responsible for obtaining the sign.
The installation, and removal if the applicant fails to pay the required fees or maintain the signs, is the responsibility of the Department of Transportation.

Notwithstanding the limitations contained in this section, all hospitals are eligible for signs and may apply to the Department of Transportation for a waiver of the six-sign limitation on the grounds of unusual hardship in accordance with 23 MRSA section 1911(3). No other business or institutional facility is eligible for a waiver of any of the provisions of this ordinance.

The restrictions contained in this section shall not apply to the signs described in 23 MRSA, section 1913-a. Signs described therein are permitted subject only to applicable State statutes and regulations.

4.3.26.E. Signs shall be removed immediately after the businesses that they advertise cease to operate.

4.3.27. Soil tillage.
Where soil in excess of twenty thousand (20,000) square feet is tilled, such tillage shall be carried out in conformance with the provisions of a conservation plan which meets the standards of the State Soil and Water Conservation Commission and is approved by the Kennebec County Soil and Water Conservation District. The number of the plan shall be filed with the planning board. Nonconformance with the provisions of that conservation plan shall be considered to be a violation of this ordinance.

4.3.28. Soil suitability for construction.
In any instance where the code enforcement officer or city engineer doubts the capability of the soil to adequately accommodate proposed construction, the City may require that a soil test be made, at the owner's expense, by a soil scientist registered in the State of Maine.

If the soil type is classified as having "poor" or "very poor" suitability for the proposed use in the "Soil Suitability Guide for Land Use Planning in Maine", the City may require the developer to submit written evidence from a professional civil engineer, registered in the State of Maine, that the soil will be able to support all proposed pavement, structures, and utilities. This report may include recommended engineering measures to ensure that cracking, subsidence, or other failure will not result.

4.3.29. Temporary structures.

4.3.29.A. Temporary structures used in conjunction with construction work shall be permitted only during the period that construction work is in continuous process. Permits for temporary structures shall be issued for a six-month period and may be renewed by the code enforcement officer for an additional six-month period. See also Section 4.3.17.A(2) Single-wide mobile homes.

4.3.29.B. Residing in the basement before completion of the structure is permitted subject to conditions and safeguards as may protect the safety of the occupants and the public. A valid plumbing permit is required.

4.3.30. Water quality impacts.

4.3.30.A. No activity shall discharge materials into surface or ground waters so as to pollute those waters or to harm human, animal, plant, or aquatic life.

4.3.30.B. All above ground storage facilities for fuel, chemicals, industrial wastes, or biodegradable raw materials shall be located on impervious pavement and shall be completely enclosed by an impervious dike which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into the storage area during a twenty-five-year storm, so that such liquid will not be able to spill onto or seep into the ground surrounding the paved storage area. Storage tanks for home heating oil and diesel fuel not exceeding two hundred seventy-five (275) gallons in size are exempt from this requirement.
4.3.30.C. All below ground tanks must meet the standards of the Maine Department of Environmental Protection.

4.3.30.D. See the performance standard for hydrogeologic assessments of groundwater impacts in Section 4.3.15.

4.3.31. Chickens.

4.3.31.A. Applicability. The following regulations apply to keeping no more than six (6) female chickens for non-commercial use. Raising of more than six chickens [hens or roosters] is subject to Section 4.3.3 Animal husbandry and boarding kennels and is allowed only in the Rural Residential Zone.

4.3.31.B. Purpose. The purpose of these performance standards is to allow the residents of Waterville the opportunity to own pet chickens and benefit from having fresh eggs available to them, without infringing upon the rights of their neighbors to enjoy their properties.

4.3.31.C. Minimum land area. Keeping six or fewer chickens requires a land area of at least 10,000 square feet.

4.3.31.D. Number, gender, species, and use of chickens.

4.3.31.D(1) No more than 6 hens are allowed per lot; no roosters are allowed.

4.3.31.D(2) Chickens are to be kept as pets and for personal use only, not for commercial use. The sale of eggs or fertilizer and the breeding of chickens is not allowed.

4.3.31.D(3) Chicken species are limited to laying hens; the keeping of birds bred for meat is not allowed.

4.3.31.D(4) The slaughtering of chickens is prohibited.

4.3.31.E. Enclosures. Hens must be kept in enclosed areas. During daylight hours, they may be in outdoor wire pens. At night, chickens must be secured within henhouses.

4.3.31.E(1) Setbacks. Henhouses and pens must be located at least fifteen (15) feet from side and rear property lines and at least twenty (20) feet from the nearest residence existing at the time of permit issuance (other than the dwelling on the same lot). Henhouses and pens are not allowed in front yards.

4.3.31.E(2) Placement on lots. All pens, runs, and henhouses shall be constructed and located on the site in a manner that will minimize the adverse effects upon surrounding properties. Among the factors that shall be considered are the relationship of the use to the topography, natural and planted horticultural screening, the direction and intensity of the prevailing wind, and the relationship and location of residences on nearby properties.

4.3.31.E(3) Living area. Henhouses must provide a minimum of four (4) square feet of floor area per bird and pens must have a minimum of sixty (60) square feet of ground space.

4.3.31.E(4) Security. Measures must be taken to discourage predators and rodents. Henhouses must be raised off the ground, enclosed on all sides, and have a floor, roof, and tight-fitting doors that can be latched securely at night. Pens must be constructed with heavy wire fencing. Pens must be covered. Adequate sun, shade, and ventilation must be provided.


4.3.31.E(5)(a) Every effort shall be made to avoid negatively impacting the property of neighbors. The owners of chickens shall maintain their properties in a clean, orderly, and sanitary condition at all times.
Chicken owners shall not allow waste material to accumulate or provide a breeding place for insects or rodents.

4.3.31.E(5)(b) Storage of waste.
4.3.31.E(5)(b)(1) Temporary storage containers for any wastes not being composted shall be kept tightly covered at all times. Such containers shall be made of steel or plastic to facilitate cleaning, and shall be located in accordance with the setbacks required in Section 4.3.31.E(1) Setbacks above.

4.3.31.E(5)(b)(2) If chickens are kept within 100 feet of a water body, provisions must be made to prevent the runoff of pollution into that water body.

4.3.31.E(5)(b)(3) All waste not used for fertilizer and all uneaten feed must be removed in a timely fashion.


4.3.31.F. Permits required. An inspection of the henhouse and pen by the Code Enforcement Officer is required, and a permit fee of $25 will be charged for the inspection. The Code Enforcement Officer may revoke the permit, if any violation of any performance standard occurs. See Section 6.1.1 Violations and legal action, et seq.

ARTICLE 5. ZONING DISTRICT REQUIREMENTS

RESIDENTIAL

5.1. Low density residential district (R-A).

5.1.1. Purpose.
The R-A district is principally for low density residential development. Any future development which would interfere with such low density residential use or which would not perform a neighborhood function is hereby prohibited.

5.1.2. R-A Principal uses permitted.

5.1.2.A. One-family dwellings. [Note: By definition, modular housing is allowed.]

5.1.2.B. Two-family dwellings and alteration of single-family dwellings to accommodate no more than two (2) families, provided that the parking standard and the dimensional requirements of the zone are met.

5.1.2.C. New multifamily dwellings and conversions of existing buildings to multifamily dwellings as provided in Section 4.3.18 and the Subdivision Ordinance. Notwithstanding the above, the code enforcement officer may approve conversions of existing buildings to create as many as three units, if those conversions do not constitute subdivisions.

5.1.2.D Community living arrangements as defined in Section 3.2.

5.1.2.E. Private and public schools, if adequately screened and fenced recreational areas are provided.

5.1.2.F. Public service facilities including public parks and community centers. [See Section 5.19.2 for additional examples.]

5.1.2.G. Churches, parish houses, rectories, convents.
5.1.2.H. Public utility or communications installations for service in the zoning district in which it is proposed to be located. No cellular telephone towers are permitted.

5.1.3. R-A Special exceptions.

5.1.3.A. Raising of chickens in accordance with Section 4.3.31 Chickens.

5.1.4. R-A Dimensional requirements.*

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Minimum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot area, minimum</td>
<td>15,000 sq. ft.</td>
</tr>
<tr>
<td>Area per family, minimum</td>
<td>7,500 sq. ft.</td>
</tr>
<tr>
<td>Lot frontage, minimum</td>
<td>100 ft.</td>
</tr>
<tr>
<td>Lot depth, minimum</td>
<td>150 ft.</td>
</tr>
<tr>
<td>Front yard, minimum</td>
<td>20 ft.</td>
</tr>
<tr>
<td>Side yard, principal building, minimum</td>
<td>15 ft.</td>
</tr>
<tr>
<td>Rear yard, principal building, minimum</td>
<td>30 ft.</td>
</tr>
<tr>
<td>Side and rear yard, accessory structure,**</td>
<td>10 ft.</td>
</tr>
<tr>
<td>Lot coverage of all buildings, maximum</td>
<td>20% lot area</td>
</tr>
<tr>
<td>Usable open area, minimum</td>
<td>50% lot area</td>
</tr>
</tbody>
</table>

*When International Building Code and NFPA .101 require the addition of a second means of egress to an existing building, stated setbacks do not apply.

**Detached private garages, swimming pools, and portable shelters are accessory structures.

A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

*Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

5.2. Medium density residential district (R-B).

5.2.1. Purpose.
The R-B district is principally for medium density residential development. Any future development which would interfere with such medium density residential use or which would not perform a neighborhood function is hereby prohibited.

5.2.2. **R-B Principal uses permitted.**

5.2.2.A. Any principal use permitted in the R-A district.

5.2.2.B. Double-wide newer mobile homes. No single-wide mobile homes or older mobile homes are allowed.

5.2.3. **R-B Special exceptions.**

In the R-B district, the following uses are permitted as special exceptions as approved by the code enforcement officer in conformity with the requirements of Section 5.20. If, however, site plan review by the planning board is required either under Section 6.4 or as a condition of a contract zone, no such review by the code enforcement officer is required.

5.2.3.A. Same as allowed in the R-A zone.

5.2.3.B. Daycare centers, subject to dimensional requirements of the zone and as provided in Section 4.3.9.

5.2.3.C. Home occupations within a dwelling, as provided in Section 4.3.14 Home occupations.

5.2.4. **R-B Dimensional requirements.**

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Minimum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot area, minimum</td>
<td>10,000 sq. ft.</td>
</tr>
<tr>
<td>Area per family, minimum</td>
<td>5,000 sq. ft.</td>
</tr>
<tr>
<td>Lot frontage, minimum</td>
<td>100 ft.</td>
</tr>
<tr>
<td>Lot depth, minimum</td>
<td>100 ft.</td>
</tr>
<tr>
<td>Front yard, minimum</td>
<td>20 ft.</td>
</tr>
<tr>
<td>Side yard, principal building, minimum</td>
<td>10 ft.</td>
</tr>
<tr>
<td>Rear yard, principal building, minimum</td>
<td>30 ft.</td>
</tr>
<tr>
<td>Side and rear yards, accessory structures</td>
<td>5 ft.</td>
</tr>
<tr>
<td>including detached private garages*, minimum....</td>
<td></td>
</tr>
<tr>
<td>Lot coverage of all buildings, maximum</td>
<td>25% lot area</td>
</tr>
<tr>
<td>Usable open area, minimum</td>
<td>40% lot area</td>
</tr>
</tbody>
</table>

*Detached private garages, swimming pools, sheds, and portable shelters are accessory structures.*
A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

**When International Building Code and NFPA .101 require the addition of a second means of egress to an existing building, stated setbacks do not apply.**

** Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

### 5.3. General residential district (R-C).

#### 5.3.1. Purpose.
The R-C district is principally for medium density residential development. Any future development which would tend to over populate or further congest the district or destroy its essentially residential character is hereby prohibited.

#### 5.3.2. R-C Principal uses permitted.

5.3.2.A. Any uses permitted in the R-B district, except double-wide newer mobile homes.

5.3.2.B. Homeless shelters in accordance with Section 4.3.13.

5.3.2.C. Historical institutions and nonresidential philanthropic or charitable institutions of a public or semi-public nature.

#### 5.3.3. R-C Special exceptions.

In the R-C district, the following uses are permitted as special exceptions as approved by the code enforcement officer in conformity with the requirements of Section 5.20 If, however, site plan review by the planning board is required either under Section 6.4 or as a condition of a contract zone, no such review by the code enforcement officer is required.

5.3.3.A. Same as allowed in the R-B zone.

#### 5.3.4. R-C Dimensional requirements.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Minimum Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot area, minimum</td>
<td>7,500 sq. ft.</td>
</tr>
<tr>
<td>Area per family, minimum</td>
<td>3,750 sq. ft.</td>
</tr>
<tr>
<td>Lot frontage, minimum</td>
<td>75 ft.</td>
</tr>
<tr>
<td>Lot depth, minimum</td>
<td>100 ft.</td>
</tr>
<tr>
<td>Front yard, minimum</td>
<td>10 ft.</td>
</tr>
<tr>
<td>Side yard, principal building, minimum</td>
<td>10 ft.</td>
</tr>
</tbody>
</table>
Rear yard, principal building, minimum...  20 ft.

Side and rear yards, accessory structures including detached garages*, minimum...  5 ft.

Lot coverage of all buildings, maximum...  30% of lot area

Usable open area, minimum...  35% of lot area

*Detached private garages, swimming pools, sheds, and portable shelters are accessory structures. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

**When International Building Code and NFPA 101 require the addition of a second means of egress to an existing building, stated setbacks do not apply.

**Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

5.4. General residential district (R-D).

5.4.1. Purpose.
The R-D district is principally for medium density residential development. It is characterized by large houses, many of which have been converted to multi-family dwellings.

5.4.2. R-D Principal uses permitted.

5.4.2.A. Any use permitted in the R-C district.

5.4.3. R-D Special exceptions.
In the R-D district, the following uses are permitted as special exceptions as approved by the code enforcement officer in conformity with the requirements of Section 5.20. If, however, site plan review by the planning board is required either under Section 6.4 or as a condition of a contract zone, no such review by the code enforcement officer is required.

5.4.3.A. Same as R-B.

5.4.3.B. Professional offices and occupations, except for properties abutting Pleasant (not including property also abutting and whose entrances face Park Street), Gilman and Dalton Streets, Pleasant Court, Sheldon Place, and Winter Street west of Pleasant Street. No display of merchandise or services shall be made in the windows or in any other manner to disclose the nature of the profession or service. The sale of goods on the premises is permitted only when incidental to the provision of the service. Dumpsters shall be screened if the professional office or occupation abuts a residence.

5.4.4. R-D Dimensional requirements.**

<table>
<thead>
<tr>
<th>Description</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot area, minimum</td>
<td>15,000 sq. ft.</td>
</tr>
<tr>
<td>Area per family, minimum</td>
<td>2,500 sq. ft. for one bedroom (or efficiency apartment) plus 500 square feet for each</td>
</tr>
</tbody>
</table>
| Requirement                                      | Minimum
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot frontage, minimum</td>
<td>100 ft</td>
</tr>
<tr>
<td>Lot depth, minimum</td>
<td>100 ft</td>
</tr>
<tr>
<td>Front yard, minimum</td>
<td>10 ft</td>
</tr>
<tr>
<td>Side yard, principal building, minimum</td>
<td>10 ft</td>
</tr>
<tr>
<td>Rear yard, principal building, minimum</td>
<td>20 ft</td>
</tr>
<tr>
<td>Side and rear yards, accessory structures</td>
<td>5 ft</td>
</tr>
</tbody>
</table>

*Detached private garages, swimming pools, sheds, and portable shelters are accessory structures.

A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

**When International Building Code and NFPA .101 require the addition of a second means of egress to an existing building, stated setbacks do not apply.

**Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

5.5. Rural residential district (R-R).

5.5.1. Purpose.
The R-R district is principally for rural residential development, agriculture, forestry, and customary associated uses. Permitted in this district are certain uses unsuited to the more densely developed portions of the city. Large lots with ample space between buildings are required as a means of reducing fire hazards, and also to supply sufficient area for safe location of water supply and septic disposal systems on the same lot. Other purposes of this district include encouragement of appropriate recreational use of the land, reduction and prevention of soil erosion, and conservation of natural resources. The R-R zone also serves as a holding operation for future development and rezoning.

5.5.2. R-R Principal and accessory uses.

5.5.2.A. Any principal or accessory use permitted in any residential district except homeless shelters.

5.5.2.B. Single-wide and double-wide mobile homes and older mobile homes.

5.5.2.C. Mobile home parks subject to Section 4.3.17.

5.5.2.D. Nursing homes, assisted living facilities, and hospitals.
5.5.2.E. Veterinary hospitals on lots of not less than two (2) acres, provided that any building or area in which animals are kept is located at least one hundred (100) feet from any street or lot line.

5.5.2.F. Boarding kennels on lots of not less than five (5) acres, provided that any building or area in which animals are kept is located at least one hundred (100) feet from any street or lot line and at least five hundred (500) feet from the nearest residence existing at the time of permit issuance (other than a dwelling on the same lot). See Section 4.3.3 Animal husbandry and boarding kennels.

5.5.3. R-R Special exceptions.
The following uses are permitted as special exceptions as approved by the code enforcement officer in conformity with the requirements of Section 5.20. If, however, site plan review by the planning board is required either under Section 6.4 or as a condition of a contract zone, no such review by the code enforcement officer is required.

5.5.3.A. Same as allowed in the R-B district.

5.5.3.B. Outdoor recreational areas and facilities as defined in Section 3.2 and subject to Section 4.3.23 Recreational facilities.

5.5.3.C. Processing of agricultural products, provided there is no discharge or dumping of pollutants of any nature, except in conformity to state and federal regulations.

5.5.3.D. Camping grounds subject to Section 4.3.7 Campgrounds.

5.5.3.E. Agriculture, including poultry and animal raising subject to Section 4.3.3 Animal husbandry and boarding kennels.

5.5.3.F. Any additional use compatible with an existing general use exception.

5.5.3.G. Cemeteries.

5.5.4. R-R Dimensional requirements.*

<table>
<thead>
<tr>
<th>Lot area, minimum....</th>
<th>20,000 sq. ft.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Area per family, minimum....</td>
<td>7,500 sq. ft.</td>
</tr>
<tr>
<td>Lot frontage, minimum....</td>
<td>150 ft.</td>
</tr>
<tr>
<td>Front yard, minimum....</td>
<td>50 ft.</td>
</tr>
<tr>
<td>Side yard, minimum....</td>
<td>25 ft.</td>
</tr>
<tr>
<td>Rear yard, minimum....</td>
<td>25 ft.</td>
</tr>
<tr>
<td>Lot coverage of all buildings, maximum....</td>
<td>30% of lot area</td>
</tr>
<tr>
<td>Usable open area, minimum....</td>
<td>50% of lot area</td>
</tr>
</tbody>
</table>
*When International Building Code and NFPA .101 require the addition of a second means of egress to an existing building, stated setbacks do not apply.

*Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

INSTITUTIONAL

5.6. Institutional districts.

5.6.1. Principal uses.

5.6.1.A. Educational facilities.

5.6.1.B. Social or civil activities.

5.6.1.C. Fraternal or religious facilities.

5.6.1.D. Hospitals, sanitariums, clinics, nursing homes, or other medical institutions or uses.

5.6.1.E. Recreation buildings or facilities for nonprofit organizations.

5.6.2. Accessory uses.

5.6.2.A. Parking lots.

5.6.2.B. Housing for institutional staff or recipients of institutional services.

5.6.2.C. Services incidental to the principal use.

5.6.3. Institutional Dimensional requirements.*

Lot size . . . 2 acres
Frontage . . . 200 ft.
Front setback . 30 ft.
Side yard . . . 50 ft.
Rear yard . . . 50 ft.

*When International Building Code and NFPA .101 require the addition of a second means of egress to an existing building, stated setbacks do not apply.

*Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

COMMERCIAL

5.7. Commercial-A (C-A) district.

5.7.1. Description and purpose.

The C-A district is principally for commercial establishments to which the public requires frequent and direct access. The C-A district is intended to encourage the concentration of commercial development to
the mutual advantage of both consumers and merchants and thus to promote public convenience and prosperity.

5.7.2. C-A Permitted uses.

5.7.2.A. Existing residential uses and existing and new accessory structures.

5.7.2.B. Conversion of a single-family dwelling to a two-family dwelling, or a single- or two-family dwelling to a three-family dwelling. Notwithstanding, the requirements of Section 4.3.18 Multifamily developments, the code enforcement officer may approve conversions of existing residential buildings to create as many as three units. See also Section 5.7.2.K. Apartments below.

5.7.2.C. Business and professional offices.

5.7.2.D. Retail stores.

5.7.2.E. Commercial or public parking areas for automobiles.

5.7.2.F. Eating establishments, including places offering dancing and entertainment.

5.7.2.G. Service establishments such as bus terminals, taxi stands, drug stores, barber shops, beauty parlors, laundry agencies, appliance sales and repair shops, pressing and tailoring shops, and banks. See the definition of service establishment in Section 3.2.

5.7.2.H. Hotels, motels, and bed and breakfast inns in accordance with Section 4.3.5 Bed and breakfast inns.

5.7.2.I. Indoor recreational facilities and theaters.

5.7.2.J. Printing and newspaper production.

5.7.2.K. Apartments, except for ground floor level on Main Street between Spring Street and College Avenue in accordance with the provisions of 4.3.18 Multifamily developments. An individual apartment must contain not less than three hundred (300) square feet of habitable space as that term is defined in the Property Maintenance Ordinance. See Section 5.7.2.B above.

5.7.2.L. Facilities, including clubhouses for nonprofit recreational, social, or fraternal organizations.

5.7.2.M. Daycare centers.

5.7.2.N. Convenience stores with gas pumps and retailing and dispensing of automotive fuels in accordance with Section 4.3.4 Automobile businesses.

5.7.2.O. Homeless shelters in accordance with Section 4.3.13, except for ground floor level on Main Street between Spring Street and College Avenue.

5.7.3. C-A Special exceptions.

The following uses are permitted as special exceptions if approved by the code enforcement officer in conformity with the requirements of Section 5.20. If, however, site plan review by the planning board is required either under Section 6.4 or as a condition of a contract zone, no such review by the code enforcement officer is required.

5.7.3.A. Warehousing and light manufacturing uses subordinate to retail establishments shall be permitted, provided that there shall be no nuisance created by emission of noise, vibration, electronic radiation, fumes, dust, or odor. The manufacturer will be his own prime retailer, and such manufacturing shall not include primary processing of raw materials.
5.7.4. **C-A Prohibited uses.**

5.7.4.A. Service, repair, and sale of automobiles.

5.7.4.B. Boat and trailer sales and service.

5.7.4.C. Junk yards, including the storage of inoperative motor vehicles.

5.7.5. **Off-street parking and loading requirements.**

Off-street parking and loading space shall be provided as required in Section 4.3.21 and shall be screened as provided in Section 4.3.24.

5.7.6. **C-A Dimensional requirements.**

None, except that development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

5.7.7. **Screening requirements.**

5.7.7.A. A six-foot-high wall or fence of solid and uniform appearance, or a compact evergreen hedge planted so as to attain a height of not less than six (6) feet, shall be installed or planted and maintained to screen commercial and industrial uses from adjacent residential districts or uses.

5.7.7.B. Alternate screening plan.

The planning board, if the project is under review by the planning board, or the code enforcement officer may approve an alternate screening plan which makes use of other methods to meet the intent of this screening requirement.

5.8. **Commercial-B (C-B) district.**

5.8.1. **Description and purpose.**

The C-B district is principally for commercial activity which would be incompatible with the concentration of establishments in the C-A district because of their requirements for larger areas of land than are customarily available in the C-A district.

5.8.2. **C-B Permitted uses.**

5.8.2.A. Any use permitted in the Commercial-A district, except Section 5.7.2.K Apartments.

5.8.2.B. Drive-in or outdoor service establishments.

5.8.2.C. Outdoor storage areas and self-storage units, subject to the provisions for screening in Section 4.3.24 of this ordinance.

5.8.2.D. Wholesaling.

5.8.2.E. Assisted living facilities.

5.8.2.F. Automotive sales, service, wash, and repairs (including retailing and dispensing of automotive fuels) in accordance with Section 4.3.4 Automobile businesses.

5.8.2.G. Sales and service of boats, trailers, snowmobiles, and all-terrain vehicles.

5.8.3. **C-B Accessory uses.**
Warehousing as accessory to a wholesaling establishment.

5.8.4. **C-B Prohibited uses.**
Trucking terminals.

5.8.5. **Off-street parking and loading requirements.**
Off-street parking and loading space shall be provided as required in Section 4.3.21 of this ordinance.

5.8.6. **C-B Dimensional requirements.**
Lot size........... No minimum
Frontage.......... No minimum
Front setback.....30 feet
Side yard......... 50 feet
Rear yard......... 50 feet

*When International Building Code and NFPA .101 require the addition of a second means of egress to an existing building, stated setbacks do not apply.

*Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

5.8.7. **Screening requirements.**
Adjacent to residential districts or uses, a buffer strip of evergreen plantings, at least twenty (20) feet in width and of an ultimate height of ten (10) feet, shall be planted and maintained, and a solid fence shall be constructed in conformity to Section 4.3.24.A. The planning board may, if requested by the applicant, approve an alternate screening plan which makes use of other methods to meet the intent of this screening requirement.

5.9. **Commercial-C (C-C) district.**

5.9.1. **Description and purpose.**
The C-C district is principally for establishments catering to the needs of motorists and users of motorized equipment, including sales, service, and repair of motor vehicles.

5.9.2. **C-C Permitted uses.**

5.9.2.A. Any use permitted in the C-A and C-B districts, except Section 5.7.2.K Apartments.

5.9.2.B. Mobile home sales and service.

5.9.2.C. Contractors' storage yards subject to the screening provisions in Section 4.3.24.

5.9.2.D. Veterinary hospitals.

5.9.2.E. Equipment rental.

5.9.2.F. Outdoor golf driving ranges with the approval of the Planning Board.

5.9.3. **Off-street parking and loading.**
Off-street parking and loading space shall be provided as required in Section 4.3.21.

5.9.4. **C-C Dimensional requirements.**
Lot size........... No minimum
Frontage........ No minimum
Front setback.....30 feet
Side yard........ 20 feet
Rear yard........ 20 feet
*When International Building Code and NFPA .101 require the addition of a second means of egress to an existing building, stated setbacks do not apply.

*Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

5.9.5. Screening requirements.
A buffer strip of evergreen plantings at least twenty (20) feet in width and an ultimate height of ten (10) feet shall be planted and maintained and a solid fence shall be constructed in conformity to Section 4.3.24.A adjacent to residential districts or uses. The planning board may, if requested by the applicant, approve an alternate screening plan which makes use of other methods to meet the intent of this screening requirement.

5.10. Commercial-D (C-D) district.

5.10.1. Description and purpose.
The C-D district is principally for establishments which require exposure to a major highway and large areas of land on which to conduct their operations.

5.10.2. C-D Permitted uses.

5.10.2.A. Any use permitted in the C-A, C-B, and C-C districts except Section 5.7.2.K Apartments and homeless shelters.

5.10.2.B. Laboratories for research and testing, subject to restrictions regarding nuisance as provided in this ordinance.

5.10.2.C. Shopping centers.

5.10.2.D. Trucking, wholesaling, and warehousing.

5.10.3. Screening and landscaping requirements.

5.10.3.A. Wherever a C-D zoning district abuts a residential district, a buffer strip of plantings at least fifty (50) feet in width and of an ultimate height of not less than twenty-five (25) feet shall be planted and maintained and a solid fence is required in conformity to Section 4.3.24.A.

5.10.3.B. A landscaped strip at least fifteen (15) feet in width shall be provided along the street line and planted and maintained with appropriate street trees and flowering shrubs.

5.10.3.C. The planning board may, if requested by the applicant, approve an alternate screening plan which makes use of other methods to meet the intent of this screening requirement.

5.10.4. C-D Dimensional requirements.*
Lot size . . . 2 acres
Frontage . . . 200 ft.
Front setback .100 ft.
Side yard . . . 50 ft.
Rear yard . . . 100 ft.
*When International Building Code and NFPA .101 require the addition of a second means of egress to an existing building, stated setbacks do not apply.

*Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

INDUSTRIAL

5.11. Industrial Park (I-P) district.

5.11.1. Description and purpose.
The industrial park (IP) district is principally for industrial and associated uses, with appropriate open spaces, building setbacks, and screened off-street parking and storage areas.

5.11.2. I-P Permitted uses.

5.11.2.A. Manufacturing.

5.11.2.B. Non-manufacturing uses:

5.11.2.B(1) Research and development laboratories.

5.11.2.B(2) Commercial uses commonly accessory to or associated with industrial establishments.

5.11.2.B(3) Service establishments such as cafeterias and motels.

5.11.2.B(4) Public utility, transportation, and communication facilities.

5.11.2.B(5) Municipal facilities and grounds.

5.11.2.B(6) Warehousing and storage.

5.11.2.B(6)(a) Storage of raw materials and supplies shall not be permitted except in completely enclosed buildings.

5.11.2.B(6)(b) Finished or semi-finished products may be stored in the open only when storage areas are suitably screened and located at least one hundred (100) feet from any property line and one hundred fifty (150) feet from any street line and shall cover no more than fifteen (15) percent of the site. Open areas used for storage shall be enclosed by a solid fence or wall at least six (6) feet in height or by suitable screen planting not less than six (6) feet in height and ten (10) feet in thickness. Storage area entrances and exits shall be provided with solid gates and in no case shall stored material be so stacked or stored as to exceed the height of the fence or screen. The planning board shall approve plans for the screening of outdoor storage areas before building permits are issued.

5.11.2.B(7) Contractors’ equipment storage yards subject to the screening requirements in Section 5.11.4.

5.11.3. I-P Accessory uses.

5.11.3.A. Retail outlets. Retail outlets for products manufactured on the premises.

5.11.4. Landscaping and screening.
5.11.4. A. All open portions of lots shall have proper grading and drainage and shall be continuously maintained in a dust-free condition by suitable landscaping with trees, shrubs, and permanent groundcover or by paving in parking, loading, and storage areas as required by the planning board in its review of site plans.

5.11.4. B. Required yard areas shall be planted and maintained in such a manner as to provide a landscaped setting for all buildings.

5.11.4. C. Wherever a lot in industrial use abuts a residential district, a buffer of not less than one hundred fifty (150) feet in width shall be maintained. Fifty (50) feet of such buffer shall be used as a planting strip for hedges, evergreens, trees, shrubbery, or other suitable screen planting. The remaining one hundred (100) feet may be used for off-street parking or other permitted purpose other than a building or permanent structure.

5.11.5. Street and access design.

5.11.5. A. Access barrier. Access to the street shall be controlled in the interest of public safety. Each building or group of buildings and its parking or service areas shall be physically separated from the street by a curb, planting strip, or other suitable barrier against un-channeled motor vehicle access or egress except for access ways as authorized in Section 5.11.5. B below.

5.11.5. B. Access ways. Each separate use, grouping of attached buildings, or grouping of uses as part of a single integrated plan shall have not more than two (2) access ways to any one street. Insofar as practicable, the use of common access ways by two (2) or more developments is preferred in order to reduce the number and closeness of access points along the street.

5.11.6. Nuisance prohibition.
Only those activities which are not injurious or noxious by reason of noise, smoke, vibration, electronic radiation, gas, fume, odor, dust, fire or explosion hazard, and which meet state and federal pollution standards are permitted in the industrial park district.

5.11.7. Off-street parking requirements.
A minimum of one off-street parking space for each vehicle owned or based upon the premises and one off-street parking space for each two (2) employees employed on the largest shift must be provided.

5.11.8. Off-street loading requirements.
Off-street loading berths shall be provided as required in Section 4.3.21 of this ordinance.

5.11.9. I-P Dimensional requirements.*
Lot size, minimum . . . . . . . 3 acres
Lot width, minimum . . . . . . 250 feet
Road frontage, minimum . . . 200 feet
Front yard setback, minimum . . . . 100 feet
Side yard, minimum . . . . . . . . 40 feet
Rear yard, minimum . . . . . . . . . 50 feet
Distance from a residential district . . . 150 feet
Percentage of lot covered by buildings . . . 30%

*When International Building Code and NFPA .101 require the addition of a second means of egress to an existing building, stated setbacks do not apply.

*See the buffer required at Section 5.11.4.

*Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).
5.12. General industrial district (I).

5.12.1. Description and purpose.
The Industrial district is principally for heavy industry and associated uses which are so located as to prevent undesirable conflict with residential and commercial development.

5.12.2. General Industrial Uses permitted.

5.12.2.A. Any use permitted in the Commercial-D district.

5.12.2.B. Processing, manufacturing, or other industrial use which is not injurious or noxious by reason of noise, smoke, vibration, electronic radiation, gas, fume, odor, dust, fire or explosion hazard, and which meets state and federal pollution standards.

5.12.2.C. Bulk oil and fuel storage above ground. See Section 4.3.30 and Section 4.3.4.B(10).

5.12.2.D. Retail and wholesale businesses customarily serving or consistent with industrial uses.

5.12.2.E. Municipal, public utility, communication, and transportation facilities.

5.12.3. Uses forbidden.
Residential uses are forbidden unless clearly incidental and accessory to a lawfully established use.

5.12.4. Off-street parking and loading requirements.
Off-street parking and loading space shall be provided as required in Section 4.3.21.

5.12.5. General Industrial (I) Dimensional requirements.*
Lot area . . . . . . No minimum
Road frontage . . . . 150 feet
Lot width . . . . . . 200 feet
Front yard . . . . . . 50 feet
Side yard . . . . . . 25 feet
Rear yard . . . . . . 50 feet
Percentage of lot covered by buildings  50% maximum

*When International Building Code and NFPA .101 require the addition of a second means of egress to an existing building, stated setbacks do not apply.

*Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

5.12.6. Screening and landscaping requirements.

5.12.6.A. A buffer strip of evergreens at least twenty-five (25) feet in width and planted so as to attain a height of twenty-five (25) feet within ten (10) years shall be maintained adjacent to any other zoning district.

5.12.6.B. A landscaping strip at least fifteen (15) feet in width shall be provided along the street line and planted and maintained with appropriate street trees and flowering shrubs.

5.12.6.C. The planning board may, if requested by the applicant, approve an alternate screening plan which makes use of other methods to meet the intent of this screening requirement.
5.13. **Downtown industrial district (D-I).**

5.13.1. **Description and purpose.**
The Downtown Industrial District is established to encourage the re-use and redevelopment of historic industrial buildings in the downtown. This zone allows for the harmonious co-location of commercial, industrial, institutional, and residential uses.

5.13.2. **Downtown Industrial Uses permitted.**
5.13.2.A. All use permitted in the General Industrial District.
5.13.2.B. Multifamily dwellings.
5.13.2.C. Institutional uses as defined in Section 3.2 of this ordinance.

5.13.3. **Off-street parking requirements.**
Off-street parking space shall be provided as follows:
5.13.3.A. Industrial and manufacturing activities: the lesser of one space per 1,000 square feet or one space per 2 employees.
5.13.3.B. All other commercial uses: 1 space per 400 square feet.
5.13.3.C. Multi-family residential uses: 1.5 spaces per unit.
5.13.3.D. In view of the mixed use nature of potential developments within the zone, the planning board may approve fewer parking spaces than otherwise required under this section, based on findings that various uses will require parking at different times of the day or week or that the parking requirements for a particular activity will be less than parking requirements generally applicable to the land use category. To reduce the required spaces by more than 10%, the developer must provide a written report from a Professional Traffic Operations Engineer demonstrating ample parking.
5.13.3.E. Required off-street parking may be located within 300 feet of the development.
5.13.3.F. Required off-street parking spaces shall be set back from all property lines, front, rear, and side, not less than five (5) feet.

5.13.4. **Downtown Industrial Dimensional requirements.** *Except for structures existing as of March 1, 2008, the following dimensional requirements apply to all uses:* *

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot area</td>
<td>None</td>
</tr>
<tr>
<td>Frontage</td>
<td>None</td>
</tr>
<tr>
<td>Front yard</td>
<td>20 feet</td>
</tr>
<tr>
<td>Side yard</td>
<td>20 feet</td>
</tr>
<tr>
<td>Rear yard</td>
<td>20 feet*</td>
</tr>
</tbody>
</table>

*Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

5.14. **Airport industrial district (A-I).**

5.14.1. **Description and purpose.**
The airport industrial district is established to maximize the development of industrial and associated uses in upland areas while protecting valuable wetlands near the airport. Minimal building setbacks are acceptable because the zone does not abut residential uses.


5.14.2.A. Processing, manufacturing or other industrial uses which are not injurious or noxious by reason of noise, smoke, vibration, electronic radiation, gas, fume, odor, dust, fire or explosion hazard and which meet state and federal pollution standards.

5.14.2.B. Wholesale businesses and warehousing customarily serving or consistent with manufacturing or other industrial uses.

5.14.2.C. Offices and telephone call centers.


5.14.2.E. Storage tanks for fuel or raw materials.

5.14.3. Off-street parking and loading requirements.
Off-street parking and loading space shall be provided as required in Section 4.3.21. The location of parking is established in the site standards which are a part of the purchase or lease agreement for each unique parcel.

5.14.4. Airport Industrial Dimensional requirements*.
Lot area . . . None
Frontage . . . None
Front yard . . . 20 feet
Side yard . . . 20 feet
Rear yard . . . 20 feet

*Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

5.14.5. Screening and landscaping requirements. Landscaping will be provided as established in the site standards which are a part of the purchase or lease agreement for each unique parcel.

5.14.6. Air-space easements. See the Airport Ordinance.

5.15. Airport district (AIR).

5.15.1. Description and purpose.
The airport district is established for uses associated with and supporting the airport.

5.15.2. Uses permitted.

5.15.2.A. Aviation uses.

5.15.2.B. Uses supporting the airport.

5.15.3. Off-street parking and loading requirements.
Off-street parking and loading space shall be provided as required in section 4.3.21 of this ordinance.

5.15.4. Dimensional requirements.
5.16 **Resource Protection District.**

5.16.1. **Description and purpose.**
The principal use of land in the Resource Protection District is open space. The zone includes areas in which development would adversely affect water quality and the stability of waterways and impede the natural storage and conveyance of runoff and floodwaters. The district also includes areas in which development would accelerate erosion or impair productive habitat, natural ecosystems, or scenic and natural values.

The Resource Protection District specifically includes:

5.16.1.A. Significant habitat for plants and animals including habitat for species appearing on the official state or federal lists of endangered or threatened species, high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife, and high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas as defined by the Department of Inland Fisheries and Wildlife;

5.16.1.B. Areas of exceptional scientific and educational importance or unique natural value;

5.16.1.C. Areas designated by the federal government, the State, the City, or private persons, natural areas of significance to be protected from development;

5.16.1.D. Wetlands. Areas of two (2) or more contiguous acres within the shoreland zone supporting wetland vegetation and hydric soils, including but not limited to, swamps, marshes or bogs designated on both the shoreland zoning appendix to the official zoning map and the official zoning map.

5.16.1.E. Floodplains. Defined by the elevation of the 100-year floodplain as designated on the Federal Emergency Management Agency's (FEMA) flood insurance rate maps or flood hazard boundary maps, the flood of record, or in the absence of these, by soil types identifiable as recent floodplain soils;

5.16.1.F. Fragile slopes. Areas of two (2) or more contiguous acres with sustained slopes of twenty (20) percent or unstable slopes subject to slumping, mass movement or severe erosion;

5.16.1.G. Natural sites of significant scenic or aesthetic value;

5.16.1.H. Significant archaeological and historic sites;

5.16.1.I. Other areas which should be included to fulfill the purpose of this district. This district does not include areas that meet the criteria for Resource Protection, but which are significantly developed.

5.16.2. **Performance standards.**
All Resource Protection Districts are subject to 4.3. 25.H, Shoreland performance standards, whether or not they are located in the shoreland zone.

5.16.3. **Uses permitted.**

5.16.3.A. Signs.

5.16.3.A.(1) Billboards are prohibited in the Resource Protection District.

5.16.3.A.(2) Signs in the Resource Protection District shall not exceed two (2) such signs per premises, shall not be larger than two (2) square feet, shall not be higher than six (6) feet from the ground, and shall be limited to names of residents, notice of sale, and notice of no trespassing or hunting.
5.16.4. Special exceptions:
The following uses are permitted as special exceptions if approved by the code enforcement officer in conformity with the requirements of Section 5.20. If, however, site plan review by the planning board is required either under Section 6.4 or as a condition of a contract zone, no such review by the code enforcement officer is required:

5.16.4.A. Agriculture; see Section 4.3.25.H(1), Agriculture;

5.16.4.B. Small, nonresidential facilities for educational, scientific, or nature interpretation purposes;

5.16.4.C. Public and private parks and recreation areas involving minimal structural development;

5.16.4.D. Piers, docks, wharves, breakwaters, and uses projecting into water bodies;

5.16.4.E. The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection District, 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.

5.16.4.F. Earth-moving activities. See Sections 4.3.10 and 4.3.25.H(8).

5.16.5. Uses prohibited.

5.16.5.A. Residential dwelling units;

5.16.5.B. Commercial structures;

5.16.5.C. Industrial structures; and

5.16.5.D. Structures not accessory to special exceptions;

5.16.5.E. Governmental and institutional uses other than those specifically permitted in 5.16.3 Uses permitted and 5.16.4 Special exceptions;

5.16.5.F. Campgrounds and individual private campsites;

5.16.5.G. Roads, driveways, and parking facilities, except for parking areas serving public boat launching facilities;

5.16.5.H. Marinas;

5.16.5.I. Clearing of vegetation, except clearing which is necessary for uses specifically permitted in the Resource Protection District;

5.16.5.J. Mineral exploration;

5.16.5.K. Mineral extraction.

5.16.5.L. Essential services except as provided in Section 5.16.4.E above.

5.17. Transitional district (T).

5.17.1. Purpose.
The Transitional District is established as a zone in which the principal use of the land is residential, but other specified uses are allowed subject to design review and approval. Any future development which would detract from the residential character of the street is prohibited.

5.17.2. Principal uses permitted.

5.17.2.A. One-family dwellings.

5.17.2.B. Two-family dwellings and conversions of existing dwellings to accommodate two (2) or three (3) families. Notwithstanding the provisions of Section 4.3.18 Multifamily developments, the code enforcement officer may approve conversions which do not constitute subdivisions.

5.17.2.C. The following uses are allowed subject to Section 5.17.4 below:

5.17.2.C(1) Construction of new multifamily dwellings as provided in Section 4.3.18.

5.17.2.C(2) Private and public schools, if adequately screened and fenced recreational areas are provided.

5.17.2.C(3) Professional offices. No display of merchandise or services shall be made in the windows or in any other manner to disclose the nature of the profession or service. The sale of goods on the premises is permitted only when incidental to the provision of the service.

5.17.2.C(4) Banks and credit unions.

5.17.2.C(5) Retail stores. Warehousing or manufacturing on the premises are not permitted, except as are clearly incidental to such business or service.

5.17.2.C(6) Health and beauty spas.

5.17.2.C(7) Restaurants.

5.17.3. Special exceptions.

In the Transitional District, the following uses are permitted as special exceptions as approved by the code enforcement officer in conformity with the requirements of Section 5.20. If, however, site plan review by the planning board is required either under Section 6.4 or as a condition of a contract zone, no such review by the code enforcement officer is required.

5.17.3.A. Daycare centers subject to Section 4.3.9.

5.17.3.B. Home occupations within a dwelling as provided in Section 4.3.14.

5.17.4. Design review.

5.17.4.A. The intent of design review is to preserve existing buildings whenever possible. Proposed construction must be approved prior to any demolition or significant alteration of existing buildings.

5.17.4.B. The applicant shall provide detailed architectural elevations of proposed finished structures including specification of the type of material to be used in all significant exterior components.

5.17.4.C. In addition to a review of proposed signs, off-street parking, and screening, the planning board shall evaluate each proposed use in terms of the following elements of design. Building materials, type and style of windows, doors, light fixtures, walks, fences, porches and driveways must be visually compatible with the character of existing development in the district. Additionally, the board must determine that the scale, height, roof shape, window and door placement, and building setbacks of the
new or altered building are visually compatible with the zone. The board also must assess the relationship of width to height for the front facade and for the windows and doors.

5.17.5. Signs.
Signs advertising the name of a business may be twenty-four (24) by thirty-six (36) inches in size. No product brand names may be advertised.

5.17.6. Off-street parking requirements.
Off-street parking shall be provided as required in Section 4.3.21. Any need for parking shall be met in the side or rear yard to protect the residential character of the neighborhood. Parking lots shall be set back five (5) feet from all property lines and driveways shall be set back five (5) feet from side property lines. The planning board or code enforcement officer may deny a proposed use if the required parking area would be so large as to render the land use incompatible with the general character of the neighborhood.

5.17.7. Screening requirements.

5.17.7.A. A six-foot high wall or fence, or a compact evergreen hedge screen planted so as to attain a height not less than six (6) feet within five years, shall be installed or planted and maintained to screen commercial uses from adjacent residential districts or uses. The planning board may, if requested by the applicant, approve an alternate screening plan which makes use of other methods to meet the intent of this screening requirement.

5.17.7.B. A landscaped strip at least ten (10) feet in width shall be provided along the street line, planted with appropriate street trees and flowering shrubs.

5.17.7.C. Dumpsters shall be screened.

5.17.8. Transitional District Dimensional requirements.**
Lot area, minimum ........... 15,000 sq.ft.
Lot area, minimum per family ......
2,500 sq.ft. of lot area for one (1) bedroom (or efficiency apartment) plus 500 square feet for each additional bedroom.
Lot frontage, minimum ............. 100 ft.
Lot depth, minimum ............... 100 ft.
Front yard, minimum ............... 10 ft.
Side yard, principal building, minimum ........... 10 ft.
Side yard, accessory building,* minimum ............ 10 ft.
Rear yard, principal building, minimum ............. 20 ft.
Rear yard, accessory building,* minimum ............ 10 ft.

*Detached garages shall have five (5) foot setbacks.
**When International Building Code and NFPA .101 require the addition of a second means of egress to an existing building, stated setbacks do not apply.

Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

5.18 Contract zoning.

5.18.1. Authority.
In accordance with 30-A MRSA section 4352(8), as amended from time to time, property in the City of Waterville may be rezoned by means of a process known as contract zoning.
5.18.2. Purpose.
It is the general purpose of this section to provide for the reasonable regulation of uses of land and structures where competing and incompatible uses conflict. In these special situations, in which traditional zoning regulations are inadequate, more flexible and adaptable zoning methods are needed to permit differing land uses and at the same time recognize the effects of change.

In considering a change in zoning for a particular property or group of properties, it may be determined that public necessity, convenience, or the general welfare require that provision be made to impose certain limitations or restrictions on the use or development of the property. Such conditions are deemed necessary to protect the best interests of the property owner, the surrounding property owners and the neighborhood, all other property owners and citizens of the city, and to secure appropriate development consistent with the city’s comprehensive plan. The provisions of this section shall not exempt the use or development of any property from other minimum standards or requirements otherwise provided in this ordinance, or as otherwise provided by law.

5.18.3. Definition.
Contract zoning is the process by which the property owner, in consideration of the rezoning of his property agrees to the imposition of certain conditions or restrictions not imposed on other similarly zoned properties.

5.18.4. Mandatory conditions.
Any amendment to the boundaries of a zoning district adopted pursuant to this section shall:

5.18.4.1. Be consistent with the comprehensive plan of the City of Waterville, as amended;

5.18.4.2. Be consistent with the existing and permitted uses within the rezoned district;

5.18.4.3. The request for contract zoning consideration must be initiated by the property owner;

5.18.4.4. Only include conditions and restrictions which relate to the physical development or operation of the property;

5.18.4.5. Be subject to an agreement executed by authorized representatives of both the property owner and the city providing for the implementation and enforcement of all terms and conditions imposed and agreed to by the parties pursuant to this section.

5.18.5. Discretionary conditions.
Any zone change adopted pursuant to this section may include reasonable conditions or restrictions such as, but not so limited to, the following:

5.18.5.1. Limitations on the number and type of authorized uses of the property;

5.18.5.2. Limitations on the height, exterior appearance and lot coverage of any structure or structures built on the property;

5.18.5.3. Increased setbacks and side yards for any structure or structures built on the property;

5.18.5.4. The installation, operation and maintenance of physical improvements for the convenience of the general public, including but not limited to, off-street parking lots, traffic control devices, fencing, shrubbery and screening;

5.18.5.5. The creation, operation and maintenance of open space areas or buffer zones;

5.18.5.6. The dedication or conveyance of property for public purpose, including but not limited to, streets, scenic and conservation easements, parks and utility systems.
5.18.6. Procedure.
All proposed amendments to this ordinance being considered under this section shall be processed in accordance with Article 7 of this ordinance and 30-A MRSA section 4503. If at all possible, the processing of the application under both procedures shall be accomplished concurrently.

USE EXCEPTIONS

5.19. General use exceptions.
The following permanent principal uses of land, buildings, or structures may be permitted as general use exceptions in any zone, except the Resource Protection District or any other zone in which they are expressly prohibited. Such uses shall be demonstrated to be clearly in the public interest, essential or desirable for the support and furtherance of public health, safety, welfare and convenience, and found to be in harmony with the comprehensive plan for municipal development. The permission, specific location, and conditions of use in each case shall be approved by the planning board in accordance with the provisions of the Site Plan Review Ordinance.

5.19.1. Governmental service facility, including fire stations, sewage disposal and treatment facilities, and water supply facilities.

5.19.2. Public service facility including public park, recreation area, or community center; public utility, including water supply areas, radio, television and telephone service, electric power service, and other public service uses providing the lot is suitably screened and landscaped and the use is not expressly prohibited in the zone.

5.19.3. Civil defense facilities and installations.

5.20. Special exceptions.
A building, structure, or parcel of land may be employed for a special exception use if the use is specifically listed in the regulations governing the zoning district in which the use is proposed, and if a special exception permit is approved by the code enforcement officer.

5.20.1. Application for special exception permit. Application for a special exception permit shall be made to the code enforcement officer. The applicant shall:

5.20.1.A. Clearly specify the location of the proposed use, including street address, assessor's tax map and lot number, and a location map.

5.20.1.B. Describe the exact nature of the proposed use.

5.20.1.C. Submit any other materials that will enable the code enforcement officer to determine that the standards for approval of a special exception permit have been met. The burden for providing the information upon which the code enforcement officer bases his finding shall be the applicant's.

5.20.1.D. Notice requirement.

5.20.1.D(1) At least fourteen (14) days prior to issuing a special exception permit, the code enforcement officer shall notify abutting property owners by first class mail of the nature of the application, the name of the applicant, and the address of the property involved.

5.20.1.D(2) The purpose of this mailing is to allow abutters a fourteen-day comment period.

5.20.1.D(3) For the purposes of this notification, the definition of abutter in Section 3.2 applies.

5.20.1.D(4) The code enforcement officer shall maintain a list of names and addresses of those persons to whom he mailed notices.
5.20.1.D(5) Failure of any property owner to receive a notice shall not invalidate the action of the code enforcement officer.

5.20.1.D(6) When the code enforcement officer issues a special exception permit, he shall send a second letter to abutters by first class mail notifying them of his decision and advising them of their right to appeal his decision. See Section 6.2.5.A Administrative appeal.

5.20.2. Standards for a special exception permit. The code enforcement officer shall approve an application or approve it with conditions if he makes a positive finding that the proposed special exception use:

5.20.2.A. Will meet the definition set forth in this ordinance for the specific special exception, and will be in compliance with all applicable state or federal laws;

5.20.2.B. Will be compatible with the general character of the neighborhood with regard to design, scale, and bulk of proposed structures;

5.20.2.C. Will not have a significant detrimental effect on the use and peaceful enjoyment of abutting property as a result of noise, vibrations, fumes, odor, dust, light, or glare, as those terms are defined in the performance standards contained herein;

5.20.2.D. Will not create fire safety hazards by providing adequate access to the site, or to the buildings on the site, for emergency vehicles;

5.20.2.E. Will not create a safety hazard to motorists traveling on adjacent public streets by reason of proposed exterior lighting or vehicular traffic created by the special exception use;

5.20.2.F. Will meet the requirements for buffers, screening, and landscaping by zoning district as specifically required in this ordinance, and further, that in the exercise of his authority to require landscaping and planting screens as one of the conditions of approval, that such screening will provide demonstrably adequate protection for the adjacent properties;

5.20.2.G. Will have, if applicable and as required by State law or City ordinances, adequate provision:

5.20.2.G(1) For disposal of wastewater or solid waste, or for the prevention of ground or surface water contamination;

5.20.2.G(2) To control erosion or sedimentation;

5.20.2.G(3) To handle stormwater and snow removal runoff or other drainage problems on the site;

5.20.2.G(4) Of water for fire protection purposes and to meet the demand of the proposed use;

5.20.2.G(5) For the transportation, storage, and disposal of hazardous substances and materials.

5.20.2.H. Will, when applicable, conform to all performance standards as contained in Article 4 of this ordinance, both general and specific.

5.20.3. Conditions of approval. Upon consideration of the factors listed above, the code enforcement officer may attach such conditions, in addition to those required elsewhere in this ordinance, that he finds necessary to further the purposes of this ordinance. Violation of any of these conditions shall be a violation of this ordinance. The code enforcement officer may require posting of a performance guarantee to assure performance of the conditions.
5.20.4. Any special exception permit shall be considered valid and shall exist for so long as that particular property owner continues to operate the specific special exception use and remains in compliance with all of the provisions of this zoning ordinance. Cessation of the special exception use by that particular property owner for any reason or the sale of the property by the owner to whom the permit was issued will cause the permit to expire.

ARTICLE 6. ADMINISTRATION

6.1. Administration and enforcement.
The provisions of this ordinance shall be administered by the planning board, the zoning board of appeals, and the code enforcement officer.

6.1.1. Violations and legal action.

6.1.1.A. It is the duty of the code enforcement officer to enforce the provisions of this ordinance. If the code enforcement officer finds that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, building, or structures, removal of illegal buildings or structures, or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

6.1.1.B. The code enforcement officer may employ an independent, recognized consultant, if necessary, at the expense of the person responsible for the alleged violation, to assure compliance with performance standards of this ordinance and abatement of nuisances. He shall have the power to enter any property at reasonable hours and to enter any building with the consent of the property owner, occupant, or agent, to inspect the property or structure for compliance with the laws or ordinances set forth in 30-A MRSA section 4452(5) as amended from time to time.

6.1.1.C. Legal action and fines.

6.1.1.C(1) When any violation of any provision of this ordinance is found to exist, including failure to comply with any subdivision or site plan approved by the planning board, or condition imposed by the planning board, zoning board of appeals, or the City Council, the code enforcement officer shall notify the city solicitor and the City Council. The City of Waterville acting through the City Council may institute proceedings to enjoin the violation or to order compliance with conditions of these ordinances.

6.1.1.C(2) Any firm, person, or corporation being the owner of or having control or use of any building or premises who violates any of the provisions of this ordinance or who fails to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances, special exceptions or contract zoning) commits a civil violation and is subject to fines. After notification of a violation, each day that the violation exists constitutes a separate offense, to a maximum of twenty-five thousand dollars ($25,000.00).

6.1.1.C(3) The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor or agent, or other person who commits, participates in, or maintains such a violation may each be found guilty of a separate offense and suffer the penalties herein provided.

6.1.1.C(4) The minimum penalty for starting construction or undertaking a land use activity without a required permit is one hundred dollars ($100.00), and the maximum per day penalty is twenty-five hundred dollars ($2,500.00). However, in a resource protection district within the shoreland zone, the maximum penalty is increased to $5,000. Additionally, if the municipality is the prevailing party, it shall be awarded reasonable attorney fees, expert witness fees, and costs, unless the court finds that special circumstances make the award of these fees and costs unjust.
6.1.2. 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.


6.2.1. Establishment; membership.
There shall be a zoning board of appeals of five (5) members and two (2) associate members. The members of the board shall be appointed for three-year terms by the municipal officers. Any person appointed to fill the unexpired term of a retiring member shall serve only for the remainder of the unexpired term, but shall be eligible for reappointment. The associate members shall similarly be appointed for a term of three (3) years and shall act on said board with full powers in place of any member who may be unable to act due to conflict of interest, absence, or physical incapacity. Any member may be appointed to succeed himself.

6.2.2. Officers; minutes.
The zoning board of appeals shall biennially elect a chairman and a secretary from its own membership within two (2) weeks after the city inauguration. The chairman shall preside at all meetings. The secretary shall keep the minutes of the board which shall show the vote of each member upon each question. All minutes of the board shall be public record.

6.2.3. Quorum.
A quorum will consist of four (4) members and/or associate members of the zoning board of appeals. All members, including the chairman, shall be entitled to vote. An application shall be decided by majority vote.

6.2.4. Compensation.
The chair shall be paid twenty-five dollars ($25.00) and all other members and associate members shall be paid twenty dollars ($20.00) for each zoning board meeting attended.

6.2.5. Powers and duties.
The zoning board of appeals has the following powers and duties.

6.2.5.A. Administrative appeal.
The zoning board of appeals has the power to hear and decide appeals where it is alleged that there is an error in any order, decision, requirement, interpretation, or ruling made by the code enforcement officer in the administration or enforcement of this ordinance. All appeals shall be made by any interested party within thirty (30) days of a decision rendered by the code enforcement officer. The zoning board of appeals may affirm, modify, or reverse any ruling or decision of the code enforcement officer if the board makes written findings of fact that such ruling or decision is contrary to the provisions of this ordinance. See Section 6.2.8 Zoning board of appeals procedure.

6.2.5.B. Referrals by code enforcement officer.
The zoning board has the power to hear, counsel, and decide upon matters concerning the application of and conformity with the permitted uses and development requirements as set forth in this ordinance whenever such matters have been referred to it by the code enforcement officer, in which event, the board may secure the testimony and advice of expert witnesses and consultants selected by it to assist in its deliberations. The cost of the services of those expert witnesses and consultants shall be paid by the applicant.

6.2.5.C. Miscellaneous appeals.
The zoning board of appeals also has the power to grant appeals from the provisions of this ordinance, as follows:
6.2.5.C(1) To permit the change of a lawful nonconforming use to another nonconforming use as provided in Section 4.2 of this ordinance;

6.2.5.C(2) To permit a conforming use to expand into a zone where it would be nonconforming as provided in Section 4.2;

6.2.5.C(3) Where uncertainty exists, to determine the precise location of any zoning district boundary line as specified in Section 2.4.

6.2.5.C(4) See also Section 4.3.25.K Nonconformance.

6.2.5.D. Variances.

6.2.5.D(1) Variances may be granted by the board only where strict application of this ordinance, or a provision thereof, would cause undue hardship to the petitioner and his property.

6.2.5.D(2) The words “undue hardship” as used in this subsection mean:

6.2.5.D(2)(a) That the land in question cannot yield a reasonable return unless a variance is granted;

6.2.5.D(2)(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;

6.2.5.D(2)(c) That the granting of a variance will not alter the essential character of the locality;

6.2.5.D(2)(d) That the hardship is not the result of action taken by the applicant and/or prior owner;

6.2.5.D(2)(e) That the variance is the minimum variance that will make possible reasonable use of the land, building, or structure; and

6.2.5.D(2)(f) That a variance may only be granted for a use permitted in a particular zone.

6.2.5.D(3) Applications for variances within the shoreland zone must be submitted to Maine DEP 20 days before action is taken by the zoning board of appeals. Any comments received from the Maine DEP prior to the action by the zoning board of appeals shall be made part of the record and shall be taken into consideration by the zoning board of appeals.

Each petitioner for a variance shall submit to the board statements in writing, which may be accompanied by diagrams or photographs, which shall become part of the record of that petition demonstrating the following:

6.2.5.D(3)(a) The nature of the hardship to the property under appeal; and the physical circumstances that allegedly would occasion such undue hardship;

6.2.5.D(3)(b) That those physical circumstances are peculiar to the property under appeal and are not substantially duplicated on other property adjoining or nearby in the same neighborhood or the same zoning district;

6.2.5.D(3)(c) The relief sought would not adversely affect property adjoining or nearby in the same neighborhood or the same zoning district and would not endanger the public health, safety, or convenience and would not impair the integrity of this ordinance or of the City of Waterville Comprehensive Plan.
6.2.5.D(3)(d) Where contiguous lots in common ownership can be joined so as to eliminate substandard lots, undue hardship shall not exist and no variance shall be granted. (For the exception to this rule, see Section 4.2.11.)

6.2.5.D(3)(e) When a landowner purchases land with actual or constructive knowledge of zoning restrictions and/or deed restrictions, he may not be granted a variance on the grounds of undue hardship.

6.2.5.D(3)(f) The zoning board of appeals shall make written findings of fact that the applicant has satisfied each element constituting undue hardship as defined above.

6.2.5.D(4) In addition, when the proposed use is to be located in shoreland areas or the resource protection district, the zoning board of appeals shall make a positive finding that the proposed use will comply with the standards established in Section 4.3.25. Variances in shoreland areas are authorized only for lot area, lot coverage by structures, and setbacks. A variance shall not be granted to permit a use or structure otherwise prohibited. The code enforcement officer shall submit a copy of all variances granted in shoreland areas to the Department of Environmental Protection within 7 days of the board's decision.

6.2.5.D(5) The zoning board of appeals may attach such condition(s) in addition to those required by other provisions of this ordinance, as it finds necessary to ensure compliance with all standards and all other applicable requirements of this ordinance. Violation of any of those conditions is a violation of this ordinance. Such conditions may include, but are not limited to, specifications of the following: type of vegetation, increase setbacks and yards, specified sewage disposal and water supply facilities, landscaping, fencing, planting screen, hours of operation, operation controls, professional inspection and maintenance, sureties, deed restrictions, restrictive covenants, location of piers and docks, vehicular access, circulation, parking, signs, lighting, and types of construction.

6.2.5.D(6) Notwithstanding the provisions contained in Section 6.2 and all of the subsections there under, the zoning board of appeals may grant a variance to the owner of a dwelling for the purpose of making that dwelling accessible to a person with a disability. The board shall restrict any variance granted under this subsection solely to the installation of the equipment or the construction of structures necessary for access to or egress from the dwelling.

6.2.5.D(6)(a) Physical or mental handicap means any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions, or illness. Physical or mental handicap also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician, or in the case of a mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation, or related services.

6.2.5.D(7) Any grant of a variance by the board under this subsection will require the board to issue a certificate as provided in 30-A MRSA Section 4353(5), as amended from time to time. Failure by the applicant to record the certificate in the Kennebec Registry of Deeds within ninety (90) days of approval, renders the variance invalid.

6.2.5.D(8) Petitions for reconsideration.

6.2.5.D(8)(a) The zoning board of appeals shall reconsider the granting of any variance application upon petition by the planning board. That petition shall only be authorized when the planning board has made an advisory recommendation to the zoning board of appeals in accordance with section 6.2.8.F of this ordinance. Any such petition shall state that it is being filed at the direction of the majority of the planning board as shown by affirmative vote of the board taken at a public meeting at which a quorum of the board was present. The petition shall state the grounds for the planning board's belief that granting of the variance requested in the application is not consistent with the zoning ordinance or the comprehensive plan.
6.2.5.D(8)(b) Any such petition for reconsideration must be filed with the chairman of the zoning board of appeals within ten (10) working days of the planning board's receipt of the notice of the zoning board of appeals' action on the variance application.

6.2.5.D(8)(c) Upon receipt of that petition, the chairman of the zoning board of appeals shall, within five (5) working days, notify the applicant and abutting landowners who were notified of the original application. Within ten (10) working days of such notice, the zoning board of appeals shall conduct a public hearing to reconsider the variance application.

6.2.5.D(8)(d) The zoning board of appeals may reconsider any decision denying an application within thirty (30) days of the board's initial decision. The decision to reconsider a denial of an application may be made on the board's own initiative or a request by the applicant. Failure to take action to reconsider within thirty (30) days renders the initial board decision final and a new application is subject to the one-year bar of Section 6.2.8.N. Within five (5) working days of the decision to reconsider, the chair of the zoning board of appeals shall notify the applicant and abutting landowners notified at the time of the original application of the decision to reconsider. This notification of reconsideration shall apprise the individuals of a public hearing that will be held at the next regularly scheduled zoning board of appeals meeting. The zoning board of appeals may conduct additional hearings and receive additional evidence and testimony for any reconsideration.

6.2.6. Appeal of zoning board decision.
Any person or persons or any taxpayer, board, department or bureau of the city aggrieved by any decision of the zoning board of appeals on an original application, or its decision on a petition for reconsideration must file an appeal in accordance with Rule 80B of the Maine Rules of Civil Procedure within forty-five (45) days of the decision.

6.2.7. Limitation of powers.
The zoning board of appeals shall not have the power:

6.2.7.A. To permit any heavy industrial use in a commercial district, unless specifically provided for in this ordinance;

6.2.7.B. To permit any commercial use in a residential district, unless specifically provided for in this ordinance;

6.2.7.C. To permit any residential use in an industrial district, except as provided in Sections 5.11, 5.12, and 4.2.7;

6.2.7.D. To allow the placement of single-wide mobile homes in other than the Rural Residential (R-R) zone, unless it is in a mobile home park, pursuant to Section 5.5.

6.2.7.E. To permit residential, commercial, and industrial structures in the resource protection district, except as provided in Section 4.2.7.


6.2.8.A. Any person seeking a decision from the zoning board of appeals may file an application with the code enforcement officer.

6.2.8.B. At the time of filing of the application, a fee of twenty-five dollars ($25.00) shall be paid by the applicant in addition to the cost of advertising. The code enforcement officer shall issue the applicant a dated receipt.

6.2.8.C. The code enforcement officer shall immediately schedule a public hearing to be held within forty-five (45) days of the filing of the application.
6.2.8.D. Notice of the day, time, and place of the hearing shall be given to the applicant and shall be published at least two (2) times in a daily newspaper in general circulation in Waterville, the first publication to be not less than fourteen (14) days before the date of the hearing. The notice shall identify the property involved, the name of the applicant, and the nature of the application.

6.2.8.E. The code enforcement officer shall send a copy of the notice by first class mail to the owners of all property within three hundred (300) feet of the property in question at least fourteen (14) days in advance of the hearing. The owners of the property are considered to be the parties listed by the assessor of taxes for the City of Waterville as those against whom taxes are assessed. The zoning board of appeals shall maintain as part of the record for each case a complete list of all property owners so notified. Notice shall be sent to the last known address of the property owners. Failure of any property owner to receive a notice shall not necessitate another hearing or invalidate the action of the zoning board of appeals.

6.2.8.F. Following the filing of an application, the code enforcement officer shall, forthwith, notify the planning board. The planning board, if it deems advisable, may submit a report or advisory opinion prior to the date of the hearing.

6.2.8.G. At any hearing, a party shall appear in person, or by agent or attorney.

6.2.8.H. The board shall not ask or obtain an expression of opinion by a show of hands or any other means from the group of persons attending the public hearing.

6.2.8.I. The zoning board of appeals shall keep a written record of all applications, noting the date the application is received, the date of the hearing, the person who presented the application at the hearing, any pertinent testimony presented at the hearing, and finding of facts and decision of the zoning board of appeals. All records of the zoning board of appeals shall be maintained at the municipal offices in a permanent file which shall be available to the public.

6.2.8.J. The code enforcement officer or his designated assistant shall attend all hearings and shall present to the zoning board of appeals all plans, photographs, or other material appropriate for an understanding of the appeal.

6.2.8.K. The applicant's case shall be heard first. If the applicant is not present at the hearing, any person acting as the applicant's representative must demonstrate that he has written authority to appear on the applicant's behalf. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked only through the chair. All persons at the hearing shall abide by the order of the chairman.

6.2.8.L. After the public hearing, the zoning board of appeals shall make findings of fact, based on the record of the hearing, and issue a decision on the application. The applicant shall be notified in writing of the finding and decision of the board within seven (7) days of the board's decision, with copies sent to the code enforcement officer and the municipal officers. When a variance has been granted within a shoreland zone, the Department of Environmental Protection shall also receive a copy of the findings and decision within 7 days of the decision.

6.2.8.M. If the zoning board of appeals grants an appeal or variance, the applicant's legal rights, determined thereby, shall expire if any construction or alteration involved is not commenced within six (6) months or not substantially completed within one year of the date on which the appeal or variance was granted.

6.2.8.N. After a decision has been made by the zoning board of appeals, a new application on essentially the same subject shall not be heard within one year from the date of the denial by the board of the first appeal except as provided for in Section 6.2.5.D(8)(d) or except with the approval of all the members of the planning board and unless that board finds in its sole and exclusive judgment that injustice was done
at the first hearing, due to a mistake of law or misunderstanding of fact, or on the grounds that there have been enough essential factual changes to warrant hearing it again.

6.3. Planning Board.

6.3.1. Establishment, membership, officers.
A city planning board is hereby established consisting of seven (7) members, residents of the city, all of whom shall be appointed by the municipal officers for a term of up to five (5) years.

Where there is a permanent vacancy, the municipal officers shall appoint a person to serve for the remainder of the unexpired term. The board may, however, act without a full board, provided that five members are present.

The board shall biennially elect a chair and secretary from its own members within two (2) weeks after the city inauguration.

6.3.2. Compensation.
The chair shall be paid twenty-five dollars ($25.00) and all other members shall be paid twenty dollars ($20.00) for each planning board meeting actually attended.

6.3.3. Planning board duties.

6.3.2.A. The board shall prepare a comprehensive plan for the development of the City with public input and in accordance with Chapter 187 subchapter II, Title 30-A M.R.S.A. § 4311 et seq., as amended from time to time, for adoption by the City Council.

6.3.2.B. The board shall administer the Subdivision/Site Review Ordinance, review general use exceptions, and issue shoreland zoning permits in accordance with Section 4.3.25 Shoreland Zoning.

6.3.2.C. The board shall hold public hearings and make recommendations to the City Council on requests for rezoning and vacations of paper streets.

6.4. Site plan review.

6.4.1. Purpose. The purpose of site plan review requirements is to conserve the city's natural beauty and visual character by ensuring that structures, signs, and other improvements are properly related to their sites and to surrounding sites and structures, especially in regard to the natural terrain and landscaping. In addition to harmoniously relating to the environment, it is intended that proposed improvements promote the development of an economically sound and stable community.

6.4.2. Applicability. The following activities do not require a site plan review permit under the provisions of this ordinance, except in the shoreland zone where the provisions of Sections 4.3.25.C through 4.3.25.G apply:

6.4.2.A. All single-family detached dwelling units and accessory structures which are not in subdivisions and with less than two (2) units on a single lot.

6.4.2.B. All two-unit structures and accessory structures on single lots.

6.4.2.C. All forest management activities.

6.4.3. A site plan review permit, in accordance with the provisions of this ordinance and the Site Plan Review and Subdivision Ordinance, shall be required for the following activities unless otherwise exempted:
6.4.3.A. Any combination of building footprint and impervious area which exceeds five thousand (5,000) square feet. If no new building or addition to an existing building will be constructed, Section 6.4.3.D below applies.

6.4.3.B. New building construction consisting of four thousand (4,000) or more square feet of building footprint;

6.4.3.C. Additions to existing buildings (attached or detached) consisting of two thousand (2,000) or more square feet of building footprint;

6.4.3.D. Creation of impervious surfaces consisting of eight thousand (8,000) or more square feet;

6.4.3.E. Uses designated in this ordinance which specifically require site plan review regardless of size.

6.4.3.F. A change of use when the new use is subject to site plan review.

6.4.4. Construction, site development, and landscaping shall be carried out in accordance with the plans, drawings, sketches, and other documents approved by the planning board, unless altered with board approval. Nothing in this subsection shall be construed to prevent ordinary repair, maintenance, and improvement of existing structures and facilities.

6.4.5. When a development is subject to both site plan and subdivision review, the planning board shall conduct a concurrent review. Procedures, criteria, and standards of the site plan review and subdivision ordinance shall be employed in addition to those included in this ordinance.

6.4.6. The application for site plan review for business, commercial, and industrial uses shall also include the following:

6.4.6.A. A written description of the proposed operations in sufficient detail to indicate the degree to which the operations will create traffic congestion, noise, toxic or noxious matter, vibration, odor, heat, glare, air pollution, waste, and other objectionable effects, along with engineering and architectural plans for mitigating these effects.

6.4.6.B. The proposed number of shifts to be worked and the maximum number of employees on each shift.

6.4.6.C. A list of all hazardous materials to be hauled, stored, used, generated or disposed of on-site, and any pertinent state or federal permits required.

6.4.7. Appeals. Appeals of decisions of the planning board made in conducting site plan reviews shall be heard in Superior Court.

ARTICLE 7. LEGAL PROVISIONS

7.1. Amendments to the zoning ordinance.

7.1.1. On petition, on recommendation by the planning board, or on its own initiation, the City Council may amend, supplement, or repeal the regulations and provisions of this ordinance and amend the boundaries of the zoning districts delineated on the official zoning map.

7.1.2. Referral to the planning board. Every proposed amendment, however initiated, except for an amendment resulting from the action of the City of Waterville or an abutting property owner to provide for the reversion of a contract zoned district to its original or comparable district, shall first be referred by the City Council to the planning board for report and recommendation.
7.1.3. The planning board shall hold a public hearing on amendments.

7.1.3.A. Prior to making its report to the City Council on any proposed amendment to this ordinance, the planning board shall hold at least one (1) public hearing on the proposed amendment. Public notice of the hearing shall be published twice in a newspaper in general circulation in the city, the first publication to be at least fourteen (14) days before the public hearing and the second publication to be at least seven (7) days before the public hearing. The cost of such notice shall be paid by any individual desiring a zoning change. Notice of the hearing is to be posted in city hall at least fourteen (14) days before the public meeting.

7.1.3.B. If the proposed rezoning is a change of use that permits industrial, commercial, or retail development in a zone where such uses were previously prohibited, or that prohibits all such uses in a zone where previously permitted, the person to whom property tax is assessed on each parcel in and abutting the area to be rezoned must be mailed a notice. The notice of the public hearing must be sent by first class mail at least fourteen (14) days prior to the hearing. The planning board shall maintain a list of names and addresses of those persons to whom a notice was mailed, when mailed, by whom, and the place of mailing. A certificate setting forth this mailing information shall be filed with the city clerk. This filing of the certificate shall constitute prima facie evidence of mailing of the notice to persons named in the certificate. The cost of mailing shall be the responsibility of the petitioner.

7.1.3.C. The notice as required in Subsections 7.1.3.A and B shall also contain a copy of a map indicating the property to be rezoned.

7.1.3.D. Any action challenging the validity of an amendment to this zoning ordinance or the official zoning map based on the city’s failure to comply with the notice requirements of Sections 7.1.3.A and 7.1.3.B must be brought in the superior court within thirty (30) days after the adoption of the amendment. If the appellant can demonstrate that it was entitled to receive a notice under section 7.1.3.B and that the municipality failed to send the notice and that the appellant had no knowledge of the proposed amendment in question and that the appellant was materially prejudiced by that lack of notice, the superior court may then invalidate the challenged amendment.

7.1.4. Report of planning board. The planning board shall make a report in writing to the City Council within thirty (30) days of its public hearing, stating its approval or disapproval of the proposed amendment and its reasons therefore.

7.1.5. Any amendment to provisions of this ordinance must be approved by two-thirds of the members of the City Council present.

7.1.6. Notice of amendments. The Department of Environmental Protection shall be notified via a certified copy of amendments to provisions of this ordinance regulating the use of shoreland areas and such amendment shall not be effective unless approved by the DEP.

7.2. Validity. Should any section or part of a section or any provisions of this ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not be deemed to affect the validity of any other section, subsection, or other portion of this ordinance.

7.3. Inconsistency. Whenever the requirements of this ordinance are inconsistent with the requirements of any other ordinance, code, or statue, the more restrictive requirements shall apply.

7.4. Repeal of previous ordinance. The zoning ordinance passed by the City Council of the City of Waterville, Ordinance 13-1989, on November 28, 1989, and all amendments thereto, are hereby repealed in their entirety.

7.5. Effective date.
This ordinance shall take effect as of May 10, 2010.

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**APPROVED**

Waterville City Council  
April 20, 2010  
Effective Date: May 10, 2010

As Amended January 18, 2011  
(Ordinance 09-2010)  
Effective Date: February 4, 2011

As Amended July 5, 2011  
(Ordinance 05-2011)  
Effective Date: July 22, 2011

As Amended September 7, 2012  
(Ordinance 165-2012)  
Effective Date: September 24, 2012

As Amended October 5, 2012  
(Ordinance 176-2012)  
Effective Date: October 19, 2012

As Amended October 15, 2013  
(Ordinance 165-2013)  
Effective Date: October 31, 2013

As Amended November 19, 2013  
(Ordinance 184-2013)  
Effective Date: December 3, 2013

As Amended August 19, 2014  
(Ordinance 121-2014)  
Effective Date: September 5, 2014