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SOUTH PORTLAND CODE OF ORDINANCES

Chapter 27

ZONING*

ARTICLE I. Administrative Provisions

Sec. 27-101. Title.

This Chapter shall be known and may be cited as the "Zoning Ordinance of the City of South Portland, Maine," and repeals and replaces the zoning ordinance previously adopted on March 17, 1975 and as amended.

Secs. 27-102 - 27-110. Reserved.

GENERAL PROVISIONS

Sec. 27-111. Purpose.

This zoning ordinance is designed for all the purposes of zoning embraced in Title 30-A of the Maine Revised Statutes and has been drafted as an integral part of the Comprehensive Plan for the City of South Portland, Maine. Among other things it is designed to encourage the most appropriate use of land throughout the municipality; to promote traffic safety; to provide safety from fire and other elements; to protect citizens and visitors from harmful effects caused by air pollutants; to implement Part 1 of the recommendations of the City Council-appointed *ad hoc* Draft Ordinance Committee dated July 1, 2014; to provide adequate light and air; to prevent overcrowding of real estate; to promote a wholesome home environment; to prevent housing

development in areas with significant environmental and other constraints; 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 conserve natural resources; and to provide for adequate public services.

(Ord. No. 1-14/15, 7/7/14 [Fiscal Note: Less than $1000])

Sec. 27-112. Conformity.

(a) All buildings and structures shall be erected, altered, enlarged, rebuilt, moved, or used, and all premises shall be used, in conformity with the provisions of this Chapter except for those existing conditions which become legally nonconforming as a result of the adoption or amendment of this Chapter subject to the nonconformance provisions of Article III.

(b) The regulations specified by this Chapter for each class of district shall be minimum requirements and shall apply uniformly to each class or kind of structure or land.

(c) Land within the lines of a street on which a lot abuts shall not be considered as part of such lot for the purposes of meeting the area requirements of this Chapter notwithstanding the fact that the fee to such land may be in the owner of such lot.

(d) No part of a yard, or other open space, or off-street parking or loading space that is used to meet the requirements of this Chapter for a building may be used to meet the same requirement for any other building unless specifically provided for in this Chapter.

(e) When a lot of record at the time of enactment of this zoning ordinance is transected by a zoning district boundary the regulations set forth in this Chapter applying to the larger part by area of such lot may also be deemed to govern in the smaller area beyond such zoning district boundary but only to an extent not more than thirty (30) linear feet in depth beyond said zoning district boundary.

Sec. 27-113. Conflict with other ordinances.

Wherever the requirements of this Chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

Sec. 27-114. Separability.

In the event that any section, subsection or any portions of this Chapter is declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or other portion of this Chapter.

Sec. 27-115. Changes and amendments.

This Chapter may be amended and its regulations, boundaries and district classifications changed by the City Council by a two thirds (2/3) vote of its entire membership at a regular or special meeting, provided that statutory provisions relating to notice and public hearings are observed in accordance with the following procedures and criteria:

(a) Amendments may be initiated by the City Council or Planning Board or by any individual, corporation, or other legal entity owning or having control of the property that is the subject of the request.

(b) All requests for amendments to the text of the zoning ordinance, or for changes in zone boundary lines, or other proposals to change the zoning map or shoreland zoning map, initiated by other than the Planning Board or the City Council shall be accompanied by a fee as specified in the Schedule of License, Permit, Inspection and Application Fees established by City Council order. The request or proposal shall not be referred to the Planning Board for public hearing unless and until this fee is paid.

(c) No proposed amendments shall be referred to the City Council for consideration until the Planning Board has held a public hearing on that request, notice of which shall be posted in the City Clerk’s office at least thirteen (13) days prior to such hearing. The notice must be published at least two times in a newspaper of general circulation in the City of South Portland. The date of publication of the

first notice must be at least twelve (12) days prior to the hearing. The notice must be written in plain English, understandable by the average citizen. The Planning Director, or other person designated by the Planning Director, shall prepare and deliver the public hearing notices to the newspaper. All public hearing legal notices published in the newspaper shall be paid for by the applicant. The applicant is responsible for arranging direct payment to the newspaper.

(d) All proposals for change of zone shall include:

Address or exact location of the request.

Name and address of property owner.

Statement regarding existing and proposed land use.

Existing and proposed zone classification.

Statement indicating the developer has the financial ability to complete the proposed development.

(e) All requests for change of zone that propose new construction shall be accompanied by a site plan drawn to scale, indicating, but not limited to, the following:

Actual dimensions and shape of the lot to be built upon.

Size and location of existing and proposed buildings.

Points of ingress and egress.

Parking.

Lighting.

Landscaping.

Sign locations and sizes.

(f) No application for rezoning of an area for the purpose of development in accordance with an architect's plan shall be in order for action by either the Planning Board or City Council unless accompanied by a performance bond in an amount equal to at least twenty-five (25) per cent of the estimated cost of the development; provided, however, in no

event shall the amount of said bond exceed the amount as specified in the Schedule of License, Permit, Inspection and Application Fees established by City Council order. Said bond shall, by its terms, become payable to the City if the applicant fails to begin construction in a substantial manner and in accordance with said plan within one (1) year of the effective date of the rezoning if the rezoning is approved.

(g) The Planning Board shall review all requests for zoning amendments and related site plans and make its recommendations to the City Council regarding the land use implications of the proposal and its consistency with the City's adopted Comprehensive Plan. If a change of zone is approved by the City Council based upon a site plan, no changes or alterations in the approved use shall be made without resubmitting the proposed changes for approval of the Planning Board.

(h) If a petitioner fails to begin construction in a substantial manner and in accordance with an approved plan within one (1) year from the effective date of the rezoning, the Planning Board may initiate rezoning to the original zone classification.

(i) No request for a change of zone shall be considered within one (1) year from the date of City Council denial of the same request.

(j) Copies of amendments to Article XIII and/or to the Shoreland Area Overlay District depicted on the Official Shoreland Zoning Map of the City of South Portland, Maine, attested and signed by the City Clerk, shall be submitted to the Commissioner of Environmental Protection following adoption by the City Council and said amendments shall not become effective unless approved by the Commissioner; provided, however that if the Commissioner fails to act upon any such amendment within forty-five (45) days after receipt of such amendment, such amendment shall be deemed approved; that notwithstanding 1 M.R.S.A. § 302, as may be amended, such amendment, upon approval or deemed approval by the Commissioner, shall have an effective date retroactive to its effective date under City Charter; and, that such amendment shall govern all applications for a shoreland zoning permit submitted to the City within said forty-five (45) day period if such amendment is approved or deemed approved. Amendments to the Shoreland Area Overlay

District depicted on the Official Shoreland Zoning Map shall be shown on said map within 30 days after the approval or deemed approval by the Commissioner of said amendment.

Sec. 27-116. Administrative corrections.

The City Manager, upon written request of Corporation Counsel, is authorized to make minor corrections to the adopted or amended version of this Chapter to correct typographical mistakes or errors in numbering, incorrect references, or punctuation, that do not alter the substance or meaning of the provisions without public hearing by the Planning Board or formal vote of the City Council. The City Manager must provide the City Council, Planning Board, and the general public with at least thirteen (13) days written notice of the proposed correction(s). The correction(s) shall become effective at the end of the notice period unless a written objection is received by the City Manager during the notice period. If a written objection is received, the portion of the change that is subject to the objection shall not become effective but any other corrections shall.

Sec. 27-117. Conditional or contract zoning.

(a) Pursuant to 30-A M.R.S.A. § 4352(8), as may be amended, and subject to all provisions of Sec. 27-115 except subsection (c), conditional zoning is hereby authorized where, for reasons such as the unusual nature or unique location of the development proposed, the City Council finds it necessary or appropriate to impose, by agreement with the property owner or otherwise, certain conditions or restrictions not generally applicable to other properties similarly zoned. All rezoning under this section shall establish rezoned areas which are consistent with the existing and permitted uses within the original zones. Nothing in this section shall authorize a rezoning, or an agreement to change or retain a zone, which is inconsistent with the City's Comprehensive Plan.

(b) The Planning Board shall conduct a public hearing prior to any property being rezoned under this section. Notice of this hearing shall be posted in the City Clerk's office at least thirteen (13) days prior to the public hearing and shall be published in a newspaper of general circulation

within the city at least two (2) times, the date of the first publication must be at least twelve (12) days prior to the hearing and the second notice at least seven (7) days prior to the hearing. Notice shall also be sent to the owners of all property abutting the property to be rezoned at their last-known address. This notice shall contain a copy of the proposed conditions and restrictions, with a map indicating the property to be rezoned.

(c) Conditions and restrictions imposed under the authority of this section shall relate only to the physical development and operation of the property and may include, by way of example:

(1) Limitations on the number and types of uses permitted;

(2) Restrictions on the scale and density of development;

(3) Specifications for the design and layout of building and other improvements;

(4) Schedules for commencement and completion of construction;

(5) Performance guarantees securing completion and maintenance of improvements, and guarantees against defects;

(6) Preservation of open space and buffers, and protection of natural areas and historic sites;

(7) Contributions toward the provision of municipal services required by the development; and

(8) Provisions for enforcement and remedies for breach of any condition restriction.

Sec. 27-118. Applicability date of amendments to implement Part 1 of the recommendations of the Draft Ordinance Committee dated July 1, 2014.

Notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, the amendments to this ordinance evidenced by Ordinance #1-14/15, when enacted, shall govern any use involving bulk loading of crude oil onto any marine tank vessel and any facility, structure or equipment used for

the purpose of bulk loading of crude oil onto any marine tank vessel for which an application has not been submitted and acted on by the Code Enforcement Officer and/or Planning Board, as applicable, prior to November 6, 2013.

(Ord. No. 1-14/15, 7/7/14 [Fiscal Note: Less than $1000])

Secs. 27-119 - 27-130. Reserved.

ADMINISTRATION

Sec. 27-131. Enforcement officer.

It shall be the duty of the Code Enforcement Officer or other person duly authorized by the City of South Portland to enforce the provisions of this Chapter. If the Code Enforcement Officer shall find that any of the provisions of this Chapter is being violated, the Code Enforcement Officer shall notify the person responsible for such violations in writing, indicating the nature of the violation and ordering the action necessary to correct it. The Code Enforcement Officer shall order discontinuance of illegal use of land, buildings, 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 Chapter to insure compliance with or to prevent violation of its provisions.

Sec. 27-132. Legal action and violation.

When any violation of any provision of this Chapter shall be found to exist, the Corporation Counsel, either individually or upon notice from the Code Enforcement Officer is hereby authorized and directed to institute any and all actions and proceedings either legal or equitable that may be appropriate or necessary for the enforcement of the provisions of this Chapter, the same to be brought in the name of the City.

Sec. 27-133. Fines.

Any person, firm, or corporation being the owner of or having control or use of any building or premises who violates any of the provisions hereof, shall be subject to enforcement action and upon being found to be in violation shall be fined in accordance with 30-A M.R.S.A. § 4452, as may be amended. Each day such a violation is permitted to exist after notification thereof shall constitute a separate offense. All fines collected hereunder shall inure to the City of South Portland.

Sec. 27-134. Building permit.

No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefore issued by the Building Inspector. No building permit shall be issued except in conformity with the provisions of this Chapter, except after written order from the Board of Appeals.

Sec. 27-135. Application for building permit.

All applicants for building permits shall be accompanied by plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any, and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Building Inspector to determine conformance with and provide for the enforcement of this Chapter.

Sec. 27-136. Certificate of use and occupancy.

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, constructed, erected, changed, converted, or wholly or partly altered or enlarged or changed in its use or structure until a certificate of use and occupancy shall have been issued therefor by the Building Inspector and endorsed to the effect that the proposed use of the building or land conforms with the requirements of this Chapter.

Use or occupancy of buildings and/or premises or parts thereof in violation of this section is hereby declared a nuisance.

Sec. 27-137. Appeals from decisions of the Planning Board.

All appeals by any party of decisions or actions of the Planning Board pursuant to Chapter 24, Subdivisions, or Chapter 27, Zoning, shall be taken only to Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

Sec. 27-138. Independent Consulting and Peer Review Fees.

(a) In addition to the application fee, every applicant may also be required by the Planning Director to pay a consulting cost fee to cover 100% of the City's costs related to independent geotechnical, hydrologic, wetland scientist, engineering, traffic, architectural, planning, legal and similar professional consulting services incurred in the City's review of the application. This fee must be paid to the City and shall be deposited in a non-interest bearing escrow account. When a consulting cost fee is required, the application will be considered incomplete until evidence of payment of this fee is submitted to the Planning Director. If the initial fee proves to be insufficient to meet the City's professional review costs, the Planning Director may assess an additional fee(s) to cover such professional review costs. Any excess amount deposited with the City in advance shall be promptly refunded to the applicant after final action on the application.

(b) The consulting cost fee may be used by the Planning Director only to pay reasonable costs incurred by the Planning Department, at its discretion, which relate directly to the review of the application pursuant to the review criteria. The results of the consultation or peer review for which such fees are assessed shall be available for public review, but such results shall be deemed to have been made solely for the benefit of the City and shall remain its property. Such fees shall be assessed for the privilege of review and shall be payable without regard to consultation or peer review results or the outcome of the application.

(c) No building permit or certificate of occupancy may be issued nor subdivision plat released until all fees assessed hereunder have been paid in full.

(d) Any dispute regarding the application of this provision or the amount required to be paid, either in advance or upon completion, may be appealed in writing within ten (10) days of notice of the amount assessed hereunder to the Planning Director. If the dispute is not resolved to the applicant's satisfaction by the Planning Director, the matter may be appealed in writing within ten (10) days of the Planning Director's decision on the dispute to the City Manager. The City Manager, after due notice and

investigation and for good cause shown, may affirm, modify or reverse the disputed decision, reduce the amount assessed or increase the amount assessed.

Sec. 27-139. Effective date of sections governing fees.

The effective date of the fees established in Sec. 27-138, Sec. 27-1403, and Sec. 27-1424 is August 22, 2006.

Secs. 27-140 - 27-150. Reserved.

BOARD OF APPEALS

Sec. 27-151. Appointment and composition.

There shall be a Board of Appeals of seven (7) members, all of whom shall be residents of the City of South Portland. The members of the board shall be appointed by the City Council of the City of South Portland. There shall be no more than three (3) members from any one voting district. Terms of members shall be for three (3) years, except that initial appointments after the date of this amendment shall be such that the terms of office of no more than three (3) members shall expire in any single year. Vacancies shall be governed by Sec. 2-121 of the Code of Ordinances (hereinafter "the Code"). The members of the Board shall annually elect one of its members Chairman to preside at all meetings of the Board. The members of the Board shall annually appoint a secretary who shall provide for the keeping of the minutes of the proceedings of the Board of Appeals. All minutes of the Board shall be public records. A quorum shall consist of four (4) members. Municipal Officers and their spouses are hereby disqualified from and shall not be appointed to membership on the Board of Appeals. A member of the Board may be dismissed for cause by the Municipal Officers before the expiration of his term. In addition to zoning matters under this Chapter, the Board of Appeals shall have the authority to hear such other cases as provided for under Sec. 2-96 of Chapter 2.

(Ord. No.17-13/14, 5/5/14 [Fiscal Note: Less than $1000])

Sec. 27-152. Powers and duties.

The Board of Appeals shall have the following powers and duties:

(a) *Administrative appeals.* To hear and decide, on a *de novo* basis, where it is alleged there is an error in any order, requirement, decision, or determination made by the Building Inspector or Code Enforcement Officer in the administration of this Chapter. The action of the Building Inspector or Code Enforcement Officer may be modified or reversed by the Board of Appeals by majority vote or, in

the case of any Code Enforcement Officer determination with respect to project compliance with design standards, by the Planning Board by majority vote. Also, to hear and decide where it is alleged there is an error in any order, requirement, decision or determination made by the Code Enforcement Officer pursuant to Article XIII Shoreland Overlay Districts of this Chapter; such action of the Code Enforcement Officer may be modified or reversed by the Board of Appeals by majority vote.

(b) *Variance appeals.* To hear and decide appeals in specific cases for variance from the terms of this Chapter.

1) General provisions.

Variances may be granted by the Board only of height, area and size of structures, size of yards and lots and length of frontage. The Board shall not allow a lot conforming in area to be divided so that lots nonconforming in area are created. No variance shall be granted for establishment or expansion of a use otherwise prohibited nor shall any variance be granted because of the presence of nonconforming lots, buildings or uses in a particular zoning district or adjoining district. Further, in the shoreland area only, variances also may be granted by the Board from water setback requirements and for substantial expansions of nonconforming buildings. In granting by majority vote any variance, the Board of Appeals may prescribe conditions and safeguards as are appropriate under this Chapter.

2) Dimensional Variances.

The Board may grant a variance from the dimensional standards of any provision of this Chapter unless otherwise expressly stated when strict application of the ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:

(i) The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;

(ii) The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of

abutting properties;

(iii) The practical difficulty is not the result of action taken by the petitioner or a prior owner;

(iv) No other feasible alternative to a variance is available to the petitioner;

(v) The granting of a variance will not unreasonably adversely affect the natural environment; and

(vi) The property is not located in whole or in part within shoreland areas as described in 38 M.R.S.A. § 435, as may be amended.

As used in this subsection, "dimensional standards" means and is limited to ordinance provisions relating to lot area, lot coverage, frontage and setback requirements.

As used in this subsection, "practical difficulty" means that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.

3) Disability Variances.

(i) Pursuant to 30-A M.R.S.A. § 4353-A, as may be amended, the Code Enforcement Officer may issue a permit to an owner of a dwelling for the purpose of making a dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. If the permit requires a variance, the permit is deemed to include that variance solely for the installation of equipment or the construction of structures necessary for access to or egress from the dwelling for the person with a disability without the need for action by the Board. The Code Enforcement Officer may impose conditions on the permit, including limiting the permit to the duration of the disability or to the time that the person with a disability lives in the dwelling.

For the purposes of this subsection, the term "structures necessary for access to or egress from the dwelling" includes ramps and associated railings, walls or roof systems necessary for the safety or effectiveness of the ramps.

(ii) The Board may grant a variance to the owner of a dwelling who resides in that dwelling and who is a person with a permanent disability for the construction of a place of storage and parking for a noncommercial vehicle owned by that person and no other purpose. The width and length of the structure may not be larger than two (2) times the width and length of the noncommercial vehicle. The owner shall submit proposed plans for the structure with the request for the variance pursuant to this subsection to the Board. The person with the permanent disability shall prove by a preponderance of the evidence that the person's disability is permanent. For purposes of this subsection, "noncommercial vehicle" means a motor vehicle as defined in 29-A M.R.S.A. § 101(42) with a gross vehicle weight of no more than 6,000 pounds, bearing a disability registration plate issued pursuant to 29-A M.R.S.A. § 521 and owned by the person with the permanent disability.

(iii) For the purpose of this Sec. 27-152(b)(3) regarding disability variances, a disability has the same meaning as a physical or mental handicap under 5 M.R.S.A. § 4553, as may be amended.

4) Variances other than Dimensional or Disability Variances.

A variance other than a dimensional variance, or a variance for property that is located in whole or in part within shoreland areas, as described in 38 M.R.S.A. § 435, as may be amended, shall only be granted when strict application of this Chapter or any provision thereof to the applicant's property would cause undue hardship. The words "undue hardship" mean that the Board shall have determined that the following criteria have been met:

(i) That the land in question cannot yield a reasonable return unless a variance is granted;

(ii) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

(iii) That the granting of a variance will not alter the

essential character of the locality; and

(iv) That the hardship is not the result of action taken by the applicant or a prior owner.

(c) *Miscellaneous appeals.* To hear and decide only the following miscellaneous appeals from the provisions of this Chapter. In granting, by majority vote, any such miscellaneous appeals, the Board of Appeals may prescribe conditions and safeguards as are appropriate under this Chapter:

(1) To permit the location of off-street parking of passenger vehicles only on lots other than the principal building or use where it cannot reasonably be provided on the same lot. This shall apply only to those lots in residential districts provided that: The use shall be accessory to and under control of one or more uses located in and conforming with the uses permitted in the adjacent business or industrial district, such control to be evidenced by deed or lease and, if a lease, the period of the parking use shall automatically terminate with the termination of the lease; no such appeal shall be in order for hearing before the Board of Appeals until the City Planning Board shall have reviewed the site plan accompanying the application for building permit or certificate of occupancy for such use and shall have submitted its recommendations with respect thereto; the Board of Appeals may impose such conditions as deemed necessary to ensure development compatible with that of the immediate neighborhood notwithstanding the provisions of any other section of this Chapter, and may at its discretion limit the period of such use.

(2) To permit the location of required off-street parking on lots other than the principal building or use where it cannot reasonably be provided on the same lot and subject to the conditions of Sec. 27-1556 of this Chapter.

(3) To permit changes to nonconforming uses in accordance with Sec. 27-302(d).

(Ord. No. 2-11/12, 9/7/11 [Fiscal Note: Less than $1000], Ord. No.4-14/15, 7/7/14 [Fiscal Note: Less than $1000])

Sec. 27-153. Conditions.

Except in the case of appeals for dormers, pursuant to Sec. 27-303(a), in granting variances and miscellaneous appeals under this Article, the Board of Appeals may impose conditions of approval on the variance or miscellaneous appeal that address the following:

(a) Location, character and natural features.

(b) Fencing and screening.

(c) Landscaping, topography, and natural drainage.

(d) Vehicular access, circulation and parking.

(e) Pedestrian circulation.

(f) Signs and lighting.

(g) All potential nuisances.

(h) Public safety.

(i) Availability of public utilities and services.

(j) Any other standard or criterion considered in granting the variance or miscellaneous appeal.

Sec. 27-154. Appeal procedure.

(a) In all cases a person aggrieved by a decision of the Code Enforcement Officer or Building Inspector shall commence the appeal within thirty (30) days after receipt of a written decision from the Code Enforcement Officer or Building Inspector. The appeal shall be filed with the Department of Planning and Development on forms approved by the Board of Appeals, and the aggrieved person shall specifically set forth on said form the grounds for said appeal. All applicants shall pay a fee as specified in the Schedule of License, Permit, Inspection and Application Fees established by City Council order. No application shall be deemed to be complete unless it is filed on the approved forms, includes the required fee, and states the grounds for appeal with sufficient specificity to provide adequate notice to staff and the public on the basis for the appeal.

(b) The Board of Appeals, through staff, shall notify by mail the owners of all property within five hundred (500) feet of the

property involved of the nature of the appeal and of the time and place of the public hearing thereon.

(c) For the purposes of this Article the owners of property shall be considered to be the parties listed by the Assessor for the City of South Portland as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Board of Appeals.

(d) Following the filing of an appeal, the Board of Appeals for the City of South Portland shall notify forthwith the Code Enforcement Officer, Building Inspector, the Planning Board and the City Council, and the appeal shall be in order for hearing at the next meeting of the Board of Appeals followed by at least ten (10) days of the mailing of notices. In scheduling items for agendas, priority shall be given to applications for disability variances. If the property is located within the Shoreland Area Overlay District, the Code Enforcement Officer shall send a copy of the variance request, including the application and all supporting information supplied by the applicant, to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

(e) At any hearing a party may appear by an agent or attorney designated in writing. Hearings shall not be continued to other times except for good cause. For all matters before the Board of Appeals, the person filing the appeal or request shall have the burden of proof.

(f) Before hearing a request for a miscellaneous appeal, the Board of Appeals shall refer the appeal application to the City planning staff for a report. The City planning staff report shall be considered informational in character and may take into consideration the effect of the appeal proposal upon the character of the neighborhood or any other pertinent data in respect to the Comprehensive Plan for the City of South Portland. The planning staff report shall be submitted to the Board of Appeals for its consideration no later than the officially scheduled time of the public hearing on the appeal.

(g) The Code Enforcement Officer or designated assistant shall attend all hearings and may present to the Board of Appeals all plans, photographs, or other material the Code Enforcement Officer deems appropriate for an understanding of the appeal.

(h) The appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the chair. All persons at the hearing shall abide by the order of the Chairman.

(i) A right of appeal under the provisions of this Chapter secured by vote of the Board of Appeals shall expire if the work or change involved is not commenced within one year of the date of which the appeal is granted.

(j) If the Board of Appeals shall deny an appeal a second appeal of a similar nature shall not be brought before the Board within two years from the date of the denial by the Board of the first appeal, unless in the opinion of a majority of the Board, substantial new evidence shall be brought forward, or unless the Board finds, in its sole and exclusive judgment, that an error or mistake of law or misunderstanding of facts shall have been made.

(k) Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.

(l) The Chairman shall call meetings of the Board as required. The Chairman shall also call meetings of the Board when requested to do so by a majority of the members or by the Municipal Officers.

(m) The secretary shall maintain a permanent record of all Board meetings and all correspondence of the Board. The secretary shall be responsible for maintaining those records which are required as part of the various proceedings which may be brought before the Board. All records to be maintained or prepared by the secretary are deemed public, shall be filed in the City Clerk's office and may be inspected at reasonable times.

(n) The Board may provide by rule, which rule shall be recorded by the secretary, for any matter relating to the conduct of

any hearing, provided that any rule may be waived by the Chairman upon good cause shown.

(o) The Board may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(p) The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceeding, shall constitute the record. All decisions shall become a part of the record and shall include a statement of findings and conclusions, as well as the reasons or basis therefore, upon all the material issues of facts, law or discretion presented and the appropriate order, relief or denial thereof. Notice of any decision shall be mailed or hand delivered to the petitioner, his representative or agent, the Planning Board, agency or office and the Municipal Officers within seven (7) days of their decision. In addition, in the case of any decision relating to property located within the Shoreland Area Overlay District, the Board shall cause written notice of its decision to be mailed or hand-delivered to the Department of Environmental Protection within seven (7) days of the Board's decision.

(q) The Board shall render a decision on each appeal not more than thirty (30) days following the public hearing on such appeal.

(r) The Board shall make written findings of fact for each decision. These findings must explain why the Board has decided whether the appeal meets or does not meet each of the specific approval criteria for that type of appeal.

(s) The Board may reconsider any decision at the same or the next regularly scheduled meeting of the Board. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. A request for reconsideration must be filed in the Department of Planning and Development within ten (10) days of the decision that is to be reconsidered. The Board may conduct additional hearings and receive additional evidence and testimony as provided in this section.

(t) An appeal may be taken, within forty-five (45) days after the decision is rendered, by any party to Superior Court from any order, relief or denial in accordance with Maine Rule of Civil Procedure 80B.

(u) If the Board grants a variance, a certificate shall be prepared in recordable form. The certificate shall indicate the name of the current property owner, identify the property by reference to the last recorded deed in its chain of title, indicate that a variance has been granted, including any conditions on the variance, and showing the date of the granting. This certificate must be recorded in the Cumberland County Registry of Deeds within ninety (90) days of the date of the final written approval of the variance or the variance is void. The variance is not valid until recorded as provided in this subsection. For the purpose of this subsection, the date of the final written approval shall be the date stated on the variance certificate.

Secs. 27-155 – 27-200. Reserved.

ARTICLE II. Definitions

Sec. 27-201. Definitions.

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

Accessory building. A subordinate building or a portion of the main building the use of which is incidental to that of the main or principal building.

Accessory Dwelling Unit. An accessory dwelling unit, or ADU, is a residential living unit, subordinate to a single-family detached dwelling and regulated by Sec. 27-1576 et seq. of this Chapter, that provides complete independent living facilities, including permanent provisions for living, sleeping, cooking, eating, and sanitation.

Accessory use. A use customarily incidental and subordinate to the principal building or use and located on the same lot with such principal building or use including outdoor sales or display on either a permanent or temporary basis provided that such outdoor sales or display is customarily incidental and subordinate to the principal use, does not create a hazard to the public health, safety, or welfare including pedestrian and vehicular traffic, and the ground area devoted to such outdoor sales or display does not exceed the lesser of twenty-five (25) per cent of the interior floor space of the principal building or five hundred (500) square feet.

Adult day care services. Establishments engaged in the care of adults.

Agriculture. The production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products;

livestock; fruits and vegetables; and ornamental and green-house products. Agriculture does not include forest management and timber harvesting activities.

Alternative financial establishment. A car title loan business, check cashing business, or money transfer business. An alternative financial establishment does not include state or federally chartered banks, savings and loan associations, or credit unions. An alternative financial establishment does not include an establishment that provides financial services that are accessory to another main use.

Apartment building. A building arranged, intended, or designed to be occupied by three (3) or more families living independently of each other in a dwelling unit.

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

Archaeological resource. A site with established or potential value as a location of prehistoric or historic archaeological significance as identified by the City's Comprehensive Plan or a list of local archeological resources adopted by the City Council.

Architectural Detailing. Architectural style and facade design elements such as cornices, arches, quoins, etc.

Area of special flood hazard. The land in the floodplain within a community subject to a one per cent or greater chance of flooding in any given year.

Artist Studio. Work space for artists or artisans, including individuals practicing one of the fine arts or skilled in an applied art or craft. An artist studio can be combined with or include residential, education, retail, or other allowed uses.

Assisted living facility. Residences for the frail elderly that provide rooms, meals, personal care, and supervision of self-administered medication. They may provide other services, such as recreational activities, financial services, and transportation.

Automobile graveyard. "Automobile graveyard" means a yard, field or other outdoor area used to store 3 or more

unregistered or uninspected motor vehicles, as defined in 29-A M.R.S.A. § 101, as may be amended, or parts of vehicles. "Automobile graveyard" includes an area used for automobile dismantling, salvage and recycling operations. "Automobile graveyard" does not include the following:

(1) An area used for temporary storage of vehicles or vehicle parts by an establishment or place of business that is primarily engaged in doing vehicle repair work to make repairs to render a motor vehicle serviceable. In order for a vehicle's storage to be considered temporary, it must be removed from the site within 180 calendar days of its receipt.
(2) An area used by an automobile hobbyists to store, organize, restore, or display antique autos, antique motorcycles, classic vehicles, horseless carriages, reconstructed vehicles, street rods or parts of these vehicles as these vehicles are defined in 29-A M.R.S.A. § 101, as may be amended, as long as the hobbyist's activities comply with all applicable federal and state statutes and rules and municipal ordinances, other than ordinances that are more restrictive than this subsection regarding the storage of vehicles or vehicle parts that are collected by a hobbyist. For the purposes of this subparagraph, an automobile hobbyist is a person who is not primarily engaged in the business of selling any of those vehicles or parts from those vehicles'
(3) An area used for the parking or storage of vehicles or equipment intended for use by a municipality, quasi-municipal entity or state or federal agency;
(4) An area used for storage of operational farm tractors and related farm equipment, log skidders, logging tractors or other vehicles exempted from registration under 29-A M.R.S.A. Chapter 5, as may be amended;
(5) An area used for the parking or storage of vehicles or equipment being offered for sale by a dealer, equipment dealer, trailer dealer or vehicle auction business as defined in 29-A M.R.S.A. § 851, as may be amended;
(6) An area used for the storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business; or
(7) An area used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the

vehicle must be removed from the site within 180 days of receipt of title by the business; or
(8) An area used for the parking or storage of operational commercial motor vehicles, special equipment or special mobile equipment as defined in 29-A M.R.S.A. § 101, as may be amended, that is temporarily out of service but is expected to be used by the vehicle or equipment owner by an operator designated by the owner. This subsection does not exempt an area used for the parking or storage of equipment or vehicles that are not operational while stored or parked in the area.

Automobile recycling business. "Automobile recycling business" means the business premises of a dealer or a recycler licensed under 29-A M.R.S.A. §§ 851-1112, as may be amended, who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, as long as 80% of the business premises specified in the site plan in 30-A M.R.S.A. § 3755-A(1)(c) is used for automobile recycling operations. "Automobile recycling business" does not include:

(1) Financial institutions as defined in 9-B M.R.S.A. § 131(17) and (17-A), as may be amended;
(2) Insurance companies licensed to do business in the State of Maine;
(3) New vehicle dealers, as defined in 29-A M.R.S.A. § 851, as may be amended, licensed to do business in the State of Maine; or
(4) That portion of the business premises that is used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business.

Automobile rental facility. A facility engaged in the business of offering the temporary use of automobiles for a fee, and which may also include administrative offices, associated on-site storage of rental vehicles, and accessory maintenance and minor repair facilities.

Automotive or gasoline filling station. An establishment primarily engaged in selling gasoline and/or diesel fuel to the

motoring public, and which may sell other merchandise or perform minor repair work.

Automotive repair services. Establishments engaged in motor vehicle repair and service, including the installation of components, as listed in group No. 753 and Industry No. 7549 of the Standard Industrial Classification Manual.

Aviation Use. Any use of a building or land for the sale, rental, service, repair, or storage of aircraft, or for the take-off and landing of aircraft, or for control safety facilities related thereto, or for providing goods or services for the primary use of aircraft passengers, personnel and air cargo or freight.

Airport Restricted Access Area. Runways, taxiways, and other areas of the airport accessible to aircraft, whether or not access is restricted by the Federal Aviation Administration.

Airport Carrier Service. An organization or business engaged in the transportation or conveyance of passengers or goods by airborne vehicular transport.

Airport Carrier Operations. Those organizations or businesses that provide support services to airport carriers.

Base flood. The flood having a one per cent chance of being equaled or exceeded in any given year.

Bed & breakfast inn. A private residence that offers sleeping accommodations to lodgers in 12 or fewer rooms for rent, in the innkeeper's (owner or operator) principal residence while renting rooms to lodgers, and serves breakfasts at no extra cost to its lodgers. For the purpose of this definition, a lodger means a person who rents a room in a bed & breakfast establishment for fewer than 30 consecutive days.

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

Branch bank. A financial service establishment designed or used predominantly for brief walk-in or drive-through customer transactions on the premises, either by direct contact with service personnel or by use of automated equipment.

Bright. In reference to color, of high saturation or brilliance.

Buffer. An area of plantings, land formations, or building or structural components which physically separates a land or space use from one or more adjacent land or space uses, and which acts as a barrier to visual or physical access, or to minimize, reduce or eliminate air or noise pollution, safety hazards, glare from artificial lighting, or other off-site adverse impacts of the use. Examples of buffers include but are not limited to landscaped strips, fences, walls, berms, building insulation and white noise speakers.

Building. Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals or chattels. Each portion of a building, separated from other portions by a fire wall, shall be considered as a separate building.

Building coverage. That percentage of the area of a lot covered by the total first or ground floor area, whichever is greater, of all principal and accessory buildings on the lot.

Building inspector shall mean the inspector of buildings for the City of South Portland or any duly authorized person.

Business services. Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, as listed within Major Group 73 of the Standard Industrial Classification Manual.

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

Car wash. An establishment primarily engaged in washing motor vehicles or in furnishing facilities for the self-service washing of motor vehicles as listed in Industry No. 7542 of the Standard Industrial Classification Manual.

Chain store warehouse. The portion of a structure housing a retail trade establishment, or an accessory structure, or portion thereof, including a storage trailer or other temporary structure, which is used for the storage of goods and merchandise not intended for sale at that location but at one or more other locations of the retailer or affiliate, or which

exceeds in area the space reasonably required for the storage of goods and merchandise for sale at that location.

Child day care services. Establishments engaged in the care of infants or children as listed in Industry No. 8351 of the Standard Industrial Classification Manual.

Coastal wetlands. All tidal and subtidal lands; all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low-land that is subject to tidal action during the highest astronomical tide level for the year in which the activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

Community building. A building used by a fraternal, philanthropic, or other civic organization and which may be made available from time to time for community or recreational functions.

Community home. A dwelling in which there reside no more than eight (8) unrelated persons (in addition to any persons related by blood, marriage or adoption) who are mentally retarded, physically handicapped, or aged in need of routine care, and who also live as a single housekeeping unit, make the home their permanent residence, and provide compensation for lodging, meals and care; as distinguished from a single-family home and hotel as defined herein. For purposes of this ordinance, a community home use of property is a single family use of property.

Compatibility. Sensitivity of a building design to the existing character of an area in which architectural design has been identified as being important. This is measured by the relationship of a building's design elements to each other and to the design elements of the surrounding natural and built environment.

Congregate housing individual unit ownership facility. A congregate housing or congregate care facility as defined in this Chapter consisting of (a) not more than twelve (12) total units, of which not more than two (2) may be staff units, in which all resident units are in separate ownership; (b) common areas include kitchen, dining and living area facilities; and (c) staff units are fully independent with bedroom, bath, living

area and kitchen facilities but are in the same ownership as the residents' common areas; however, staff units are restricted to staff use only and may not be leased or used by others. Congregate housing individual unit ownership facilities need not meet net residential density requirements.

Congregate housing or congregate care facility. A residential use consisting of private apartments and central dining facilities and within which a supportive services program is provided to functionally impaired residents who are unable to live independently without assistance yet do not require the constant supervision or intensive health care available at nursing homes. The term "private apartment" shall include private rooms with or without cooking facilities. Congregate housing does not include any facility which is otherwise required to be licensed to provide residential services health care, treatment, rehabilitation, or related services. For purposes of calculating net residential density, one private apartment shall count as one dwelling unit, unless otherwise provided.

Corner or double frontage lots. If a lot has frontage on more than one way, then each yard which abuts such a way shall conform to the front yard space and bulk regulations for the district in which the yard is located, and each other yard shall conform to the side yard space and bulk regulations for the district in which the yard is located.

Covered passageways. An enclosed structure with a roof used for the movement of people and/or material between two buildings, above, at, or below grade, but not used for storage, office.

Crude oil. A naturally occurring mixture consisting predominantly of hydrocarbons and/or sulfur, nitrogen, and oxygen derivatives of hydrocarbons that is removed from the earth in a liquid state or is capable of being so removed; unrefined oil sands/tar sands oil products; diluted bitumen; and synthetic crude oil; but does not mean gasoline, diesel, biodiesel, ethanol, kerosene, No. 2 fuel oil, jet fuel, aviation gasoline, home heating oil, asphalt, distillate, waste oil, lubricants, or other refined petroleum products.

Day care centers. Facilities serving more than twelve (12) individuals (child day care, adult day care or both) either on a regular or a non-recurring basis.

Day spa. A facility offering a variety of health and beauty related personal care services but expressly excluding any Adult Use Establishment as defined in Chapter 14, Article XIII, Sec. 14-701(e) of the Code.

De Novo Review. A review that looks at the factual and legal issues afresh, undertakes its own credibility determinations, evaluates the evidence presented, and draws its own conclusions.

Design elements. Features of a building including architectural details; the pattern and proportion of windows, porches, doors, and vertical and horizontal features; and, building form, scale, color, and materials.

Detention. The management of stormwater to provide temporary storage of runoff to control stormwater outflow from the site and peak flow in receiving waters, and to provide gravity settling of pollutants.

Disturbed area. The area of the lot or parcel that is stripped, graded, grubbed, filled, or excavated at any time. Any area that has its vegetation removed is considered as disturbed area even if the area is revegetated; however the cutting of trees or other plant material, without grubbing, stump removal, or disturbance or exposure of soil, does not create disturbed area. Any area of the lot or parcel that was previously developed or improved that is altered or reconstructed in a manner that: (1) changes the topography of the lot (alters the original surface elevations or line and grade), or (2) that alters the drainage pattern of the lot, or (3) that changes the purpose or use of the parcel or a portion thereof (for example, constructing a building on a previously paved parking lot), is considered as disturbed area. A change in the occupancy of an existing building or structure, or the paving of impervious gravel surfaces, while maintaining the original topography (line and grade), hydraulic capacity, and purpose of the facility, does not create disturbed area.

Dormer. The modification of an existing sloping roof which increases the elevation of a portion of that roof to provide either more interior space or a window or both, without increasing the floor area. Dormer construction does not increase the number of stories or raise the height of the building.

Dwelling. A building designed or used as the living quarters for one or more families. The term shall not be deemed to include hotel, motel, rooming house or trailer.

Dwelling unit. A building or portion thereof providing complete housekeeping facilities for one family. The term shall not be deemed to include trailer.

Educational services. Establishments primarily engaged in providing academic or technical instruction as listed in the Standard Industrial Classification Manual, within Group Nos. 822, 824, and 829.

Energy generation facility, accessory. An electric power production facility that is accessory to the primary use of the property and whose energy is chiefly used by the primary use. Accessory energy generation facilities may use renewable and/or nonrenewable energy sources, but, except in cases of emergency back-up power production and back-up power maintenance and testing, they shall not emit smoke or odors detectable at the property boundary.

Extractive industry. The removal of sod, loam, soil, sand, or gravel from the earth's surface or subsurface for sale, or use on other than the same premises from which it is removed.

Extended stay hotel. A building or group of buildings containing guest rooms and offering lodging accommodations for hire and occupancy on a temporary basis. Each guest room shall have direct access from the outdoors or an interior corridor and provide a bathroom and a kitchen or kitchenette. Guest rooms shall not be considered dwelling units under this ordinance, so long as the hotel is occupied exclusively by transient guests. A transient guest is a person who occupies the hotel for no more than 186 days in a 365 day period. This provision does not preclude long term leasing of a unit or units by businesses or corporations for the purpose of lodging visiting company employees or clientele. An extended stay hotel or an accessory building may contain a restaurant, conference rooms or other places of assembly, and recreational or athletic facilities for patronage by guest room occupants and by the general public. In such a building or accessory building, retail trade and personal service establishments intended primarily for patronage by guest room occupants shall be deemed to be an accessory use.

(c). The front of a building; the part of a building facing a street. Corner buildings have two facades.

Facility. The physical buildings, structures and equipment built, installed, or established to effect or facilitate a particular use.

Family. An individual or two (2) or more persons occupying a premise, sharing cooking and eating facilities, and living together as a single housekeeping unit in a domestic relationship based upon blood, marriage or adoption, or based upon other domestic bond having the generic character of a traditional family unit.

Family day care home. A facility serving up to six (6) individuals (child day care, adult day care or both) either on a regular or non-recurring basis and classified as a home occupation if it is located in the operator's residence.

Farm and food products. Any agricultural, horticultural, forest or other product of the soil or water, including, but not limited to, fruits and fruit products, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products, fish and fish products, grain and grain products, honey, nuts, maple products, apple cider, fruit juice, malt liquor, wine, ornamental or vegetable plants, nursery products, fiber or fiber products, firewood and Christmas trees.

Farmers' market. A building, structure or place used by 2 or more farmers for the direct sale of farm and food products to consumers. A person may not sell farm and food products at a market labeled "farmers' market" unless at least 75% of the product offered by that person was grown or processed by that person or under that person's direction. A product not grown or processed by that person must have been purchased directly from another farmer and the name and location of the farm must be identified on the product or on a sign in close proximity to the displayed product. Outdoors sales and display does not include a farmers'market.

Financial services. Establishments operating primarily in the fields of finance, insurance, and real estate, as listed in Division H and Group No. 893 of the Standard Industrial Classification Manual. Financial services shall include branch banks.

Footprint. The exterior shape of a building at ground-level; the geometric form described by the intersection of a building base with the ground plane.

Floodway. The channel of a river or other watercourse 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.

Floodway fringe. The land in the area of special flood hazard that is beyond the limits of the floodway. Flood waters in this area are usually shallow and slow moving.

Floor area. Outside of the shoreland zone, the total area of all floors enclosed within a building. (See Sec. 27-1305 for definition of "floor area" within the shoreland zone.)

Forested wetland. A freshwater wetland dominated by woody vegetation that is six (6) meters (or approximately nineteen and seven tenths [19.7] feet) tall or taller.

Freshwater wetland. Freshwater swamps, marshes, bogs and similar areas that are not considered part of a great pond, coastal wetland, river, stream, or brook and that are inundated or saturated by surface water 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 to life in saturated soils.

Freshwater wetland of special significance – A freshwater wetland meeting one or more of the following:

is located within two hundred fifty (250) feet (measured horizontally) of a coastal wetland;
is located within two hundred fifty (250) feet (measured horizontally) of the normal highwater line, and within the same watershed, of any pond classified GPA [a State water quality classification related to Great Ponds, of which there are none in South Portland];
contains, under normal circumstances, at least twenty thousand (20,000) square feet of aquatic vegetation, emergent marsh vegetation, or open water;
is a floodplain wetland that is inundated during a 100 year storm event as evidenced by the Federal Emergency Management Agency (FEMA) maps or other site specific information;
contains significant wildlife habitat that has been mapped, identified, or defined by the Maine Department of Inland

Fisheries and Wildlife in accordance with the state Natural Resources Protection Act at the time of the filing of an application;
is identified as a peatland dominated by shrubs, sedges, and sphagnum moss; or
contains a natural community that is critically imperiled (S1) or imperiled (S2) as defined by the Maine Natural Areas Program.

Front lot line. The dividing line between the lot and that street or way designated as the street or way on which the lot has its frontage.

Grade. A reference plane representing the average of finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, when the lot line is more than six (6) feet from the building, between the building and a point six (6) feet from the building.

Group day care home. A facility serving seven (7) to twelve (12) individuals (child day care, adult day care or both) either on a regular or non-recurring basis and classified as a home occupation if it is located in the operator's residence.

Harmonious. Having parts of a design agreeably related. Creative, unconventional elements can be harmonious if they fit together in a unified design scheme.

Height of building. The vertical measurement from grade to the highest point of the building, except that utility structures such as chimneys, TV antennae, HVAC systems shall not be included in this measurement, nor shall any construction whose sole function is to house or conceal such structures.

Historic resource. A building, structure, or site with established historic significance as identified by the City's Comprehensive Plan or a list of local historic resources adopted by the City Council.

Home occupation. An occupation or profession which is: Customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; carried on by a member of the family residing in the dwelling unit; clearly incidental and secondary to the use of the dwelling unit for residential purposes; conforms with the following conditions:

(a) The occupation or profession shall be carried on wholly within the principal building.

(b) Not more than two (2) persons outside the family shall be employed in the home occupation.

(c) There shall be no exterior display, no exterior sign (except as expressly permitted by the district regulations of this Chapter), no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.

(d) No nuisance shall be generated, including but not necessarily limited to offensive noise, vibration, smoke, dust, odors, heat, glare, traffic or parking.

(e) The home occupation shall not use more than twenty-five (25) per cent of the total floor area of the residential structure.

(f) The following are examples of permitted uses under this definition:

(1) Office of doctor, dentist, lawyer, engineer, or member of similar recognized profession.
(2) Office of teacher or musician.
(3) Office of real estate broker or salesman or insurance agent.
(4) Use of premises for dressmaking or millinery.
(5) Letting of rooms or taking of boarders to a maximum of two (2) persons conducted by resident occupants only.
(6) Family day care home.
(7) Group day care home.

(g) The following uses are specifically prohibited:

(1) Tourist camps, cabins, motels, hotels and mobile home parks.
(2) Restaurants or other public eating places.

Hospital. An institution where the ill or injured may receive medical or surgical treatment, nursing, food and lodging.

Hotel. A building containing sleeping accommodations for hire and occupancy on a temporary basis, each unit having a

bathroom and direct access from the outdoors or an interior corridor, and which building or accessory building may contain a restaurant for patronage by unit occupants and by the general public, and may also contain conference, banquet or other places of assembly, and may also contain recreational or athletic facilities. Retail trade and personal service establishments in such building or accessory building intended primarily for patronage by unit occupants shall be deemed to be an accessory use.

Hydric soil – A soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part.

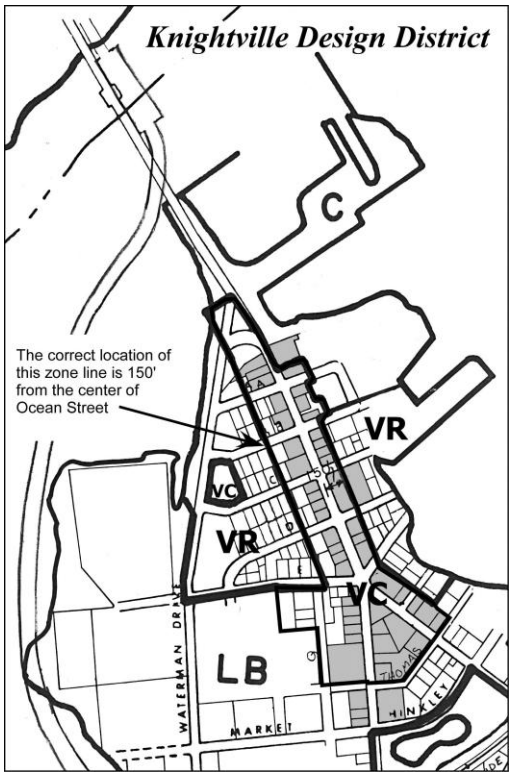
Impervious surface area. The total area of a parcel that consists of buildings and associated constructed facilities or areas that will be covered with a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce their permeability. Common impervious areas include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and macadam or other surfaces which similarly impede the natural infiltration of stormwater.

Inn. A business conducted in a building and containing one to twenty sleeping rooms rented on a transient basis to the general public for a period not to exceed 90 days in any 120 consecutive day period. Public dining facilities may be included but no cooking facilities or kitchens are permitted in any of the rooms rented to the public.

Junkyard. "Junkyard" means a yard, field or other area used to store, dismantle or otherwise handle:
(1) Discarded, worn-out or junked plumbing, heating supplies, electronic or industrial equipment, household appliances or furniture;
(2) Discarded, scrap and junked lumber; and
(3) Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material.
The term "junkyard" does not include any city-owned transfer station or any facility handling municipal solid waste that is licensed as such by the City.

Knightville Design District. Lots with frontage on Ocean Street north of Market Street/Hinckley Street; lots with frontage on Cottage Road north of Thomas Street, as shown in the figure below; and lots in the Village Commercial zoning district with frontage on Waterman Drive.

Knightville section of the G District. The portion of the Residential G zoning district in the Knightville section of South Portland as shown in the figure below.



Landscaped open space. An area within a lot consisting of natural vegetation or plant growth, buffers composed of plantings or land formations, planted yard setbacks, planted islands in parking lots, or similar land surfaces. Landscaped open space may include a detention basin if a landscape and maintenance plan for the base and sides thereof has been approved by the Planning Board, but shall not include a landscaped area within a paved area used for pedestrian movement, circulation, or assembly, such as a plaza, sidewalk or patio.

Landscaping. Altered or reconfigured terrain, vegetation, or other natural features of a site in accordance with a plan or design, not to include pavement, parking area, or buildings.

Light industrial uses. Industrial activity involving the manufacturing, fabricating, packaging, processing, or assembly of finished products from previously prepared material, including by way of example: wholesale bakery products, bottling, printing and publishing and allied industries, pharmaceutical preparations, machine shops, precision tools and instruments, watch-making, musical instruments, toys and sporting goods, pottery and ceramics using only previously pulverized clay, wood products, jewelry, semiconductor silicon wafer fabrication and assembly of electrical or electronic components, canteen services, tool and die shops, and the packaging of foods for off-premise consumption. Light industrial uses shall include research and development facilities, but shall not include activities involving basic processes such as smelting, refining, distilling, forging, or similar processes involving the conversion of raw, unprocessed materials into finished or semi-finished product or activities involving salvaging.

Lot. A measured parcel having fixed boundaries.

Lot coverage. The portion of a site that is impervious (i.e., does not absorb water). This includes but is not limited to all areas covered by buildings and structures and, except for those areas with pervious paving, parking lots, driveways, and roads.

Lot line. A line dividing one lot from another or from a street or way or other public place.

Low Impact Development ("LID"). A set of site development strategies that are designed to mimic natural hydrologic function by reducing stormwater runoff and increasing groundwater recharge and pollutant treatment. The strategies may include those set forth in Chapter 10 of the DEP Stormwater Manual, Volume III-BMPs Technical Design Manual, and/or any City of South Portland LID Manual adopted by the Planning Board.

Manufactured housing. A structural unit or units designed for occupancy, and constructed in a manufacturing facility and then transported by use of its own chassis, or placed on an independent chassis, to a building site, and as further defined in P.L. 1983, Ch. 424.

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.

Marine tank vessel. Any tank ship or tank barge that transports crude oil in bulk, including lighters or lightering operations for transfer of crude oil in bulk onto a marine vessel. The term does not mean any oil spill response barge or vessel, or any marine vessel used in oil spill response operations.

Marine uses. Marine uses include only the following: boat sales, service, storage, and rental; marine transport, including ferries, water taxis, public landings, ramps, docks, and charter services; marine equipment sales and rental; marine repair services; marine manufacturing; shipbuilding and repair; canvas fabrication and distribution for boats; marine retail; commercial fishing; commercial cultivation of aquatic life, such as fish, shellfish, and seaweed; indoor boat storage; and, marinas, including facilities for water storage, servicing, holding tank pump-outs, fueling, berthing, securing and launching, and outdoor sales and display of marine craft. Marine uses do not include transportation termini or shellfish, fish or other animal rendering operations.

Mass. In reference to buildings, the height, width, and depth of a building.

Master plan. A plan for development or use of a property including a compilation of goals, policy statements, roadway and utility layout, maps, and other pertinent data.

Medical marijuana dispensary. A "registered dispensary" as that term is defined in 22 M.R.S.A. § 2422(6), as may be amended. A medical marijuana dispensary includes a location at which marijuana is cultivated by a registered dispensary pursuant to 22 M.R.S.A. § 2428, as may be amended. A medical marijuana dispensary is not a medical office or a professional office and is only authorized as a principal use, and not as an accessory use, and only where expressly allowed as a special exception use.

Membership sports or recreation clubs. Sports and recreation clubs which are restricted to use by members and their guests as listed within Industry No. 7997 of the Standard Industrial Classification Manual.

Meteorological tower (MET tower). A tower used for the measurement and collection of wind data that supports various types of equipment, including but not limited to anemometers, data recorders, and solar power panels. MET towers may also include wildlife related equipment such as bird diverts and wildlife entanglement protectors.

Miscellaneous repair services. Establishments engaged in those miscellaneous repair services listed in Major Group 76 of the Standard Industrial Classification Manual. Miscellaneous repair services shall not include automotive repair, clothing repair, or shoe repair.

Mobile home. Except as provided above in the definition of manufactured housing, a vehicular, portable structure built on a chassis of which wheels are an intrinsic part and are designed to remain so, and said structure being designed to be used without a permanent foundation as a dwelling for one or more persons, and provided with a toilet and bathtub or shower. A mobile home shall contain not less than four hundred fifty (450) square feet of floor area.

Mobile home park. A contiguous parcel of land that has a minimum area of twenty-five (25) acres and is plotted for the development of a minimum of twenty-five (25) mobile home lots.

Motel. A hotel comprised of units in a building or a group of detached or connected buildings, intended primarily for hire and occupancy by automobile travelers, each unit having an allotted parking space. An automobile court or a tourist court with more than one unit or a motor lodge shall be deemed to be a motel.

Motor vehicle. A self-propelled means of conveyance for travel on land, without use of rails.

Multiple/mixed uses. Residential and non-residential uses located on the same lot within the same building or in separate buildings on the same lot. Net residential density is based on the space and bulk regulations within the zoning district the use is located.

Municipal Separate Storm Sewer System ("MS4"). Conveyances for storm water, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly owned treatment works and combined sewers) owned or operated by any municipality, sewer or sewage district, fire district, State agency or federal agency or other public entity that discharges directly to surface waters of the State.

Neighborhood Activity Centers. Relatively small areas where local residents can easily walk to gather, shop, dine, or purchase services. They are characterized by a mix of residential and such non-residential uses as office, retail, commercial, entertainment, and personal service, and are distinct from business hubs that draw from larger market areas.

Net residential acreage. The gross acreage available prior to development less the area required for streets or access and less the areas of any portions of the site which are unsuitable for development without alteration because of topography, natural drainage or subsoil conditions; provided, however, the acreage of the following areas prior to development or alteration may also be included:

(a) Slope areas, to be measured using two-foot contour intervals:

Zero–15%: 100%;

16–25%: 50%;

26–45%: 25%;

Over 45%: None.

(b) [Reserved]

Net residential density. Net residential density shall mean the number of dwelling units per net residential acre.

Nonconforming use. A building, structure or use of land existing at the time of enactment of this Chapter, and which does not conform to the regulations of the district or zone in which it is situated.

Normal high-water line. With respect to non-tidal waters, that line which is apparent from visible markings, changes in

the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered a part of the river or great pond. Adjacent to tidal waters, the normal high-water line is the upland edge of the coastal wetland.

Nursing home. A medical facility in which residents require eight (8) to twenty-four (24) hour supervision by a registered nurse.

Outdoors. Not enclosed within a permanent structure or building.

Parking space. The area abutting a street or drive, exclusive of space required for access and maneuvering, and intended or used for parking passenger vehicles. Parking spaces or access thereto shall be construed as to be usable year round.

Passenger shuttle service facility. A facility offering chartered service for intra- and interstate passengers in mini-busses, vans, or limousines having a maximum capacity of thirty (30) passengers. Such a facility may include areas for inside and outside storage of charter vehicles, as well as administrative offices, associated on-site parking, and accessory maintenance and minor repair facilities.

Pawn shop. Any business that loans money on deposit of personal property or deals in the purchase of possession of personal property on condition of selling the same back again to the pledger or depositor, or loans or advances money on personal property by taking chattel mortgage security thereon, and takes or receives such personal property.

Person. Any individual, partnership, corporation, governmental entity, association, or public or private organization of any character.

Personal services. Establishments primarily engaged in providing services generally involving the care of the person or his apparel, as listed in Major Group 72 of the Standard Industrial Classification Manual.

Predominate pattern of development. The conditions in the immediate neighborhood of a parcel such as the properties along a street or within a block, or within a development or subdivision, in which one or more elements of: 1) the location of the buildings on the lot such as the relationship of the buildings to the street, or 2) the design of the buildings such as the architectural style, building height, visually similar materials, or roof form, create a consistent and harmonious visual environment as viewed from a street.

Pre-existing farm. Land in agricultural use as of April 1, 1996. This land is defined as all land bounded by Assessor's Map 33, Lot 58; Map 37, Lots 14 and 14; Map 38, Lot 54; Map 57, Lots 1 and 2 and the land with floating easements connecting the aforementioned lots; Map 59, Lot 8; and Map 60, Lot 3 as of April 1, 1996.

The intent of this designation is to enable existing farms not located within a farm zoning district to operate as conforming uses in order to preserve property rights and to promote for the public the benefits of open space and low municipal service demands as well as of agricultural products, services, and amenities.

(b) Agricultural uses, for the purpose of this definition, consist of the production, processing, keeping, maintenance, for sale, boarding, providing training or lease, of plants, trees and/or animals, including but not limited to forages and sod crops; grains and seed crops; dairy animals and dairy products; livestock; fruits and vegetables; nursery, floral, ornamental and greenhouse products, buildings used in connection with the above uses, including roadside stands.

(c) Except for zoning districts in which they are otherwise permitted, agricultural uses, for the purpose of this definition, do not include:

(1) Abattoirs;

(2) The keeping of pigs or poultry for commercial purposes;

(3) Sawmills;

(4) Lumber yards including the milling and distribution of wood products and the wholesale and retail sales of building materials;

(5) Kennels.

Professional offices and office complexes. A building, or a configuration of buildings planned as a unit, in which one or more persons or enterprises provide professional services or advice, or in which are performed the administrative, managerial, or clerical functions of a person or enterprise.

Professional wetland scientist – Based on directly related graduate-level education and on extensive directly related work experience, a knowledgeable professional experienced in wetland science.

Public utility. Any business or service which supplies the general public with any utility commodity or service, including but not limited to electricity, natural gas, water, or telecommunication services, but not including retail sales or business services provided to the general public.

Public utility facilities. Facilities associated with public utilities. This definition shall not include telecommunication towers.

Pushcart shall mean any non-motorized vending unit equipped for the storage and/or preparation of pre-packaged or unpackaged food intended for the use or for sale for human consumption. The dimensions of a pushcart shall not exceed six feet (6’) in length or three feet four inches (3’4”) in width.

Quarry operations. The removal of stone or rock from the earth’s surface or subsurface for sale, or use on other than the same premises from which it is removed.

Raw material. Unprocessed material obtained from nature for processing and manufacture.

Restaurant. A retail establishment whose principal business activity is the sale of prepared foods and beverages for consumption on or off the premises. A “take-out” restaurant sells prepared food and beverages for consumption off the premises. A “drive-in” restaurant sells prepared food and beverages for consumption outside the building which houses the preparation facilities. A “fast-food” restaurant sells prepared food and beverages at a serving counter or drive-through facility shortly after their order for immediate consumption on or off the premises.

Retail trade, retail uses, retail stores, retail businesses. Establishments engaged in selling merchandise for personal or household consumption, and rendering services incidental to the sale of the goods, as listed in Division G of the Standard Industrial, Classification Manual, but excluding chain store warehouses, restaurants, automotive filling stations, and new and/or used motor vehicle sales facilities.

Retention. The management of stormwater to restrict runoff from a site through infiltration into the soil, evaporation, or uptake/utilization by vegetation.

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

Salvaging operations. Establishments primarily engaged in assembling, breaking up, sorting, and wholesale distribution or retail sale of scrap, junk, or waste material.

Scale. The relationship of a particular building, in terms of building mass, to other nearby and adjacent buildings.

Setback. The minimum distance by which any building or structure must be separated from a street right-of-way or lot line.

Shopping center. A group of stores or shops forming a retail or a retail and service center.

Shoreland area. The land area located within the Shoreland Area Overlay District as identified in Article XIII.

Shoreland freshwater wetland – A freshwater wetland that is not a forested wetland and that is ten (10) or more contiguous acres, or less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river, stream, or brook, such that, in a natural state, the combined area is in excess of ten (10) acres.

Sign. Any structure or part thereof attached thereto or painted or represented thereon, which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of, an announcement, direction or advertisement. The word "sign" does

not include the flag, pennant or insignia of any nation, state, city or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event.

Sign, Animated. Any sign that uses movement, lighting or special materials to depict action or create a special effect or scheme. This classification of sign includes, but is not limited to, motor-activated elements and electronic message centers.

Sign, Electronic Message Center. Any sign or portion of a sign that uses changing lights to form a sign message or messages in text form wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

Sign, Internally Illuminated. Any sign or portion of a sign designed to give forth artificial light directly or through transparent or translucent material from a source of light within the sign.

Significant wildlife habitat. Any area that is identified as significant wildlife habitat in accordance with the state's Natural Resources Protection Act.

Sorting center for construction and demolition material. A facility where construction and demolition material is sorted mechanically into separate containers and/or stockpiles for transportation to commercial off-site processing and disposal facilities. No material will be incinerated or landfilled on the site. Municipal solid waste, special and hazardous waste, putrescibles and free liquids will not be accepted. No material may be stored for a period greater than two weeks.

Spa training school. Any school or institution of learning, that is one or more of the following: (1) a recognized school as defined under Chapter 14, Article XII, Section 14-603 of the Code; or (2) a school or institution of learning approved or accredited by the National Accrediting Commission of Cosmetology Arts & Sciences (NACCAS) and/or other U.S. Department of Education approved accrediting body for career spa training. Spa training schools may include dormitories as an accessory use. Any separate dormitory structure must be of a level of architectural quality commensurate with other structures in the area. Elements related to architectural

quality include: scale; proportion of openings for windows and doors to the area of blank wall space; building materials, such as brick or wood siding; articulation of building surfaces; and incorporation of architectural details.

Special exception. A special exception is a use that would not be appropriate without restriction throughout a zoning district but which, if controlled with conditions, would not injure the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare.

Start of Construction or Operation:

(a) For a permit or approval involving the construction of a structure with a foundation, start of construction means the completion of the structure's foundation and a cap for water tightness.
(b) For a permit or approval involving a structure without a foundation or a permit or approval not involving a structure, start of construction means the completion of at least 25% of the cost of the work for which the permit or approval has been secured, said cost as determined by the City Engineer or City consulting engineer.
(c) In the case of a subdivision, start of construction means the completion of at least 25% of the cost of the proposed improvements within the subdivision, including, without limitation, site work, road installation, and utility installation, said cost as determined by the City Engineer or City consulting engineer; provided that if the subdivision consists of individual lots to be sold or leased, the cost to construct structures on the lots shall not be included in the cost of the proposed improvements.

Stationary Vending Unit shall include any vending unit, other than a pushcart, from which food products are sold, which is licensed for one location on private property and which conducts all of its sales from that one location.

Standard Industrial Classification Manual. The publication entitled "Standard Industrial Classification Manual," 1972 edition, prepared by the Statistical Policy Division of the Office of Management and Budget of the United States Government.

Storage or permanent storage. Retention on site for any period longer than twenty-four (24) consecutive hours.

Storage trailer. A portable structure, with or without a chassis, and designed to be or capable of being used without a permanent foundation for the storage of goods, merchandise, equipment, and tangible material of any kind.

Stormwater Best Management Practices ("BMP"). Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State including the practices described in the manual *Stormwater Management for Maine*, published by the DEP in January 2006, as may be amended from time to time ("*DEP Stormwater Manual*"). Stormwater BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Stormwater Management Facilities. Any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures that are part of a Stormwater Management Plan.

Story. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than six feet above grade as defined herein for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined herein at any point, such as usable or unused under-floor space shall be considered as a story.

Stream. A free-flowing body of water from the outlet of a great pond or the point of confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5-minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within a shoreland area.

Street. A public way accepted by or established as belonging to the City of South Portland or the State of Maine, provided access is not specifically prohibited; or a private way shown on a plan of a subdivision duly approved by the Planning Board on or after September 23, 1971 and improved in the field

for vehicular travel; or a private way built to City street standards as set forth in Sec. 24-42 of the Code of Ordinances.

Street Frontage. The dimension between the two (2) sidelines of any lot, measured along the front property line at the street right-of-way limits. In the case of a lot situated on a curve of a street or on a corner of two (2) streets, the measurement of street frontage may include the entire length of the property line along such street or streets.

Structure. Anything that is built or constructed by a person or persons.

Subdivision. The division of a tract or parcel of land into three (3) or more lots within any five-year period, whether accomplished by sale, lease, development, building or otherwise.

Telecommunication antennas. A system of electrical conductors, including microwave dishes, that emit or receive radio frequency waves for the use of providers of commercial telecommunications. Radio, and/or television service

Telecommunication tower. Any freestanding or guyed structure on which transmission and receiving equipment for use of providers of commercial telecommunications, radio, and television services are or may be located. Towers for the following services are exempt from this definition:

(a) amateur "Ham" radio operators;
(b) aviation/marine; and
(c) selected land-mobile systems, including
    (1) public safety,
    (2) private business, and
    (3) land transportation.

Towers for public radio services, fixed-point microwave, or common carriers are not exempt, nor are existing towers on which telecommunication antennas for any of these services are proposed to be attached. Tower height is measured from the ground, or from the lowest point where it is attached to a structure, to the highest point of the tower.

Tidal waters. All waters affected by tidal action during the maximum spring tide.

Total Maximum Daily Load ("TMDL"). A calculation of the maximum amount of a pollutant that a waterbody can receive and

still meet water quality standards, and an allocation of that amount to the pollutant's sources.

Trailer. Trailer shall mean any vehicle used or so constructed as to permit its being used as a conveyance on the public streets and highways and duly licensed as such, and constructed in such a manner as will permit occupancy thereof as a temporary dwelling for one or more persons and which cannot readily be connected to a common sewer and water service. This definition shall apply whether the trailer is placed on a foundation or not.

Transportation termini. Establishments primarily engaged in local or long-distance trucking, as listed within Group No. 421 of the Standard Industrial Classification Manual, but not including warehousing other than short-term storage.

Trip end. A single or one-direction vehicle movement with either the origin or the destination (exiting or entering) inside a study site. Total trip ends equals total of all trips entering plus all trips exiting a site during a designated time.

Upland buffer – A vegetated strip of land adjacent to a coastal or freshwater wetland or other waterbody that is intended to protect the wetland or waterbody by filtering sediments and absorbing nutrients and to provide wildlife habitat and wildlife travel corridors.

Variance. A variance is a relaxation of the terms of this Chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Chapter will result in undue hardship.

Vending Unit shall include motorized conveyances licensed by the state as motor vehicles, trailers, mobile stands, pushcarts or other units which are capable of being driven, hauled, pushed or otherwise moved from place to place and from which food sales are made. Farmers' market stalls shall not be considered to be vending units.

Vernal pool. A natural, temporary to semi-permanent body of water occurring in a shallow depression that typically fills during the spring or fall and may dry during the summer. Vernal pools have no permanent inlet or outlet and no viable populations of predatory fish. A vernal pool may provide the primary breeding habitat for wood frogs (*Rana sylvatica*),

spotted salamanders (*Ambystoma maculatum*), blue-spotted salamanders (*Ambystoma laterale*), and fairy shrimp as well as valuable habitat for other plants and wildlife, including several rare, threatened, and endangered species.

Vernal pool, significant. A vernal pool that is defined as significant in accordance with the state's Natural Resources Protection Act as determined by the number and type of pool-breeding amphibian egg masses in a pool, or the presence of fairy shrimp (*Eubranchipus*spp.) or use of the pool by threatened or endangered species.

Warehouse discount store. Off-price or wholesale retail/warehouse establishment exceeding 30,000 square feet of gross floor area and offering general merchandise for sale to the public.

Warehousing and distribution facilities. Establishments primarily engaged in the long-term or short-term storage of goods and products as listed in Group No. 422 of the Standard Industrial Classification Manual, including chain store warehousing, but excluding oil and gasoline storage caverns, petroleum and chemical bulk stations and terminals, and also excluding junkyards and salvage operations.

Wholesale trade. Establishments or places listed within Division F of the Standard Industrial Classification Manual, but excluding chemicals and allied products (Industry No. 5161) and petroleum bulk stations and terminals (Industry No. 5171).

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

Yard, front. An open unoccupied space on the same lot with the building between the front line of the building and the front line of the lot and extending the full width of the lot.

Yard, rear. An open unoccupied space on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot.

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

(Ord. No. 12-10/11, 5/16/11 [Fiscal Note: Less than $1000]; Ord. 2-11/12, 9/7/11 [Fiscal Note: Less than $1000] Ord. No.12/12/13, 3/4/13 [Fiscal Note: Less than $1000]; Ord. No. 14-13/14, 5/5/14 [Fiscal note: Less than $1000]; Ord. No. 1-14/15, 7/7/14 [Fiscal Note: Less than $1000]; Ord. No. 4-14/15, 7/7/14 [Fiscal Note: Less than $1000])

Secs. 27-202 – 27-300. Reserved.

ARTICLE III. Nonconformance

Sec. 27-301. Nonconformance Generally.

(a) Any lawful use of a building, structure, premises, land, or parts thereof legally existing as April 6, 1975, and made nonconforming by the provisions of this Chapter or any amendments thereto, may be continued subject to the provisions of this Article.

(b) A nonconforming building, structure, premises, use or land may be transferred to a new owner and the new owner may continue the nonconforming activity subject to the provisions of this Article.

Sec. 27-302. Nonconforming Uses.

(a) *Continuation.*

A nonconforming use may be continued and the building or structure housing the use maintained and improved until:

(1) the nonconforming use is terminated in accordance with (b),
(2) the nonconforming use is converted to a conforming use, or
(3) the nonconforming use is changed to another nonconforming use in accordance with (d).

(b) *Termination.*

A nonconforming use is terminated if the use ceases or is abandoned for any reason for a period of two (2) years or more. If a nonconforming use is terminated, any future or subsequent use of the building and/or premises must be in accordance with the provisions of this Chapter. It is the responsibility of the owner of such premises to notify the Code Enforcement Officer of the date of abandonment or cessation of the nonconforming use of premises within one month from the date of such abandonment or cessation. If the owner fails to provide the notice required by this paragraph, the Code Enforcement Officer shall make a determination of the date of termination or abandonment. In

determining the date, the Code Enforcement Officer should consider permits, licenses, and other public records relative to the pre-existing use. The replacement or reconstruction of a nonconforming building is addressed in Sec. 27-303(g).

(c) *Conversion to a Conforming Use.*

A nonconforming use that is converted to a conforming use for the district in which it is located loses its nonconforming status permanently upon the issuance of a Certificate of Occupancy for the conforming use and may not be subsequently re-converted to or used for a nonconforming use.

(d) *Change to Another Nonconforming Use.*

A nonconforming use may be changed to another nonconforming use of the same or a more restrictive classification with the approval of a miscellaneous appeal by the Board of Appeals. The Board of Appeals shall approve the miscellaneous appeal only if it finds, based upon the evidence provided with the appeal, that the new use will be equal to or in greater conformity with the purposes of the zoning district in which it is located, and will have a similar or reduced adverse impact on properties in the same zoning district within five hundred (500) feet of the property as the existing nonconforming use. In reaching this determination the Board of Appeals must consider the volumes and types of traffic generated by the existing and proposed use, the existing and proposed exterior lighting and signage, the levels of noise, dust, odors, and similar factors, the hours of operation, the potential for adverse impacts on abutting properties, and any other relevant factors.

If the proposed change of use is located within the Shoreland Area Overlay District, the Board of Appeals must also find that the proposed use will have no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses, than the former use. To aid the Board in determining that no greater adverse impact will occur, the applicant must provide written documentation regarding the probable effects of the proposed use on

public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archeological and historic resources, and commercial fishing and maritime activities and other functionally water-dependent uses in accordance with state shoreland zoning requirements.

The burden of proof is on the applicant to demonstrate compliance with the standards of this subsection.

(e) *Spatial Enlargement.*

A nonconforming use may not be enlarged or expanded except as provided for in this section. Enlargement includes the occupancy of more floor area within a building or structure, expansion of the floor area of the building, or the use of a larger area of the site. In the shoreland area, expansions of nonconforming uses are prohibited, except that nonconforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures. Outside of the shoreland area, a nonconforming use may be enlarged if one of the following conditions is met:

(1) the enlargement is needed to comply with federal, state, or local building or fire safety codes, or the Americans with Disabilities Act (ADA) and the improvement will not increase the floor area occupied by the nonconforming use by more than the lesser of 10% of the currently occupied floor area or one thousand (1,000) square feet over the lifetime of the building, is the minimum necessary to meet the code requirements, and conforms to the space and bulk regulations for the zoning district in which it is located.

(2) the enlargement is to a nonconforming single-family home and will conform to all of the space and bulk regulations for the zoning district in which it is located.

Sec. 27-303. Nonconforming Buildings and Structures.

(a) *Nonconformance with Respect to Setbacks from Property Lines*

(1) Increase in Nonconformity – No portion of an existing building or structure that is located within or encroaches into a required setback may be modified in a way that results in any portion of the building being closer to the property line than the existing building except for improvements to provide a wheelchair ramp or other access improvements for people with disabilities (see Sec. 27-152).

(2) Porches, Stairways, and Other Unenclosed Building Elements – Any unenclosed element of a principal building or structure such as a porch, stoop, or stairway that is wholly or partially located within a required setback may be improved and modified including the installation of a roof but may not be enlarged or fully enclosed to create living space. An unenclosed or partially enclosed stoop or porch may be modified provided that at least forty (40) percent of the wall area of the stoop or porch (not including the wall with the principal building) is open to the outside and not able to be closed by windows or other surfaces.

(3) Horizontal Enlargements within the Required Setback – A building or structure that is nonconforming with respect to a setback requirement may be modified or enlarged provided that the improvement is not located within required setbacks. In addition, a horizontal enlargement of a residential building may encroach on the required setback where the existing nonconformity exists if all of the following are met:

(a) The closest point on the new construction will be no closer to the property line than the closest point on the existing building and be at least six (6) feet from the property line. If the existing nonconforming portion of a building is located within six (6) feet of the property line, no encroachment on the required setback by new construction is permitted,

(b) The horizontal dimension of the new construction that encroaches on the required setback is less than fifty (50%) of the length of the portion of

the existing building that encroaches on the required setback, and

(c) The vertical dimension or height of the new construction that encroaches on the required setback is the same or less than the existing nonconforming portion of the building and the exterior wall and roof will be treated similarly to the existing building.

(4) Vertical Enlargements within the Required Setback – A building or structure that is nonconforming with respect to a setback requirement may be modified or enlarged vertically provided that no portion of the improvement is located within required setbacks. In addition, a vertical enlargement of a residential building may encroach on the required setback where the existing non-conformity exists under the following conditions:

(a) Dormers may be added to single-family, detached dwellings within a nonconforming yard setback upon a showing by the applicant that the proposed dormer will not substantially reduce or impair the use or view of any abutting property. Applications for this purpose shall proceed as follows:

1. The applicant shall apply to the Code Enforcement Officer, who shall process the application. The Code Enforcement Officer shall send notices of the request to all abutting property owners.
2. The notice shall indicate the nature and purpose of the application and shall state that, unless an abutting property owner contests the application in writing to the Code Enforcement Officer within twenty (20) days of the date of notice, the Code Enforcement Officer will approve the application administratively.
3. If an abutting property owner does contest the application in writing within the twenty (20) days, the application shall be decided by the Board of Appeals as a dimensional variance appeal. All objections must be in writing and state the basis for the objection.

4. Any and all notice and hearing fees shall be borne by the applicant.

(b) *Nonconformance with Respect to Setbacks from Water Bodies or Wetlands*

(1) A building or structure that is nonconforming with respect to the required setback from water bodies, tributary streams, or wetlands including the water setback requirements of the Shoreland Area Overlay District, Shoreland Resource Protection Overlay District, and Stream Protection Overlay Districts may be modified or enlarged provided that no portion of the improvement under this scenario is located within the required water setback. In addition, the portion of the building located within the required setback may be expanded by not more than thirty (30) percent of the floor area or volume, as those terms are defined in Sec. 27-1305 herein, of the portion of the building located within the setback existing as of January 1, 1989 during the lifetime of the building.

(2) 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 Board of Appeals, basing its decision on the criteria specified in subsection (3) below. If the completed foundation does not extend beyond the exterior dimensions of the building except for expansion in conformity with subsection (1) above, and the foundation does not cause the building to be elevated by more than three (3) additional feet as measured on the uphill side of the structure (from the original ground level to the bottom of the first floor sill), it shall not be construed to be an expansion of the structure.

(3) In determining whether the construction or enlargement of a foundation beneath the existing building meets the setback to the greatest practical extent, the Board of Appeals shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other buildings 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.

(c) *Nonconformance with Respect to Building Height*

A building that was nonconforming as to height on December 9, 1990, may be enlarged or expanded to the height of the building as of December 9, 1990, or, subject to subsection (g), be rebuilt or reconstructed to the height of the building on that date.

(d) *Nonconformance with Respect to Off-Street Parking and Loading*

A building or structure that is nonconforming with respect to the requirements for off-street parking or off-street loading bays may not be enlarged or altered to create additional dwelling units, or seats as in the case of places of assembly, or floor area as in the case of commercial, industrial, business, institutional or recreational buildings, or accommodations as in the case of hotels, motels and tourist houses, unless off-street parking or loading is provided for such addition, enlargement, or alteration in accordance with Sec. 27-1556. Any existing deficiency does not need to be corrected.

(e) *Nonconformance with Respect to Residential Density Requirements*

A residential building that is nonconforming with respect to the minimum lot area per family or minimum lot area per dwelling unit requirement or other residential density limitation may be improved and/or enlarged provided that the modification does not increase the number of dwellings units in the building or otherwise make the property more nonconforming with the density requirement. The extension or enlargement must conform to all setback requirements. Any extension or enlargement, when added to any other enlargement or extension undertaken after the adoption of this provision, may not exceed four hundred (400) square feet of floor area per building.

(f) *Nonconformance with Respect to Building Coverage or Impervious Surface Limits*

A building or structure that is located on a parcel that is nonconforming with respect to the maximum building coverage

requirement may be modified and the floor area of the building or structure increased as long as the modifications do not increase the amount of building coverage. A modification to the parcel may include removing or reducing the amount of coverage of existing buildings.

A building or structure that is located on a parcel that is nonconforming with respect to a maximum impervious surface limit may be modified and the floor area of the building or structure increased as long as the modifications do not increase the total amount of impervious surface on the parcel. A modification to the parcel may include reducing the area of existing impervious surface to meet this requirement or replacing impervious surfaces with pervious materials.

The Board of Appeals may permit a modification that results in the creation of additional building coverage or impervious surface as a miscellaneous appeal if the Board finds that, in addition to the generally applicable standards, the site will be designed so that the rate and total volume of stormwater runoff after modification will not exceed the pre-modification conditions.

(g) *Reconstruction, Restoration or Damage of a Nonconforming Building or Structure*

The reconstruction or restoration of any nonconforming building or structure which is destroyed or damaged by fire or other accidental cause is permitted, provided that the reconstruction or restored building or structure is not more nonconforming than the damaged or destroyed building or structure, covers no greater land area and has no greater floor area than the pre-existing building, and is substantially completed within two (2) years of the date of the damage/destruction of the property. The Zoning Board of Appeals may extend the deadline for reconstruction/restoration by up to two (2) years for good cause, such as evidence of delayed insurance processing despite demonstrated timely claims submission.

Any nonconforming structure within the shoreland area which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such

damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Board of Appeals in accordance with the purposes of this ordinance. 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 Sec. 27-303(b) above, as determined by the nonconforming floor area and volume, as those terms are defined in Sec. 27-1305 herein, of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Sec. 27-303(i) below. In no case may the reconstructed or restored building or structure be located any closer to the normal high-water line of the water body or tributary stream or upland edge of the wetland than was the building or structure that was destroyed or damaged. The reconstructed, replaced or restored building or structure shall not be any greater in height than was the building or structure that was destroyed or damaged.

(h) *Replacement of a Nonconforming Residential Building or Structure*

If a nonconforming building is voluntarily removed and replaced, the replacement building shall conform to the following:

(1) In the Residential A and Residential AA Districts, no portion of the replacement building shall be located within the required side yard even if the pre-existing nonconforming building encroached on the required side yard.

(2) Except for side yards in the A and AA Districts addressed in (1), no portion of the replacement building shall encroach on any required setback more

than the pre-existing building nor increase any other non-conformity. The floor area and total volume of the portion of the replacement building located within each required setback may not be greater than the floor area and total volume of the portion of the pre-existing building located within the same required setback.

(3) The height of the portion of the replacement building located within any required setback shall not be greater than the height of the pre-existing nonconforming building within that yard unless permitted by the Zoning Board of Appeals as a variance appeal based upon a finding that the additional height will not substantially reduce or impair the use of any abutting property.

If the replacement building is located within the Shoreland Overlay District, the replacement shall be treated as a relocation and shall be subject to the requirements of (i).

(i) *Relocation of a Nonconforming Building or Structure within Shoreland Areas*

A nonconforming building located within the Shoreland Area Overlay District, Shoreland Resource Protection Overlay District, or Stream Protection Overlay Districts may be relocated within the boundaries of the parcel on which the building is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Board of Appeals, and if the building is not served by a public sewer system, provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Water Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a building be relocated in a manner that causes the building to be more nonconforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Board of Appeals shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other buildings 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 required water setback in order to relocate the structure, native vegetation must be replanted to compensate for the destroyed or removed vegetation. Replanting is required as follows:

(1) Trees removed in order to relocate the building or structure must be replanted with at least one (1) native tree, at least five (5) feet in height, for every tree removed. If more than five (5) trees are planted, no species shall make up more than fifty percent (50%) of the number of trees planted. Replaced trees must be planted no further from the water body or wetland than the trees that were removed.
(2) Other woody and herbaceous vegetation and ground cover that is removed or destroyed must be re-established. An area at least the same size as the area where the vegetation and/or ground cover was disturbed, damaged, or removed must be re-established within the required setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover to what was disturbed, damaged, or removed.
(3) Where feasible, the original location of the relocated structure must be replanted with vegetation consisting of grasses, shrubs, trees, or a combination thereof.

Sec. 27-304. Nonconforming Residential Lots.

The following provisions govern the treatment of nonconforming residential lots of record that are described in a deed or subdivision plan recorded in the Cumberland County Registry of Deeds prior to October 21, 2007. These provisions allow for nonconforming lots to be treated as separate lots under certain conditions and to be sold or developed. The provisions allow the development of unimproved nonconforming lots in accordance with the provisions of (f) and (g).

(a) *Separate unimproved nonconforming lots of record.*

An unimproved nonconforming lot of record that is in separate ownership, or is not in common ownership with any abutting lot that has street frontage on the same street, may be developed in accordance with the provisions of (f) without a variance from the Board of Appeals. If the lot has less than five thousand (5,000) square feet of lot area or less than fifty (50) feet of street frontage on a City

accepted street, development of the lot must also conform to (g).

Development of the lot must conform to the space and bulk regulations for the zoning district in which it is located except for the minimum lot area and minimum street frontage requirements unless otherwise specifically provided for in (f) or (g) or a variance is granted by the Board of Appeals.

(b) *Separate developed nonconforming lots of record*

A nonconforming lot of record that is in separate ownership or is not in common ownership with any abutting lot that has street frontage on the same street and that is developed with a principal building may be further developed or redeveloped in accordance with the space and bulk regulations of the zoning district in which it is located except for the minimum lot area and minimum street frontage requirements.

(c) *Contiguous developed lots of record.*

Two or more contiguous lots of record in common ownership each of which is improved with a principal building shall be considered to be separate lots and may be sold as separate lots even if one or more of the lots is nonconforming. The division of the lots shall conform to the original lot boundaries as described in a recorded deed or subdivision plan unless revised boundaries will make all of the lots less nonconforming with respect to the space and bulk regulations for the zoning district in which it is located. The division of such lots does not require a variance from the Board of Appeals.

(d) *Abutting unimproved lots of record.*

Two or more unimproved abutting lots of record in common ownership each of which has frontage on a City accepted street and is not improved with a principal building may be built on and/or sold as separate lots without a variance from the Board of Appeals, even if one or more of the lots is nonconforming, subject to the provisions of (f) and (g). The division of the lots shall conform to the original lot boundaries as described in a recorded deed or subdivision plan unless revised boundaries will make all of the lots

less nonconforming with respect to the space and bulk regulations for the zoning district in which it is located.

Each lot may be developed in accordance with the provisions of (f). If a lot has less than five thousand (5,000) square feet of lot area or less than fifty (50) feet of street frontage on a City accepted street, development of the lot must also conform to (g). Development of the lot must conform to the space and bulk regulations for the zoning district in which it is located except for the minimum lot area and minimum street frontage requirements unless otherwise specifically provided for in (f) or (g). The Board of Appeals may not grant variances from the space and bulk requirements.

(e) *Unimproved lot(s) of record abutting a developed lot.*

An unimproved nonconforming lot of record that abuts and is in common ownership with a developed lot of record and that has frontage on a City accepted street may be developed and/or sold as a separate lot without a variance from the Board of Appeals subject to the provisions of (f) and (g). The division of the lots shall conform to the original lot boundaries as described in a recorded deed or subdivision plan unless revised boundaries will make all of the lots less nonconforming with respect to the space and bulk regulations for the zoning district in which they are located.

Each unimproved lot may be developed in accordance with the provisions of (f). If a lot has less than five thousand (5,000) square feet of lot area or less than fifty (50) feet of street frontage on a City accepted street, development of the lot must also conform to (g). Development of the lot must conform to the space and bulk regulations for the zoning district in which it is located except for the minimum lot area and minimum street frontage unless otherwise specifically provided for in (f) or (g). The Board of Appeals may not grant variances from the space and bulk requirements.

(f) *Standards for the development of all nonconforming lots of record.*

The development of any unimproved nonconforming lot of record including lots with less than five thousand (5,000)

square feet of area must comply with the following unless otherwise specifically provided for in this section:

(1) The principal building must be a single-family detached dwelling used solely for residential purposes including home occupations;

(2) Each building on the lot shall not exceed twenty-eight (28) feet in height, the height to be measured, notwithstanding the definition of building height in Sec. 27-201, from the peak or highest point on the roof line;

(3) Total building coverage shall not exceed twenty-five (25) per cent of the lot;

(4) Each building on the lot shall comply with the side setback requirements of the district in which the lot is located, except that in the Residential G District the principal building shall comply with the side yard setback requirements of the Residential A District or shall be a minimum of twelve (12) feet from any existing principal building on an abutting lot, whichever produces the greater side yard setback on the lot;

(5) The principal building shall be connected to the public sewer system either directly or via a private sewer which is connected to the public sewer system; and

(6) Building site plans submitted pursuant to Sec. 5-58 of the Code shall include a Drainage Plan meeting the requirements of Sec. 27-1536(e), Standards for a Drainage Plan.

(7) If the nonconforming lot of record is located within the Shoreland Area Overlay District, including the Shoreland Resource Protection Overlay Subdistrict and the Stream Protection Overlay Subdistricts, the lot must be developed, and all buildings and structures located, in full compliance with the water setback requirements and performance standards of those districts.

(8) If the nonconforming lot of record is located within a special flood hazard zone, the lot must be developed, and all buildings and structures located, in full

compliance with the requirements of Article IV of Chapter 5 of the Code of Ordinances.

(g) *Additional requirements for the development of lots of record with less than 5,000 square feet of lot area or less than fifty (50) feet of street frontage.*

If an unimproved, nonconforming lot of record has a lot area of less than five thousand (5,000) square feet or less than fifty (50) feet of street frontage, development of the lot must conform to the following in addition to the requirements of (f):

(1) Planning Board Approval Required – Development of a lot of record with less than 5,000 square feet of lot area or fifty (50) feet of street frontage may occur only after the proposed development plans are approved by the Planning Board.

(2) Approval Standards – The Planning Board shall approve the development of a lot of record with less than 5,000 square feet of lot area or fifty (50) feet of street frontage only if it finds that the proposed design and development of the lot and the buildings and structures on the lot are consistent with the established character of the neighborhood. In determining if the proposed development meets this criterion, the Planning Board must find that the following are met if they are applicable to the location:

(i) If there is a predominate pattern of development in the immediate neighborhood with respect to the relationship of the principal building to the street, the principal building must be located on the lot so that it has a similar relationship to the street as other neighboring principal buildings on the same side of the street. If this requires the building to be closer to the front lot line than the required front yard setback, the building may encroach on the required yard and no variance is required.

(ii) If there is a predominate pattern in the width of buildings in relationship to the width of lots in the immediate neighborhood, the width of the front of the building must be similar to the relationship of neighboring lots on the same side of the street.

(iii) If there is a predominate pattern in the style of the roof and its orientation with respect to the street in the immediate neighborhood, the roof of the building must be similar to the relationship of buildings on neighboring lots on the same side of the street. If the predominant pattern is for the ridgeline of the roof to be perpendicular to the front property line, the portion of the proposed building facing the street must maintain this relationship.

(iv) If there is a predominate pattern in the height of buildings in the immediate neighborhood, the height of the building based upon existing grade must be consistent with the height of the buildings on neighboring lots on the same side of the street. If the predominant pattern is for buildings to have more than one story, the proposed building must have more than one story for the portion of the building facing the street.

(v) The appearance of the wall of the building facing the street must be consistent with buildings on neighboring lots on the same side of the street. If there is a predominant pattern in the immediate neighborhood for these walls to be treated as the front of the building with a front door and windows, the front wall of the proposed building must be treated as the front of the building. If there is a predominant pattern for neighboring buildings to have a front porch, the design of the proposed building must be consistent with this pattern.

(vi) The exterior materials must be visually compatible with adjacent and nearby buildings where a predominate pattern in the exterior materials exists, except where unacceptable materials predominate. This provision shall not be used to exclude materials that are visually similar to existing materials but are made differently. The determination shall be based upon Sec. 27-1568.H. Materials and Colors.

(vii) At least twenty-five percent (25%) of the area of the lot must be landscaped open space.

(3) Application – The owner of the lot of record or the owner’s agent, or other person with right, title, or interest in the property including a valid purchase and sale agreement must make a written application to the

Planning Board requesting approval to develop on a lot with less than 5,000 square feet of lot area or less than fifty (50) feet of street frontage. The application must be made on forms provided by the City. The application must be accompanied by the following documentation:

(i) An existing conditions plan prepared by a land surveyor or other qualified professional licensed in the State of Maine and drawn to scale showing the boundaries of the lot of record, any improvements on the lot including buildings, structures, or paving, the location of buildings and other improvements on the abutting lots, the topography and direction of drainage of the parcel, any existing easements, and the location of all utilities on the lot or in adjacent streets.

(ii) A site plan prepared by a land surveyor or other qualified professional licensed in the State of Maine at the same scale as the existing conditions plan showing the proposed improvements to the lot including buildings, structures, paving, landscaping, easements, and utilities.

(iii) Building plans for the principal building and any accessory buildings including, at a minimum, the first floor plan, and elevations for all sides of the building showing the architectural treatment of the property.

(iv) Perspective drawings or photo simulations showing how the proposed building will appear when seen from the street and how it will fit into the streetscape.

(v) A written and visual analysis of the existing character of the immediate neighborhood within five hundred (500) feet of the parcel that is within the same zone focusing on the factors identified in (2). This should include aerial photos and pictures of the existing lots in the neighborhood.

(vi) A written and visual analysis demonstrating how the proposed development of the lot meets the standards of (2).

(vii) A Drainage Plan meeting the requirements of Sec. 27-1536(e), Standards for a Drainage Plan.

(4) Review Process – The review of an application for the development of a lot with less than 5,000 square feet of lot area or fifty (50) feet of street frontage shall occur as follows:

(i) Prior to submitting an application, the applicant must have a pre-application conference with the Planning and Development Department. No application shall be considered by the Planning Board unless a conference has been held. This meeting is intended to provide the applicant with an understanding of the City's standards and procedures and to allow the applicant to familiarize the staff with the proposed development.

(ii) Upon submission and acceptance of an application, the Planning Staff shall place the item on the Planning Board's agenda for consideration.

(iii) The Planning Director or the Planning Board may request a peer review of the design of the development from an architect or other design professional. This shall occur in accordance with Sec. 27-138.

(iv) The Planning Board must hold a public hearing on the application. The hearing shall be noticed and conducted in accordance with Sec. 27-1425.

(v) In acting on the application, the Planning Board may impose conditions of approval on the development. These conditions must relate to the standards of (2). In all cases the Planning Board shall include a condition requiring that the Certificate of Approval and the Findings of Fact for the development are recorded at the Cumberland County Registry of Deeds.

(vi) The development of the property must comply with the approved application including any conditions of approval. If it is necessary to make modifications to the approved plan prior to or during development, the Planning Director may approve such modifications provided they do not amount to a waiver or substantial alteration of the approved plan including any conditions or requirements set by the Planning Board. Any subsequent modifications to the building or site layout or use may occur only with the approval of an amended application by the Planning Board.

(5) Performance Guarantee – The applicant shall comply with the performance guarantee requirements of Secs. 27-1429, 27-1430 and 27-1431, as appropriate.

Secs. 27-305 – 27-400. Reserved.

ARTICLE IV. Zoning Districts

Sec. 27-401. Establishment of zoning districts.

To implement the provisions of this Chapter, the City of South Portland is hereby divided into the following classes of districts:

Residential Districts:

Rural Residential District RF.

Residential District AA.

Residential District A.

Residential District G.

Village Residential District VR.

Transitional Residential District RT.

Mixed Use/Commercial Districts:

Limited Business District LB.

Village Commercial District VC.

Village Commercial – Willard District VCW.

Spring Point District SP.

Suburban Commercial District CS.

General Commercial District CG.

Professional Office District PO.

Transitional Central and Regional Commercial District CCRT.

Central and Regional Commercial District CCR.

Commercial District C.

Industrial Districts:

Light Industrial District IL.

Shipyard District S

Industrial District I.

Nonresidential Industrial District INR.

Residential Conditional/Contract Zones

Conditional Residential Use District A-1.

Conditional Shipyard District S-1.

Conditional Residential Use District G-1.

Contract Residential District G-2.

Conditional Residential and Limited Commercial Use District G-3.

Mixed-Use, Commercial, Industrial Conditional/Contract Districts

Conditional Armory Zone CAZ.

Conditional Clark's Pond Central and Regional Commercial District CPCCR.

Conditional Non-Residential Industrial Municipal Solid Waste Transfer District INR-MSW-1.

Shoreland Overlay Districts

Shoreland Area

- Shoreland Resource Protection Overlay Subdistrict SRP
- Stream Protection Overlay Subdistrict 1 SP-1.
- Stream Protection Overlay Subdistrict 2 SP-2.
- Stream Protection Overlay Subdistrict 3 SP-3.

Sec. 27-402. Zoning maps.

The location and boundaries of the above districts are shown on a map entitled "Official Zoning Map of the City of South Portland" dated September 8, 2010, as may be amended from time to time, certified by the attested or conformed signature of the City Clerk, and upon a map entitled "Official Shoreland Zoning

Map of the City of South Portland" dated February 11, 2009, certified by the attested or conformed signature of the City Clerk, both of which maps are on file in the office of the City Clerk. Said maps are hereby incorporated in and made a part of this Chapter and shall be the final authority as to the current status of district locations provided, however, that the depiction of the Shoreland Area Overlay District on the Official Shoreland Zoning Map is merely illustrative of its general location. The boundaries of the Shoreland Area Overlay District shall be determined by on-the-ground measurement of the distance indicated on the map from the normal high-water mark of the water body or the upland edge of a wetland. Additional printed copies of said maps are also available in the Planning Department.

Secs. 27-403 – 27-500. Reserved.

ARTICLE V. Residential Districts

RURAL RESIDENTIAL DISTRICT RF

Sec. 27-501. Purpose (RF).

To conserve the integrity and natural qualities of rural open space for the betterment and future use of the community. To this end residential development shall not be in excess of one dwelling unit per two (2) net residential acres and may preferably occur in accordance with the provisions of Sec. 1501 et seq. of this Chapter.

Sec. 27-502. Permitted uses (RF).

The following uses shall be permitted in the Rural Residential District RF:

(a) General purpose farming including retail sales of farm produce located on the same premises but exclusive of abattoirs and piggeries.

(b) Single-family detached dwellings, exclusive of individual mobile homes.

(c) Churches, parish houses, public or private schools, libraries, museums, fire stations.

(d) Golf clubs, country clubs, tennis clubs and similar membership recreation associations which are not operated for commercial profit.

(e) Municipal recreation areas, such as parks or playgrounds.

(f) Cemeteries including any crematory therein.

(g) Telephone exchanges without service yard or outside storage of materials or supplies.

(h) Accessory buildings and uses including home occupations and telecommunication antennas, except that such antennas may not be placed on exempt towers.

Sec. 27-503. Special exceptions (RF).

The following uses are permitted as special exceptions according to the provisions of Article XIV of this Chapter in the Rural Residential District RF:

(a) The removal of sod, loam, sand, gravel and quarried stone for sale or for use on other than the same premises from which it is removed. The requirement for a permit shall not apply to instances where such removal is clearly and only incidental to the construction of a building for which a building permit has been issued.

(b) Public buildings, municipal uses and public utility facilities, other than those permitted in Sec. 27-502, public institutions, retirement, convalescent and nursing homes, hospitals, sanitariums, charitable institutions, provided that the lot size is sufficiently large and the nature of the activity such that adjacent areas will not be detrimentally affected.

(c) Mobile home parks, subject to the additional criteria and requirements of the provisions of Chapter 11 of the Code.

(d) Beauty parlors and beauty shops, provided that such activities are conducted as home occupations only, subject to the terms and conditions contained in the definition of home occupation set forth in Sec. 27-201 and subject to the further condition that such activity shall not be conducted utilizing more than two (2) chairs serving more than two (2) customers at any given time.

(e) Monopole telecommunication towers.

(f) Accessory dwelling units subject to the provisions of Sec. 27-1576 et seq.

Sec. 27-504. Space and bulk regulations (RF).

Maximum net residential density: One dwelling unit per two (2) net residential acres.

Minimum lot area: Eighty thousand (80,000) square feet.

Minimum area per family: Eighty thousand (80,000) square feet.

Minimum street frontage: One hundred fifty (150) feet.

Minimum front yard, all buildings: Thirty (30) feet.

Minimum side yards, all buildings: Ten (10) feet.

Minimum rear yards, all buildings: Thirty (30) feet.

Buildings higher than thirty (30) feet shall have side and rear yards not less than fifty (50) per cent of building height.

Maximum building height: Thirty-five (35) feet.

Maximum building coverage: Twenty-five (25) per cent.

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

Telecommunication towers, maximum height: One hundred fifty (150) feet, except that the maximum height shall be one hundred (100) feet if the tower is located within five hundred (500) feet of residential districts A, AA, or G. A monopole tower may be a maximum height of one hundred eight (180) feet only if it provides for co-location in its initial application, and this is evidenced by having two or more co-applicants.

The Board of Appeals may grant a variance of the maximum tower height where, because of the topography of a particular property, a greater height is necessary for the effective use of the tower and the property otherwise meets the variance requirements of State law.

Telecommunication towers, all yard setbacks: Minimum 100% of tower height.

Sec. 27-505. Off-street parking (RF).

In the Rural Residential District RF, off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter.

Sec. 27-506. Signs (RF).

In the Rural Residential District RF, signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter.

Sec. 27-507. Site plan review (RF).

Any use allowed in the Rural Residential District RF, involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV; provided, that this section shall not apply to single-family detached dwellings or their accessory buildings. For purposes of this section, "new construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries. In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the last 2 years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use or a nonconforming use.

Secs. 27-508 – 27-510. Reserved.

RESIDENTIAL DISTRICT AA

Sec. 27-511. Purpose (AA).

To provide residential areas within the City of South Portland of low to medium density in a manner which will promote a wholesome living environment. To this end residential development shall not exceed two (2) dwelling units per net residential acre. Development may preferably occur in accordance with the provisions of Sec. 1501 et seq. of this Chapter.

Sec. 27-512. Permitted uses (AA).

In the Residential District AA, the following uses shall be permitted:

(a) Single-family detached dwellings, exclusive of mobile homes. Only one residential building may be erected upon any one lot.

(b) Pre-existing farms.

(c) Churches, parish houses, public or parochial schools, libraries, museums fire stations.

(d) Accessory uses including home occupations and telecommunication antennas, except that such antennas may not be placed on exempt towers. Accessory uses shall not include any driveway giving access to business, commercial or

Sec. 27-513. Special exceptions (AA).

In the Residential District AA, the following uses shall be permitted as special exceptions according to the provisions of Article XIV of this Chapter:

(a) Municipal buildings and municipal uses other than those included in Sec. 27-512.

(b) Nursing homes, exclusive of mental care.

(c) Funeral homes and cemeteries.

(d) Public utility facilities including substations, pumping stations and sewage treatment facilities.

(e) Beauty parlors and beauty shops, provided that such activities are conducted as home occupations only, subject to the terms and conditions contained in the definition of home occupation set forth in Sec. 27-201 and subject to the further condition that such activity shall not be conducted utilizing more than two (2) chairs serving more than two (2) customers at any given time.

(f) Recreational or community activity buildings, grounds for games or sports except those operated for profit.

(g) Accessory dwelling units subject to the provisions of Sec. 27-1576 et seq.

(h) Farmers'market on City-owned property subject to the provisions of Sec. 27-1580 et seq.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000]

Sec. 27-514. Space and bulk regulations (AA).

Maximum net residential density when public sewers are not present: Two (2) dwelling units per net residential acre.

Minimum lot area: Twenty thousand (20,000) square feet.

Minimum area per family: Twenty thousand (20,000) square feet.

Minimum street frontage: One hundred (100) feet.

Minimum front yard, all buildings: Twenty (20) feet.

Minimum side yard, principal building: Ten (10) feet.

Minimum rear yard, principal building: Twenty-five (25) feet.

Minimum side yard, accessory building: Six (6) feet.

Minimum rear yard, accessory building: Six (6) feet.

Buildings higher than thirty (30) feet shall have side and rear yards not less than fifty (50) per cent of building height.

Maximum building height: Thirty-five (35) feet.

Minimum, distance between principal buildings on same lot: The height equivalent of the taller building.

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

Sec. 27-515. Off-street parking (AA).

In the Residential District AA, off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter.

Sec. 27-516. Signs (AA).

In the Residential District AA, signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter.

Sec. 27-517. Farm animals and produce (AA).

In the Residential District AA, the keeping of farm-type animals, including but not limited to horses, ponies, cattle, pigs and fowl, except pet chickens as regulated in Chapter 3; the keeping of dogs, cats and rabbits for commercial purposes and other uses offensive and detrimental to the neighborhood are prohibited. The sale of produce raised on the premises is permitted provided off-street parking spaces are provided in sufficient numbers to avoid any parking on public streets or

highways. This section shall not apply to pre-existing farms as defined in Sec. 27-201.

Sec. 27-518. Site plan review (AA).

Any use allowed in the Residential District AA, involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV; provided, that this section shall not apply to single-family detached dwellings or their accessory buildings. For purposes of this section, "new construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries. In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the last 2 years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use or a conforming use.

Secs. 27-519 – 27-530. Reserved.

RESIDENTIAL DISTRICT A

Sec. 27-531. Purpose (A).

To provide residential areas within the City of South Portland of medium density in a manner which will promote a wholesome living environment. To this end residential development shall not exceed four (4) dwelling units per net residential acre

and may preferably occur in accordance with the provisions of Sec. 1501 et seq. of this Chapter.

Sec. 27-532. Permitted uses (A).

In the Residential District A the following uses shall be permitted:

(a) Single-family detached dwellings, exclusive of mobile homes.

(b) Pre-existing farms.

(c) Churches, parish houses, public or parochial schools, libraries, museums, fire stations.

(d) Accessory uses including home occupations and telecommunication antennas, except that such antennas may not be placed on exempt towers. Accessory uses shall not include any driveway giving access to business, commercial or industrial uses in any other district.

(e) Cable television facilities in existence on February 1, 1997 or for which an application has been submitted to the City by February 1, 1997, including studios and other buildings, structures or uses necessary or accessory to the operation of a cable television system, provided that such system be operated under a franchise from the City of South Portland. Cable television signal towers and transmitters in existence as of February 1, 1997 or for which an application has been submitted to the City by February 1, 1997, also are permitted; the installation after that date on such towers of telecommunication antennas, involving transmission as well as reception of radio waves, for public radio service, or common carrier services, is not permitted

(f) Farmers' market located inside the former Hamlin School so long as the property is owned by the City.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000]

Sec. 27-533. Special exceptions (A).

In the Residential District A the following uses shall be permitted as special exceptions according to the provisions of Article XIV of this Chapter:

(a) Municipal buildings and municipal uses other than those included in Sec. 27-532 above.

(b) Public utility facilities including substations, pumping stations and sewage treatment facilities.

(c) Nursing homes, exclusive of mental care.

(d) Funeral homes and cemeteries.

(e) Private educational facilities.

(f) Beauty parlors and beauty shops, provided that such activities are conducted as home occupations only, subject to the terms and conditions contained in the definition of home occupation set forth in Sec. 27-201 and subject to the further condition that such activity shall not be conducted utilizing more than two (2) chairs serving more than two (2) customers at any given time.

(g) Recreational or community activity buildings, grounds for games or sports except those operated for a profit.

(h) Commercial greenhouses with accessory uses incidental and subordinate thereto; provided, however, the sale or rental of manufactured or handmade goods must remain clearly subordinate to the raising and sale of plant goods.

(i) Telephone answering services, provided that such activity shall be subject to the terms and conditions contained in the definition of home occupation set forth in Sec. 27-201, except that such activity must be carried on by a member of the family either owning or residing in the dwelling unit and except that paragraph (b) of said home occupation definition shall not apply.

(j) Accessory dwelling units subject to the provisions of Sec. 27-1576 et seq.

(k) Farmers' market on City-owned property subject to the provisions of Sec. 27-1580 et seq.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000]

Sec. 27-534. Space and bulk regulations (A).

Maximum net residential density: Four (4) dwelling units per net residential acre.

Minimum lot area: Twelve thousand five hundred (12,500) square feet.

Minimum area per family: Ten thousand (10,000) square feet.

Minimum street frontage: Seventy-five (75) feet.

Minimum front yard, all buildings: Twenty (20) feet.

Minimum side yards: Six 6) feet.

Minimum rear yards: Twenty (20) feet.

Except that buildings higher than thirty (30) feet shall have side and rear yards not less than fifty (50) per cent of building height.

Accessory buildings: Six (6) feet rear yard.

Accessory buildings: Six (6) feet side yard.

Maximum building height: Thirty-five (35) feet

Maximum building coverage: Twenty-five (25) per cent.

Minimum distance between principal buildings on same lot: The height equivalent of the taller building.

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

Sec. 27-535. Off-street parking (A).

In the Residential District A, off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter.

Sec. 27-536. Signs (A).

In the Residential District A, signs shall be regulated in accordance with the requirements Sec. 27-1561 et seq. of this Chapter.

Sec. 27-537. Farm animals and produce (A).

In the Residential District A, the keeping of farm-type animals, including but not limited to horses, ponies, cattle, pigs and fowl, except pet chickens as regulated in Chapter 3; the keeping of dogs, cats and rabbits for commercial purposes and other uses offensive and detrimental to the neighborhood are prohibited. The sale of produce raised on the premises is permitted provided off-street parking spaces are provided in sufficient numbers to avoid any parking on public streets or highways. This section shall not apply to pre-existing farms as defined in Sec. 27-201.

Sec. 27-538. Site plan review (A).

Any use allowed in the Residential District A, involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV; provided, that this section shall not apply to single-family detached dwellings or their accessory buildings. For purposes of this section, "new construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries. In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the last 2 years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use

was as a permitted use, special exception use or a nonconforming use.

Secs. 27-539 – 27-550. Reserved.

Residential District G

Sec. 27-551. Purpose (G).

To provide residential areas within the City of South Portland of high density in a manner which will promote a wholesome living environment. To this end residential development shall. Not exceed the net residential acreage provided in this Article. Whenever reference is made in a Commercial C or Industrial I zoning district to use of the space and bulk regulations of the Residential G District, such regulation shall include a maximum density of seventeen (17) dwelling units per net residential acre; provided, further, that whenever reference is made in a Limited Business LB zoning district to use of the space and bulk regulations of the Residential G District, the net residential density provisions of the Residential G District shall control.

Sec. 27-552. Permitted uses (G).

In the Residential District G, the following uses shall be permitted:

(a) Dwellings, exclusive of mobile homes.

(b) Reserved.

(c) Public and private educational facilities including child, adult or combined day care centers.

(d) Nursing homes, exclusive of mental care.

(e) Medical and professional offices.

(f) Funeral homes.

(g) Churches.

(h) Accessory uses including home occupations and telecommunication antennas, except that such antennas may not be placed on exempt towers.

(i) Any use permitted in Residential District A zone.

Sec. 27-553. Special exceptions (G).

In the Residential District G, the following uses shall be permitted as special exceptions according to the provisions of Article XIV of this Chapter:

(a) Business and retail uses intended specifically for the convenience and service of residents of the immediate area and located on sites of at least one acre. Space for such uses may also be provided on the first floor level of high rise residential structures constructed after enactment of this Chapter.

(b) Municipal buildings and municipal uses other than those included in Sec. 27-552 above.

(c) Public utility facilities including substations, pumping stations and Sewage treatment facilities.

(d) Beauty parlors and beauty shops, as follows:

(i) If located on Broadway, Evans Street, Sawyer Street, Waterman Drive, Westbrook Street, or Western Avenue, such activities shall not utilize more than two (2) chairs serving more than two (2) customers at any one time.

(ii) If located elsewhere in the Residential District G, such activities shall be conducted as home occupations only, subject to the terms and conditions contained in the definition of home occupation set forth in Sec. 27-201 and subject to the further condition that such activities shall not utilize more than two (2) chairs serving more than two (2) customers at any one time.

(e) Recreational or community activity buildings, grounds for games or sports except those operated for a profit.

(f) Charitable and philanthropic organizations.

(g) Community homes, which shall be permitted unless in the judgment of the Planning Board there is documented evidence that one or more of the conditions listed in Sec. 27-1405 of this Chapter cannot be satisfactorily met.

(h) Accessory dwelling units subject to the provisions of Sec. 27-1576 et seq.

(i) Farmers' market subject to the provisions of Sec. 27-1580 et seq.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000]

Sec. 27-554. Space and bulk regulations (G).

Maximum net residential density:

Lot Size (Square Feet)	*Number of Units*
7,500 – 11,105	1
11,106 – 14,711	2
14,712 – 18,317	3
18,318 – 21,923	4
21,924 – 25,529	5
25,530 – 29,135	6
29,136 – 32,741	7
32,742 – 36,347	8
36,348 – 39,953	9
39,954 – 43,560	10
43,561 and Over	Lot size divided by 4,356 sq. ft.

Minimum lot area: Seven thousand five hundred (7,500) square feet.

Minimum street frontage: Seventy-five (75) feet.

Minimum front yards: Twenty (20) feet.

Minimum rear and side yards:

Principal buildings: Fifteen (15) feet; provided, however, that a single-family dwelling thirty (30) feet or less in height may have a minimum side yard of six (6) feet.

Except that principal buildings higher than thirty (30) feet shall have side and rear yards not less than fifty (50) per cent of building height.

Accessory buildings: Six (6) feet rear yard.

Accessory buildings: Six (6) feet side yard.

Maximum building height: Forty (40) feet.

Maximum building coverage: Thirty-three (33) per cent.

Minimum distance between principal buildings on same lot: The height equivalent of the taller building.

Whenever reference is made in a Commercial C or Industrial I zoning district to use of the space and bulk regulations of the Residential G District, such regulation shall include a maximum density of seventeen (17) dwelling units per net residential acre; provided, further, that whenever reference is made in a Limited Business LB zoning district to use of the space and bulk regulations of the Residential G District, the net residential density provisions of the Residential G District shall control.

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

Sec. 27-555. Off-street parking (G).

In the Residential District G, off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter; provided, however, notwithstanding any provisions of this Chapter to the contrary, the following regulations shall apply:

Multi-family residential structures: Two (2) off-street parking spaces are required per dwelling unit plus one (1) additional off-street parking space for guest parking for each two (2) dwelling units.
Guest parking within the meaning of this section may include a gravel base that is loamed and seeded and signed to indicate its use.

Sec. 27-556. Signs (G).

In the Residential District G, signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter.

Sec. 27-557. Site plan review (G).

Any use allowed in the Residential District G, involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV; provided, that this section shall not apply to single-family detached dwellings or their accessory buildings. For purposes of this section, "new construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries. In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the last 2 years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use or a nonconforming use.

Sec. 27-558. Farm animals and produce (G).

In the Residential District G, the keeping of farm-type animals, including but not limited to horse, ponies, cattle, pigs and fowl, except pet chickens as regulated in Chapter 3; the keeping of dogs, cats and rabbits for commercial purposes and other uses offensive and detrimental to the neighborhood are prohibited. The sale of produce raised on the premises is permitted provided off-street parking spaces are provided in sufficient numbers to avoid any parking on public streets or highways.

Sec. 27-559. Conversion of existing structures (G).

In addition to the other provisions of this Chapter, no single family residential structure may be altered to accommodate additional dwelling units either by changing its footprint by adding more than three hundred twenty (320) square feet of ground floor area or increasing the number of stories; provided, in the event of the voluntary demolition of an existing single-family house, construction of a new multifamily building or structure may not commence for a period of one year thereafter. However, this section shall not apply to the creation of accessory dwelling units. However, this section shall not apply to the creation of accessory dwelling units.

Secs. 27-560 – 27-570. Reserved.

VILLAGE RESIDENTIAL DISTRICT VR

Sec. 27-571. Purpose (VR).

To provide higher density village-like residential areas within the City of South Portland that in combination with village business districts provide within walking distance a wide range of housing, employment, retail, service, institutional, public transportation and recreation opportunities.

Sec. 27-572. Permitted uses (VR).

In the Village Residential District VR, the following uses shall be permitted:

(a) Dwellings, exclusive of mobile homes.

(b) Reserved.

(c) Accessory uses including home occupations and telecommunication antennas, except that such antennas may not be placed on exempt towers.

(d) Any use permitted in Residential District A zone under Sec. 27-532 Permitted Uses.

Sec. 27-573. Special exceptions (VR).

In the Village Residential District VR, the following uses shall be permitted as special exceptions according to the provisions of Article XIV of this Chapter:

(a) Business and retail uses intended specifically for the convenience and service of residents of the immediate area and located on sites of at least one acre. Space for such uses may also be provided on the first floor level of high rise residential structures constructed after enactment of this Chapter.

(b) Municipal buildings and municipal uses other than those included in Sec. 27-572 above.

(c) Public utility facilities including substations, pumping stations and Sewage treatment facilities.

(d) Beauty parlors and beauty shops, as follows:

(i) If located on Broadway, Evans Street, Sawyer Street, Waterman Drive, Westbrook Street, or Western Avenue, such activities shall not utilize more than two (2) chairs serving more than two (2) customers at any one time.

(ii) If located elsewhere in the Village Residential District VR, such activities shall be conducted as home

occupations only, subject to the terms and conditions contained in the definition of home occupation set forth in Sec. 27-201 and subject to the further condition that such activities shall not utilize more than two (2) chairs serving more than two (2) customers at any one time.

(e) Recreational or community activity buildings, grounds for games or sports except those operated for a profit.

(f) Charitable and philanthropic organizations.

(g) Accessory dwelling units subject to the provisions of Sec. 27-1576 et seq.

(h) Congregate housing individual unit ownership facility.

(i) Farmers' market subject to the provisions of Sec. 27-1580 et seq.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000}

Sec. 27-574. Space and bulk regulations (VR).

Maximum net residential density:

Lot Size (Square Feet)	*Number of Units*
7,500 - 11,105	1
11,106 - 14,711	2
14,712 - 18,317	3
18,318 - 21,923	4
21,924 - 25,529	5
25,530 - 29,135	6
29,136 - 32,741	7
32,742 - 36,347	8
36,348 - 39,953	9
39,954 - 43,560	10
43,561 and Over	Lot size divided by 4,356 sq. ft.

Minimum lot area: Seven thousand five hundred (7,500) square feet.

Minimum lot area for congregate housing individual unit ownership facility: four thousand (4,000) square feet.

Minimum street frontage: Seventy-five (75) feet.

Minimum front yards, all buildings: Eight (8) feet.

Minimum rear and side yards:

Principal buildings: Fifteen (15) feet.

Except that principal buildings higher than thirty (30) feet shall have side and rear yards not less than fifty (50) per cent of building height.

Accessory buildings: Six (6) feet rear yard.

Accessory buildings: Six (6) feet side yard.

Maximum building height: Forty (40) feet.

Maximum building coverage: Thirty-three (33) per cent.

Minimum distance between principal buildings on same lot: The height equivalent of the taller building.

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

Sec. 27-575. Off-street parking (VR).

In the Village Residential District VR, off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter; provided, however, notwithstanding any provisions of this Chapter to the contrary, the following regulations shall apply:

(a) Multi-family residential structures: One (1) off-street parking space is required per dwelling unit plus one (1) additional off-street parking space for guest parking for each dwelling unit.

(b) Guest parking within the meaning of this section may include a gravel base that is loamed and seeded and signed to indicate its use.

Sec. 27-576. Signs (VR).

In the Village Residential District VR, signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter.

Sec. 27-577. Site plan review (VR).

Any use allowed in the Village Residential District VR, involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV; provided, that this section shall not apply to single-family detached dwellings or their accessory buildings. For purposes of this section, "new construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries. In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the last 2 years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use or a nonconforming use.

Sec. 27-578 Farm animals and produce (VR).

In the Village Residential District VR, the keeping of farm-type animals, including but not limited to horse, ponies,

cattle, pigs and fowl, except pet chickens as regulated in Chapter 3; the keeping of dogs, cats and rabbits for commercial purposes and other uses offensive and detrimental to the neighborhood are prohibited. The sale of produce raised on the premises is permitted provided off-street parking spaces are provided in sufficient numbers to avoid any parking on public streets or highways.

Sec. 27-579. Conversion of existing structures (VR).

In addition to the other provisions of this Chapter, no single family residential structure may be altered to accommodate additional dwelling units either by changing its footprint by adding more than three hundred twenty (320) square feet of ground floor area or increasing the number of stories; provided, in the event of the voluntary demolition of an existing single-family house, construction of a new multifamily building or structure may not commence for a period of one year thereafter. However, this section shall not apply to the creation of accessory dwelling units.

Sec. 27-580. Reserved.

TRANSITIONAL RESIDENTIAL DISTRICT RT

Sec. 27-581. Purpose (RT).

To allow professional or consumer offices in residential structures along major roadways to provide both low-impact alternatives to residential uses as well as a transition between high-volume streets and neighborhoods zoned for single family dwelling units. In addition, to allow multi-family residential uses as special exceptions as another means of providing a transition and promoting a wholesome living environment.

The Transitional Residential District is specifically intended to prohibit commercial establishments of a retail nature.

Any building conversions or new construction should occur in a manner which preserves the architectural character and appearance of the residential neighborhood, provides controlled traffic access and adequate on-site parking, requires no off-site parking, prevents strip highway development, and protects adjoining residential uses from undesirable impacts.

Review of proposed conversions or new construction shall include an evaluation of the expected impact on abutting properties in accordance with the criteria of this Article.

Sec. 27-582. Definitions (RT).

In applying this Article, the following definitions supersede definitions found elsewhere in this Chapter:

A. *Professional office.* The office of a person or persons practicing a vocation, calling, occupation or employment involving labor, skill, education, special knowledge and compensation or profit, but the labor and skill involved is predominantly mental or intellectual, rather than physical or manual. This includes, but is not limited to the office of an attorney, accountant, engineer, architect, or similar professional.

B. *Consumer office services.* Office services provided to the general public, including, but not limited to, real estate agencies, securities and stock market brokerages, insurance agencies, and travel agencies.

Sec. 27-583. Permitted uses (RT).

In addition to the uses permitted in the Residential District A, the following shall be permitted uses in this zone:

1. professional office, as defined in Sec. 27-582.

2. consumer office service, as defined in Sec. 27-582.

3. public and private educational facilities including child, adult or combined day care

Sec. 27-584. Special exceptions (RT).

In addition to the uses permitted as special exception in the Residential District A, in the Transitional Residential District the following use(s) shall be permitted as special exception(s) unless it can be shown to have a more adverse impact than the typical use or structure of its type. Special Exception shall be reviewed according to the provisions of Article XIV of this Chapter:

1. multi-family dwellings.

Sec. 27-585. Site plan review (RT).

In the Transitional Residential District RT new construction and/or renovations in excess of 500 sq. ft. must fulfill site plan criteria and be reviewed by the Planning Board.

Any building expansion of the existing building, proposed in conjunction with or after a conversion to one of the permitted or special exception uses of this zoning district, shall be subject to site plan review. The existing principal and accessory residential buildings must continue to appear residential on the outside.

The conversion of a single family dwelling into a multi-family dwelling either by new construction or by interior renovation shall be required to have site plan review from the Planning Board.

Sec. 27-586. Space and bulk regulations (RT).

(a) Conversions which do not increase the floor area of an existing residence are deemed to be conforming.

(b) Any expansion of an existing structure, or construction of a new structure, except for multi-family uses, after June

6, 1999 must meet the space and bulk regulations of the Residential A zoning district.

(c) For the special exception use of a multi-family dwelling in the Transitional Residential District, the space and bulk requirements are those of the Residential G District.

Sec. 27-587. Performance Standards (RT).

A conversion to one of the permitted or special exception uses in this zone shall comply with the performance standards listed below. In the event of a conflict between these performance standards and other standards of this Chapter, the more restrictive standard shall control, unless otherwise stated.

The granting of a special exception for multi-family use shall be based on compliance with performance standards listed below. In the event of a conflict between these performance standards and other standards of this Chapter, the more restrictive standard shall control, unless otherwise stated.

A. Area used. Any portion of a professional or consumer office use conducted on the property, other than the parking of motor vehicles in a garage or lot, shall be entirely within the enclosed principal building on the site. This does not preclude the practice of a portion of the office operation away from the property, where applicable. The office operation may occupy up to 100 percent of the existing residential building.

B. Development proposals shall include a landscaping program to illustrate the proposed development. This plan shall include areas of open space, roads, paths, and service and parking areas. All land areas not covered by structure, parking area, or circulation facilities shall be landscaped and maintained. Existing natural vegetation may be used when determined by the Planning Board to comply with the purpose and intent of this district.

C. Building alteration. Any exterior alteration of the building, such as roof treatment and exterior materials, including windows, must be of a type and application typical of area residences and accessory buildings.

D. New construction, reconstruction. Any new construction or reconstruction, including the color of the materials used, must appear residential in a character typical of area residences.

E. Demolition. The demolition or relocation of a garage or other accessory building proposed in conjunction with a conversion to professional or consumer office use or multi-family use shall be included in the site plan review.

F. Signs. A single sign not over four (4) square feet in area attached to a building or detached and located in the front yard describing a conforming nonresidential building or use or multi-family use is permitted. Internally illumination of signs shall be prohibited.

G. Storage and display. Exterior storage or display of materials, supplies, inventory, or equipment associated with professional or consumer office use, is not permitted.

H. Parking.

1. No on-street parking is allowed for any reason.

2. Off-street parking.

(a) Off-street parking for multi-family uses shall be provided in accordance with Sec. 27-555 of this Chapter.

(b) The regulations for single family residential, off-street parking are those delineated in Sec. 27-1556, off-street parking and loading regulations.

(c) For professional or consumer office uses, the Planning Board shall determine the total number of allowed, off-street, open-air and garage parking spaces based on site capacity, maintaining a residential appearance, and ensuring minimal traffic impacts to the surrounding neighborhood. In no case, however, shall the combined total of open-air and garage parking spaces exceed five (5).

In determining the total number of parking spaces for professional or consumer office uses, the

applicant shall provide for adequate off-street parking for the vehicles belonging to any residents of the premises, on-site employees, and the maximum number of users the office operation may attract during peak operating hours.

(d) All parking on-site shall either be located along the side or in the rear of the property.

3. Vehicles on the site. The number of vehicles on the property at any one time may not exceed the total number of parking spaces approved by the Planning Board.

4. Location on the site. Parking is restricted to the area(s) of the garage, driveway(s) and/or parking area approved for parking by the Planning Board.

5. Turnaround area. Adequate turnaround area is required on the site so vehicles do not have to back onto the major traffic arterial.

I. Buffering.

1. Subject to Sec. 5-58(5)(a) of the Code, permitted or special exception uses of this zoning district shall be buffered where they abut an adjacent single-family residential dwelling.

2. Where a permitted or special exception use in the RT zone abuts a residential use in the RT zone the minimum buffering at the property lines shall be of sufficient material and density to minimize the adverse effects of exterior lighting and vehicle lights with the office uses and traffic, and may consist of a combination of fencing, berming, and/or landscaping. Fencing proposed to satisfy this requirement shall be a minimum of 4’ in height. Existing plant material and fence may be used toward satisfying the buffering requirement. Plant material be sufficiently mature so as to be grown within 3 years to a height and density necessary to provide buffering as determined by the Planning Board.

J. Traffic.

1. For permitted uses, the applicant shall provide the maximum number of trip ends per day expected to be generated by the use. The basis for the Planning Board's determination of adequately satisfying the traffic performance standard shall be prevention of adverse traffic impacts while meeting the reasonable needs of the office. If the traffic impacts lower the level of service for any turning movement, or present a safety hazard to the neighborhood, then the permitted use application may be denied.

2. For special exception uses, the applicant shall determine the impacts of additional traffic on the surrounding neighborhood. If the traffic impacts lower the level of service for any turning movement, or present a safety hazard to the neighborhood, then the special exception application may be denied.

K. Retail sales. There shall be no retail sale of articles on the premises, other than articles accessory to the principal office use.

L. Nuisances, hazards.

1. Noise associated with the office use, other than from vehicles, shall not carry beyond the property line.

2. There shall be no use, handling, or storage of any materials that are toxic, hazardous, highly combustible, or that decompose by detonation.

M. Trash. Trash shall be stored within the confines of a reasonably accessible structure on the premises. If located outdoors, the structure shall be screened.

N. Hours of operation. The Planning Board must determine that the proposed hours of operation for a non-residential use are compatible with the surrounding residential uses.

Secs. 27-588 – 27-600. Reserved.

ARTICLE VI. Reserved

Secs. 27-601 – 27-700. Reserved.

ARTICLE VII. Mixed Use/Commercial Districts

LIMITED BUSINESS DISTRICT LB

Sec. 27-701. Purpose (LB).

To provide local retail convenience outlets within the City of South Portland to serve the daily needs of the residents of the immediate neighborhood. For the purposes of this Chapter such outlets shall serve definable neighborhoods and shall be consistent with the City Comprehensive Plan. There shall be compliance with the performance standards of this and all other applicable ordinances of the City of South Portland.

Sec. 27-702. Permitted uses (LB).

(a) Local retail stores, not including gasoline filling stations and outdoor sales, and service; provided, however, such facilities may not be open to the public between the hours of 12:00 a.m. and 6:00 a.m.

(b) Personal services.

(c) Branch business offices.

(d) Any use permitted in a G Residential District.

(e) Restaurants and other places for the serving of food or beverages, provided, however, such facilities may not be open between the hours of 1:00 a.m. and 6:00 a.m.

(f) Hotels, motor hotels, motels, tourist lodging, not including trailers or mobile homes; but including, a maximum of two (2) dwelling units for resident operators of tourist accommodations.

(g) Accessory uses, including telecommunication antennas, except that such antennas may not be placed on exempt towers.

(h) Child, adult or combined day care centers.

(i) Multiple/Mixed uses.

Sec. 27-703. Special exceptions (LB).

(a) Public utility buildings including substations, pumping stations and sewage treatment facilities.

(b) Municipal buildings and municipal uses other than those permitted in G Residential Districts (Sec. 27-702(d) above).

(c) Outdoor sales, display and services, other than accessory uses as defined in Sec. 27-201, subject, in addition to other ordinance requirements, to the following terms and conditions:

(1) The Planning Board may limit the percentage of area coverage;

(2) The Planning Board may restrict the outdoor sales, display, and services to a specific portion of the lot in question;

(3) The Planning Board may limit the time and/or number of units involved in such outdoor sales, display or service.

(d) Recreational or community activity buildings, grounds for games or sports except those operated for a profit.

(e) Charitable and philanthropic organizations.

(f) Motor vehicle repair shops provided that no unlicensed vehicles, or junked or wrecked vehicles will be permitted to be parked or stored on the premises, and no trucks, trailers, or buses will be permitted to remain parked upon the premises unless being worked upon or being serviced by employees of the shop.

(g) Local retail stores, not including gasoline filling stations, open twenty-four (24) hours a day.

(h) Restaurants and other places for the serving of food or beverages, open twenty-four (24) hours a day.

(i) Monopole or lattice telecommunication towers, allowed only on or within existing
high voltage electrical transmission towers, and extending no more than 35' above the top of the electrical transmission tower.

(j) Accessory dwelling units subject to the provisions of Sec. 27-1576 et seq.

(k) Farmers' market subject to the provisions of Sec. 27-1580 et seq.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000}

Sec. 27-704. Space and bulk regulations – Non-Residential Uses (LB).

Minimum lot area: Five thousand (5,000) square feet. Except that, other provisions of the Code notwithstanding, in the Knightville section of the VC zoning district, the minimum lot size is 3,500 sq. ft.

Minimum street frontage: Twenty-five (25) feet.

Minimum front yards, lots north of Broadway with frontage on Ocean Street or Cottage Road: No minimum front yard required.

For construction after December 27, 1998 of new buildings on lots with frontage on Ocean Street north of Market Street/Hinckley Street or on Cottage Road north of Thomas Street, off-street parking spaces may not be located in the front yard facing Ocean Street or Cottage Road. In addition, the area between the front wall of the building and the front property line must be used for pedestrian space or landscaping and may not be used for access drives, driveways, or other motor vehicle facilities. For the purposes of this section, the meaning of "new buildings" only includes construction of buildings on undeveloped lots or construction that more than doubles the footprint area of existing buildings.

Minimum front yards, remainder of LB District: Fifteen (15) feet.

Minimum side and rear yards: None required except where the side and/or rear yard abuts a residential district in which case

it/they shall be a minimum of fifteen (15) feet or fifty (50) per cent of the building height whichever is greater and the buffering requirements of this Chapter shall be met.

Maximum building height: Thirty-five (35) feet, except buildings higher than thirty (30) feet shall have side and rear yards not less than fifty (50) per cent of building height.

Maximum building coverage: None

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

Sec. 27-705. Space and bulk regulations—Residential Uses (LB).

The space and bulk requirements for residential uses shall be those of the least restricted residential district adjoining the district in which the property is located.

Sec. 27-706. Off-street parking (LB).

Off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter.

Sec. 27-707. Signs (LB).

Signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter.

Sec. 27-708. Site plan review (LB).

Any use allowed in the Limited Business District LB, involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV; provided, that this section shall not apply to single-family detached dwellings or their accessory buildings. For purposes of this section, "new

construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries. In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the last 2 years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use or a nonconforming use.

Sec. 27-709. Reserved.

VILLAGE COMMERCIAL DISTRICT VC

Sec. 27-710. Purpose (VC).

To provide higher density, village-like, mixed residential and business areas within the City of South Portland that in combination with village residential districts provide within walking distance a wide range of housing, employment, retail, service, institutional, public transportation, and recreation opportunities.

Sec. 27-711. Permitted uses (VC).

(a) Local retail stores, not including gasoline filling stations and outdoor sales, and service; provided, however, such facilities may not be open to the public between the hours of 12:00 a.m. and 6:00 a.m.

(b) Personal services.

(c) Branch business offices.

(d) Any use permitted in a G Residential District, except that, in the Knightville Design District, in buildings or additions constructed or installed after December 31, 1999, residential units may only be located above the ground floor.

(e) Restaurants and other places for the serving of food or beverages, provided, however, such facilities may not be open between the hours of 1:00 a.m. and 6:00 a.m.

(f) Hotels, motor hotels, motels, tourist lodging, not including trailers or mobile homes; but including, a maximum of two (2) dwelling units for resident operators of tourist accommodations.

(g) Accessory uses, including telecommunication antennas, except that such antennas may not be placed on exempt towers.

(h) Child, adult or combined day care centers.

(i) Multiple/Mixed uses.

(Ord. No. 12-10/11, 5/16/11 [Fiscal Note: Less than $1000]; Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000])

Sec. 27-712. Special exceptions (VC).

(a) Public utility buildings including substations, pumping stations and sewage treatment facilities.

(b) Municipal buildings and municipal uses other than those permitted in G Residential Districts (Sec. 27-711(d) above).

(c) Outdoor sales, display and services, other than accessory uses as defined in Sec. 27-201, subject, in addition to other ordinance requirements, to the following terms and conditions:

(1) The Planning Board may limit the percentage of area coverage;

(2) The Planning Board may restrict the outdoor sales, display, and services to a specific portion of the lot in question;

(3) The Planning Board may limit the time and/or number of units involved in such outdoor sales, display or service.

(d) Recreational or community activity buildings, grounds for games or sports except those operated for a profit.

(e) Charitable and philanthropic organizations.

(f) Motor vehicle repair shops provided that no unlicensed vehicles, or junked or wrecked vehicles will be permitted to be parked or stored on the premises, and no trucks, trailers, or buses will be permitted to remain parked upon the premises unless being worked upon or being serviced by employees of the shop.

(g) Local retail stores, not including gasoline filling stations, open twenty-four (24) hours a day.

(h) Restaurants and other places for the serving of food or beverages, open twenty-four (24) hours a day.

(i) Monopole or lattice telecommunication towers, allowed only on or within existing high voltage electrical transmission towers, and extending no more than 35' above the top of the electrical transmission tower.

(j) Accessory dwelling units subject to the provisions of Sec. 27-1576 et seq.

(k) Farmers' Market subject to the provisions of Sec. 27-1580 et seq.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000}

Sec. 27-713. Space and bulk regulations – Non-Residential Uses (VC).

Minimum lot area: 3,500 sq. ft.

Minimum street frontage: Twenty-five (25) feet.

Minimum front yards, lots north of Broadway with frontage on Ocean Street, Cottage Road or Waterman Drive: No minimum front yard required.

For construction after December 27, 1998 of new buildings on lots with frontage on Ocean Street north of Market Street/Hinckley Street or on Cottage Road north of Thomas Street, off-street parking spaces may not be located in the

front yard facing Ocean Street or Cottage Road. In addition, the area between the front wall of the building and the front property line must be used for pedestrian space or landscaping and may not be used for access drives, driveways, or other motor vehicle facilities. For the purposes of this section, the meaning of "new buildings" only includes construction of buildings on undeveloped lots or construction that more than doubles the footprint area of existing buildings.

Minimum front yards, remainder of VC District: Fifteen (15) feet.

Minimum side and rear yards: None required except where the side and/or rear yard abuts a residential district in which case it/they shall be a minimum of fifteen (15) feet or fifty (50) per cent of the building height whichever is greater and the buffering requirements of this Chapter shall be met.

Minimum building height-Knightville Design District-for buildings constructed after January 27, 2002: Twenty-four(24) feet.

Maximum building height-Knightville Design District: Fifty (50) feet.

Maximum building height-Remainder of the VC District: Thirty-five (35) feet, except buildings higher than thirty (30) feet shall have side and rear yards not less than fifty (50) per cent of building height.

Maximum building coverage: None

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

Sec. 27-714. Space and bulk regulations—Residential Uses (VC).

The space and bulk requirements for residential uses shall be the same as those for non-residential uses in the VC District, except as follows:

(a) VC District not including the Knightville Design District:

Minimum lot size: 3,500 sq. ft.

Maximum net residential density:

Lot Area (sq. ft.)	Number of Residential Units Permitted
3,500 - 10,499	2

10,500 - 13,999	3
14,000 +	4 plus one unit for each additional 3,500 sq. ft. of lot area;

(b) Knightville Design District:

(1) Minimum lot area: 3,500 sq. ft.
(2) Maximum net residential density: Twenty-four (24) dwelling units per net residential acre.
(3) Minimum building height for buildings constructed after January 27, 2002: Twenty-four (24) feet.
(4) Maximum building height: Fifty (50) feet.

Sec. 27-715. Off-street parking (VC).

Off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter.

Sec. 27-716. Signs (VC).

Signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter.

Sec. 27-717. Site plan review (VC).

Any use allowed in the Village Commercial District VC, involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV; provided, that this section shall not apply to single-family detached dwellings or their accessory buildings. For purposes of this section, "new construction" means (a) the construction of a new structure, (b)

an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries. In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the last 2 years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use or a nonconforming use.

Sec. 27-718. Reserved.

VILLAGE COMMERCIAL – WILLARD DISTRICT VCW

Sec. 27-719. Purpose (VCW).

To provide a village-like, mixed residential and business area in the Willard Square area of the City of South Portland so as to provide within walking distance for the surrounding residences, a suitable range of housing, employment, retail, service, public transportation, and recreation opportunities, consistent with the vision of the Willard Square section of the South Portland Comprehensive Plan.

Sec. 27-720. Permitted Uses (VCW).

(a) Local retail stores and establishments, not including drive-through facilities, gasoline filling stations, and outdoor sales; provided, however, such stores and establishments may not be open to the public between the hours of 12:00 a.m. and 6:00 a.m.

(b) Personal services.

(c) Business and professional offices.

(d) Any use permitted in the G Residential District, except that after July 1, 2006, any structure that requires Site Plan Approval by the Planning Board according to Article XIV of the Code, and is on a lot in the Village Commercial-Willard zoning district that has frontage on Preble Street, shall not be allowed to have a residential use on the ground floor, unless the residential use includes a home occupation or otherwise combines business work and residential living in the same unit. This requirement for non-residential uses on the ground floor may be waived by the Planning Board upon a demonstration by the applicant that reasonable efforts had been made to attract a business or other non-residential use and that such efforts had not met with success.

(e) Restaurants and other places for the serving of food or beverages, not including drive-through facilities; provided, however, such restaurants and places may not be open between the hours of 12:00 a.m. and 6:00 a.m.

(f) Hotels, motels, inns (cooking facilities allowed in one unit) and tourist lodging, not including trailers or mobile homes; but including a maximum of two (2) dwelling units for resident operators of tourist accommodations. In no case shall the total number of guest rooms or lodging units exceed twelve (12).

(g) Accessory uses, but not including telecommunication antennas.

(h) Child, adult or combined day care centers.

(i) Multiple/Mixed uses.

(j) Educational services, including but not limited to adult, community, and after-school educational uses.

(k) Artist studios.

Sec. 27-721. Special Exceptions (VCW).

(a) Public utility buildings including substations, pumping stations and sewage treatment facilities.

(b) Municipal buildings and municipal uses other than those included in the preceding section.

(c) Outdoor sales, display and services, other than accessory uses as defined in Sec. 27-201, subject, in addition to other ordinance requirements, to the following terms and conditions:

(1) The Planning Board may limit the percentage of area coverage;
(2) The Planning Board may restrict the outdoor sales, display, and services to a specific portion of the lot in question;
(3) The Planning Board may limit the time and/or number of units involved in such outdoor sales, display or service.

(d) Recreational or community activity buildings, grounds for games or sports except those operated for a profit.

(e) Charitable and philanthropic organizations.

(f) Accessory dwelling units subject to the provisions of Sec. 27-1576 et seq.

(g) Farmers' market subject to the provisions of Sec. 27-1580 et seq.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000}

Sec. 27-722. Space and Bulk Regulations – Non-Residential Uses (VCW).

Minimum lot area: 3,500 sq. ft.

Minimum street frontage: Twenty-five (25) feet.

Minimum front yards: Five (5) feet, provided that for construction after June 1, 2006 of new structures, and further limited to front yards defined by Preble Street, the area between the front wall of the structure and the front property line may not be used for parking except in driveways.

Minimum side and rear yards: Six (6) feet, provided that (i) where the side and/or rear yard abuts a residential district, the

buffering requirements of this Chapter shall be met; and (ii) where the side and/or rear yard abuts a residential district and the principal or accessory building height exceeds thirty (30) feet, the applicable setback shall be a minimum of fifty (50) percent of the building height.

Minimum building height for buildings constructed after June 1, 2006: Twenty-four (24) feet.

Maximum building height: Forty (40) feet.

Maximum building coverage: None

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

(Ord. No. 2-11/12, 9/7/11 [Fiscal Note: Less than $1000])

Sec. 27-723. Space and Bulk Regulations—Residential Uses (VCW).

The space and bulk requirements for residential uses shall be the same as those for non-residential uses in this District, except as follows:

(a) Maximum net residential density: Thirteen (13) dwelling units per net residential acre.

Sec. 27-724. Off-Street Parking (VCW).

Off-street parking for all permitted and special exception uses shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter, except that the required number of off-street parking spaces for retail, office,artist studio, and restaurant uses shall be reduced by 33% to enable businesses to operate at Willard Square. For the purposes of this section, restaurant uses shall include the public assembly areas of inns, hotels, motels, and tourist lodgings used for dining. In addition, the required number of off-street parking spaces for any non-residential use shall be reduced to enable the preservation of any tree determined to have special significance to the community due to its history, girth, height, species,

location, or other unique quality. The determination shall be made by the Planning Board or, if no Planning Board approval is required, by the Code Enforcement Officer in consultation with the City Arborist and any other person or entity with an expertise in tree care or preservation deemed appropriate by the City Arborist. The reduction shall be two (2) parking spaces per tree up to a maximum of three (3) spaces per lot. On-Street parking spaces in the VCW zone segments of Preble, Thompson, and Pillsbury Streets where parking is allowed may be counted toward meeting the required number of parking spaces for non-residential uses provided that the spaces are within the frontage of the use. If there is more than one non-residential use on a lot, each such use is able to count the number of on-street spaces within the frontage divided by the number of non-residential uses, rounded down. In no case shall on-street spaces be used to meet residential parking requirements.

(Ord. No. 2-11/12, 9/7/11 [Fiscal Note: Less than $1000]

Sec. 27-725. Buffering (VCW).

Any use in the Village Commercial—Willard zoning district that requires Site Plan review must provide trees, shrubs, fences, walls, berms, or any combination thereof to physically separate and screen the use from abutting properties in a manner acceptable to the Planning Board. Sec. 5-58(5)(a) and other sections of the Code notwithstanding, for any non-residential use in the VCW zone that abuts a residential property in another zone, the buffer strip, as measured from any property line that is in or adjacent to the other zone, must be a minimum of six (6) feet wide and must extend along the length of the property line; and, the screening, whether achieved via a solid fence, more than one row of staggered native trees, or other means, must be sufficient to ameliorate commercial or other non-residential views that otherwise would be detrimental to the quality of life of the abutting residential occupants and/or to their property values. Uses with driveways or other access ways at least ten (10) feet wide may satisfy the buffer width requirement by providing a fence or other screening between the drive/access way and the abutting lot regardless of the width of the fence or screening. In all cases the Planning Board shall determine the adequacy of the quality, function, height, and other characteristics of any proposed fencing, landscaping, or other buffering.

(Ord. No. 2-11/12, 9/7/11 [Fiscal Note: Less than $1000])

Sec. 27-726 Signs (VCW).

Signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter except that animated and internally illuminated signs are not allowed.

(Ord. No. 2-11/12, 9/7/11 [Fiscal Note: Less than $1000])

Sec. 27-727. Site plan review (VCW).

Any use allowed in this District, involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV; provided, that this section shall not apply to single-family detached dwellings or their accessory buildings. For purposes of this section, "new construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries.

In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the last 2 years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use or a nonconforming use.

Sec. 27-728. Design Review (VCW)

All building construction or remodeling projects within the VCW zoning district that require special exception, site plan, or subdivision approval and/or a non-single family dwelling unit building permit must comply with the Design Standards for Neighborhood Activity Centers, Sections 27-1572 through 27-1575.
(Ord. No. 2-11/12, 9/7/11 [Fiscal Note: Less than $1000])

SPRING POINT DISTRICT SP

Sec. 27-729. Purpose (SP).

To provide a mix of residential, general retail sales, services and business spaces in the Spring Point area of South Portland. These uses shall be in compliance with the performance standards of this and all other applicable ordinances of the City of South Portland.

Sec. 27-730. Permitted uses (SP).

(a) Retail businesses and service establishments exclusive of junkyards and salvaging operations.

(b) Business and professional offices.

(c) Fully enclosed places of assembly, amusement, and culture.

(d) Clubs, hotels and motels, inns, and restaurants.

(e) Storing and handling of petroleum and/or petroleum products subject to the provisions of Sec. 27-1517, excluding automobile filling stations.

(f) Residential uses at net densities up to seventeen (17) dwelling units per net residential acre.

(g) Any use permitted in Limited Business District L-B Zone.

(h) Recreational or community activity buildings, grounds for games or sports, except those operated for a profit.

(i) Charitable and philanthropic organizations.

(j) Child, adult or combined day care centers.

(k) Marinas, including repair, storage, marine fuels, outdoor sales and display of new and used boats and other related sales.

(l) Accessory buildings and uses, including telecommunication antennas, except that such antennas may not be placed on exempt towers, and provided that no premises shall be used for both the washing of motor vehicles and the sale or dispensing of gasoline or any flammable liquids.

(m) Piers and wharves used for permitted uses of this zoning district.

Sec. 27-731. Special exceptions (SP).

(a) Pumping stations, compressor stations, substations, and public utility facilities.

(b) Light industrial uses.

(c) Warehousing.

(d) Monopole telecommunication towers.

(e) Piers and wharves used for special exception uses of this zoning district.

(f) Government buildings.

(g) Accessory dwelling units subject to the provisions of Sec. 27-1576 et seq.

(h) Farmers' market subject to the provisions of Sec. 27-1580 et seq.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000}

Sec. 27-732. Nonresidential space and bulk regulations (SP).

The following shall apply to all nonresidential building in the district:

Minimum lot area: Thirty thousand (30,000) square feet.

Maximum building coverage of lot: Forty (40) percent.

Minimum street frontage: One hundred (100) feet.

Minimum front yards: Twenty (20) feet.

Minimum side and rear yards: Twenty (20) feet.

Maximum building height: Eighty-six (86) feet, except that stacks for ventilation purposes may be constructed to such greater height as may be reasonably necessary for the safe, efficient, and/or healthful operation of the enterprise.

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of

Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

Telecommunication towers, maximum height: One hundred fifty (150) feet, except that the maximum height shall be one hundred (100) feet if the tower is located within five hundred (500) feet of residential districts A, AA, or G. A monopole tower may be a maximum height of one hundred eighty (180) feet only if it provides for co-location in its initial application, and this is evidenced by having two or more co-applicants.

The Board of Appeals may grant a variance of the maximum tower height where, because of the topography of a particular property, a greater height is necessary for the effective use of the tower and the property otherwise meets the variance requirements of State law.

Telecommunication towers, all yard setbacks: Minimum 100% of tower height.

Sec. 27-733. Residential space and bulk regulations (SP).

The following shall apply to all residential buildings in the district:

Maximum net residential density: Seventeen (17) dwelling units per net residential acre.

Minimum lot area: Seven thousand five hundred (7,500) square feet.

Minimum street frontage: Seventy-five (75) feet.

Minimum front yards, all buildings: Twenty (20) feet.

Minimum rear and side yards:

Principal buildings: Fifteen (15) feet, except that principal buildings higher than thirty (30) feet shall have side and rear yards not less than fifty (50) percent of building height.

Accessory buildings: Six (6) feet rear yard.

Accessory buildings: Six (6) feet side yard.

Maximum building height: Eighty-six (86) feet, except that stacks for ventilation purposes may be constructed to such greater height as may be reasonably necessary for the safe, efficient and/or healthful operation of the enterprise.

Maximum building coverage: Thirty-three (33) per cent.

Minimum distance between principal buildings on same lot: The height equivalent of the taller buildings.

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

Sec. 27-734. Off-street parking (SP).

Off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter.

Sec. 27-735. Signs (SP).

Signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter.

Sec. 27-736. Site plan review (SP).

Any use allowed in the Spring Point SP District, involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV; provided, that this section shall not apply to single-family detached dwellings or their accessory buildings. For purposes of this section, "new construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries. In determining for meaning (c) above the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of

the building within the last 2 years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use or a nonconforming use.

Sec. 27-737. Reserved.

SUBURBAN COMMERCIAL DISTRICT CS

Sec. 27-738. Purpose (CS).

The Suburban Commercial District is established to provide areas for professional offices, urban residential development, and certain low-intensity commercial, personal services, and recreational uses primarily to serve those persons living, working, or transacting business within the district and to encourage planned developments which will promote and preserve the integration of these uses. These land uses complement each other in that goods and services are made readily available to district workers and residents, who in turn present a captive market to the providers of such goods and services. This functional and physical integration of uses, a common characteristic of an urban core or center, permits the achievement of certain economies of scale and cost savings associated with reduced space requirements and increased opportunity for sharing of costs. This article establishes standards which will (1) ensure high quality site development, compatible integration of allowed uses, preservation of open and landscaped open space, and limitation of strip commercial development; (2) encourage development of apartment buildings, congregate housing and congregate care facilities; and (3) minimize potential conflict among uses in the district. The nature of development in this district contemplates structures having three (3) to five (5) stories.

Sec. 27-739. Permitted uses (CS).

The following are permitted uses on tracts or parcels of land under five (5) acres in size existing on or before September 21, 1987.

(a) Professional offices and office complexes.

(b) Financial services, not including branch banks or facilities for drive-through customer transactions.

(c) Business services that function like professional offices or office complexes.

(d) Research and development laboratories and offices.

(e) Medical offices.

(f) Accessory buildings and uses relating to (a) through (e), including telecommunication antennas, except that such antennas may not be placed on exempt towers.

(g) Personal Services.

Sec. 27-740. Special permitted uses (CS).

The following are permitted uses if developed in accordance with the requirements of Sec. 27-747.

(a) Any one use listed in Sec. 27-739 on a tract or parcel of five (5) acres or more in size or two (2) or more such uses on any size tract or parcel.

(b) Residential uses at densities not less than seventeen (17) nor more than twenty-five (25) dwelling units per net residential acre, subject to the parcel-wide residential density maximum set forth in Sec. 27-742.

(c) Congregate housing and congregate care facilities at densities not less than seventeen (17) nor more than forty (40) private apartments per net residential acre, subject to the parcel-wide residential density maximum set forth in Sec. 27-742.

(d) Hospitals and associated medical facilities.

(e) Nursing homes.

(f) Hotels and motels with a minimum of four (4) floors above the ground surface.

(g) Membership, sports, or recreation clubs.

(h) Restaurants, provided that there shall be no drive-in, takeout, or fast-food restaurants; and provided further that no restaurant allowed hereunder shall be open between the hours of 1:00 a.m. and 6:00 a.m. without the prior approval of the Planning Board. No request for operation between the hours of 1:00 a.m. and 6:00 a.m. shall be approved unless the applicant demonstrates to the satisfaction of the Planning Board that such hours of operation will not result in excessive noise, unsafe or congested traffic circulation, or other adverse impact upon neighboring properties.

(i) Retail trade, business services, personal services, and community buildings and/or grounds for games, recreation, or sports, ancillary or related to permitted uses or special permitted uses, and established primarily to serve those residing, working, or transacting business in the district and not the general public, provided that the applicant furnishes satisfactory written evidence to the Planning Board that the proposed use will be so limited and is to be developed as part of an office or residential center planned as a unit.

(j) Child, adult or combined day care centers, ancillary or related to permitted uses or special permitted uses, and established primarily to serve those residing, working or transacting business in the district and not the general public, provided that the applicant furnishes satisfactory written evidence to the Planning Board that the proposed use will be so limited and is to be developed as part of an office or residential center planned as a unit.

(k) Accessory buildings and uses relating to (a) through (j), including telecommunication antennas, except that such antennas may not be placed on exempt towers.

Sec. 27-741. Special exceptions (CS).

(a) Public utility buildings, including substations, pumping stations, and compressor stations.

(b) Government buildings and uses other than professional offices and office complexes.

(c) Child, adult or combined day care centers.

(d) Accessory buildings and uses relating to (a) through (c), including telecommunication antennas, except that such antennas may not be placed on exempt towers.

(e) Telecommunication towers.

(f) Farmers' market subject to the provisions of Sec. 27-1580 et seq.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000}

Sec. 27-742. Space and bulk regulations (CS).

Maximum net residential density: Fifteen (15) dwelling units per net residential acre for each parcel of land in single ownership as of October 26, 1987. For purposes of this calculation, a private apartment in a congregate housing or congregate care facility shall count as 0.625 dwelling units.

Minimum lot area: Thirty thousand (30,000) square feet.

Minimum street frontage: One hundred (100) feet.

Minimum front yards: Forty (40) feet, provided that the twenty (20) feet closest to the lot line shall be landscaped, remain unpaved except for sidewalks and access drives, and not be used for off-street parking.

Minimum side yards: Thirty (30) feet or fifty (50) percent of the building height, whichever is greater, provided that the side yard setback shall be landscaped, remain unpaved, and not be used for off-street parking, except where the building height does not exceed sixty (60) feet, in which case the twenty (20) feet closest to the lot line shall be landscaped, remain unpaved, and not be used for off-street parking.

Minimum rear yards: Twenty-five (25) feet or fifty (50) percent of the building height, whichever is greater, provided that the rear yard setback shall be landscaped, remain unpaved, and not be used for off-street parking.

Maximum building height: Eighty-six (86) feet.

Maximum building coverage: Thirty (30) percent.

Minimum landscaped open space: Thirty (30) percent of gross lot area.

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

Telecommunication towers, maximum height: Two hundred (200) feet, except that the maximum height shall be one hundred (100) feet if the tower is located within five hundred (500) feet of residential districts A, AA, or G.

Telecommunication towers, yard setbacks: Minimum 100% of tower height if the tower is located within one hundred (100) feet of residential districts A, AA, or G; otherwise, equivalent to existing yard setbacks for buildings.

Sec. 27-743. Off-street parking (CS).

Subject to the provisions of Sec. 27-746, off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter.

Sec. 27-744. Signs (CS).

Subject to the provisions of Sec. 27-746, signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter.

Sec. 27-745. Site plan review (CS).

Any use allowed in the Suburban Commercial District (CS) involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV. For purposes of this section, "new construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building

from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries. In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the last 2 years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use or a nonconforming use.

Sec. 27-746. Performance standards (CS).

In the Suburban Commercial District (CS) the following performance standards shall be met in all cases to ensure that the proposed development or use is compatible with other allowed uses, preserves open and landscaped open space, limits strip commercial development and minimizes the potential conflict among uses in the district. An applicant for subdivision, site plan, or special exception approval shall furnish satisfactory written evidence to the Planning Board that the proposed use will meet these standards. If no Planning Board review is required under this Chapter, an applicant for a building or occupancy permit shall furnish satisfactory evidence to the Code Enforcement Officer that the proposed use will meet the standards.

(a) Development proposals shall include a landscape program to illustrate the proposed development and maintenance of open space, roads, paths, and service and parking areas. All land areas not covered by structures, parking area, or circulation facilities shall be landscaped and maintained. Existing natural vegetation may be used when determined by the Planning Board to comply with the purpose and intent of this district.

(b) Development proposals shall include a drainage and erosion control program complying with the substantive provisions of Sec. 24-19(17) and Sec. 24-43 of the Code.

(c) Development proposals shall include a program providing for sidewalks, paths, and other pedestrian circulation systems illustrating the manner in which the developer will provide

these amenities without detracting from the aesthetics of the district.

(d) Development proposals shall include a full disclosure of any and all signs proposed to be located on the property including, but not limited to, an indication of their size, illumination, landscaping, setback, specific locations, heights, and construction materials, provided that signs shall be restricted as follows:

(i) No flashing, rotating, or intermittent signs.

(ii) No more than one (1) free-standing sign for each building, no more than one (1) building-mounted sign on each side of the building, and no more than one (1) sign for each entrance to the lot, provided that such signs shall not exceed sixty (60) square feet in surface area per face; and

(iii) Signs shall not exceed twenty-five (25) feet in height, provided that no sign shall exceed the height of the closest building on the lot.

The burden shall be upon the applicant to demonstrate that the signage plan has not compromised the aesthetics of the district.

(e) Development proposals shall include a program of buffers including, but not limited to, an identification of their location, composition, maintenance, and ability to remain compatible with large expanses of impervious surface or parking areas. All areas dedicated for mechanical appurtenances or waste disposal shall be screened from view;

(f) Development proposals shall contain sufficient assurances that the proposal shall not be hazardous, obnoxious, offensive, or unsightly by reason of odor, sound vibration, radioactivity, electrical interference, glare, liquid or solid wastes, smoke or other air pollutants, or other distractions.

(g) Development proposals shall include a program identifying the extent to which the developer shall preserve natural features including, but not limited to, trees or other vegetation, floodplains, rock outcroppings, surface water bodies, water quality, and wetlands, provided, any such program shall consider and be sensitive

(h) Development proposals shall include a program identifying all proposed traffic controls, parking areas, interior traffic circulation and traffic interface with public highways, and shall demonstrate that additional traffic generated by the

project itself can be accommodated on existing public highways, or that satisfactory improvements, if necessary, will be made at the developer's cost.

(i) Architectural renderings of the buildings and signage showing the general design concept and materials shall be required and shall constitute a condition of approval.

(j) Development proposals shall indicate proposed impact on all public utilities and the proposal shall provide for satisfactory improvements thereto, if necessary, at the developer's cost.

(k) Development proposals shall include the commencement and completion dates for each portion of the project proposed to be constructed in phases or sections, and the provisions of subsections (a) through (j) above shall apply to each such phase or section.

Sec. 27-747. Special performance standards: master planning (CS).

(a) In addition to the performance standards set forth in Sec. 27-746, the proposed development or use of land within the District must meet the requirements of a master planning process as established in this section.

The purposes of the master planning process are:

(1) To promote the efficient use of land to facilitate a more economic arrangement of buildings and land uses in the district;

(2) To promote orderly development of selected mixed uses in an urban living and working environment; and

(3) To encourage the preservation of open space in a manner consistent with the goal of selected mixed land use development.

(b) A master plan shall be required in any one of the following circumstances:

(1) The site proposed for development is five (5) acres or more in size or the applicant owns a contiguous lot or lots which, together with the site proposed for development approval, is five (5) or more acres in size.

(2) The site is proposed for one or more of the special permitted uses listed in Sec. 27-740.

(3) The site would include two (2) or more of the permitted uses, special permitted uses, or special exceptions identified in this Article.

(c) A master plan for the overall development of a site (including any contiguous property owned by the applicant) must be submitted to the Planning Board prior to submission of any application for subdivision, site plan, or special exception approval. Submission of a master plan may coincide with a pre-application for subdivision review.

The Planning Board's review of a master plan shall take place before its approval of any application for subdivision, site plan, or special exception approval.

The applicant, or his duly authorized representative, shall attend the meeting of the Planning Board to present and discuss the proposed master plan.

(d) The master plan shall include a description of the proposed development or use of the entire property owned by the applicant, and shall identify the location of proposed streets and utilities, land uses, lots, building sites, open space, existing and preserved natural features, and the design principles for proposed buildings.

The master plan shall include a description of the proposed mix of uses explaining the proposed mix. If more than fifty (50) percent of the gross land area is proposed to be devoted to one type of use, the master plan must explain the proposed mix on the basis of marketability, compatibility of the use(s) with surrounding uses on or off the property, anticipated traffic flow patterns, or other similar impacts.

(e) The master planning requirement does not require the applicant to develop all portions of the property covered by the plan concurrently. A property under a master plan may be developed in distinct phases, sections, or stages. The land used in one phase, section, or stage for meeting space and bulk requirements, off-street parking, and performance standards may not be used for any other phase, section, or stage. If such phased development occurs, each application for approval of a site within the total property shall be

subject to and meet the terms of the zoning and subdivision ordinances in effect at the time of the application.

A subsequent application for subdivision, site plan, or special exception approval of any phase, section, or stage of the development described by the master plan shall indicate how the particular phase, section, or stage for which approval is requested is consistent with the master plan. The master plan shall serve as a general guide to the review and approval of individual phases of development.

If a subsequent application for subdivision, site plan, or special exception approval deviates from the master plan previously filed, review of the application shall not take place until the applicant, or his duly authorized representative, has presented and discussed the amended master plan with the Planning Board.

(f) Proposals for development or use of properties governed by master planning requirements which have Clark's Pond shoreline or stream-front frontage shall contain in their master plans clearly designated provisions for any public access to and along the water body and for associated open space in conformance with the Clark's Pond Plan or any other open space or recreation master plan adopted by the City Council, and shall indicate the manner in which these facilities will be made available for public use.

Sec. 27-748. Reserved.

GENERAL COMMERCIAL DISTRICT CG

Sec. 27-749. Purpose (CG).

The General Commercial District is established to accommodate wholesale and service uses which do not depend on frequent personal visitors, customers, or clients, and include the storage of materials and finished products. These uses include highway-oriented businesses and transportation-related service

establishments meeting citywide, regional and transportation corridor needs.

Locations for General Commercial Districts should be thoughtfully conceived so that the use of the property minimizes interference with through-traffic movements and ensures a high standard in site layout, design, landscaping, and buffering so that highway frontage does not present a poor image to the community.

Sec. 27-750. Permitted uses (CG).

(a) Wholesale trade.

(b) Warehousing and distribution facilities.

(c) Transportation termini.

(d) New and/or used motor vehicle sales facilities.

(e) Automotive filling stations, automotive repair services, and car washes.

(f) Miscellaneous repair services.

(g) Public utility buildings, including substations, pumping stations, and compressor stations.

(h) Accessory buildings and uses, including telecommunication antennas, except that such antennas may not be placed on exempt towers.

(i) Child, adult or combined day care centers.

(j) Telecommunication towers. Site plan approval by the Planning Board is required.

Sec. 27-751. Special exceptions (CG).

(a) Government buildings and uses other than professional offices and office complexes.

(b) Community buildings and/or grounds for games, recreation, or sports, provided that any such use does not generate a volume or frequency of traffic that is incompatible with the purpose of this district as set forth in Sec. 27-749 above.

(c) Professional offices and office complexes.

(d) Light industrial uses.

(e) Business services.

(f) Financial services, not including branch banks or facilities for drive-through customer transactions.

(g) Retail trade, including restaurants, ancillary or related to allowed uses, and established primarily to serve those working or transacting business within the district and not the general public, provided that the applicant furnishes satisfactory written evidence to the Planning Board that the proposed use will be so limited.

(h) Personal services, ancillary or related to allowed uses, and established primarily to serve those working or transacting business in the district and not the general public, provided that the applicant furnishes satisfactory written evidence to the Planning Board that the proposed use will be so limited.

(i) Quarry operations, provided that a buffer of at least two hundred (200) feet shall be maintained along all lot lines; that on-site roadways shall be surfaced to prevent tracking of earth materials onto public ways; that the applicant submits an operations plan identifying the locations of and anticipated beginning and ending dates for each phase of the quarry operation; and that the applicant submits a reclamation plan detailing the method and scheduling of land and vegetative restoration activities necessary to restore the condition and appearance of the site to its condition and appearance prior to the quarry operation; and upon such conditions as the Planning Board may impose to further the intent and purpose of the Chapter, including a requirement that no quarry operation continue after a date certain, unless earlier extended by the Planning Board in accordance with the standards and requirements of this Chapter then in effect, and also including a requirement that the quarry operation comply with the provisions of Sec. 27-1546(c) to the extent such provisions do not conflict with this subsection.

(j) Hotels and motels.

(k) Medical marijuana dispensary.

(l) Farmers' market subject to the provisions of Sec. 27-1580 et seq.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000])

Sec. 27-752. Space and bulk regulations (CG).

Minimum lot area: Thirty thousand (30,000) square feet.

Minimum street frontage: One hundred (100) feet.

Minimum front yards: Fifty (50) feet, provided that the twenty (20) feet closest to the lot line shall be landscaped, remain unpaved except for sidewalks and access drives, and not be used for off-street parking; in the event a proposed site improvement plan prohibits parking in each yard abutting a street and such plan is approved by the Planning Board, the minimum front yard shall be thirty (30) feet, shall be landscaped, remain unpaved except for sidewalks and access drives, and not be used for off-street parking.

Minimum side and rear yards: Twenty (20) feet or fifty (50 percent of the building height, whichever is greater, and the buffering requirements of this Chapter shall be met. The minimum side and rear setbacks can be eliminated to allow for the location of covered passageways that cross property lines to join two buildings on adjacent lots within this zoning district. Owners of the lots on which any covered passageway is built in accordance with this section shall execute a written agreement stating their consent to the elimination of the setbacks. The owners shall record the agreement within ninety (90) days of its execution in the Cumberland County Registry of Deeds and submit 3 copies of the recorded agreement to the Planning Department.

Maximum building height: Ninety (90) feet.

Maximum building coverage: Forty (40) percent for permitted uses; thirty (30) percent for special exceptions.

Minimum landscaped open space: Twenty (20) percent of gross lot area.

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

Telecommunication towers, maximum height: Two hundred (200) feet, except that the maximum height shall be one hundred (100)

feet if the tower is located within five hundred (500) feet of residential districts A, AA, or G.

Telecommunication towers, yard setbacks: Minimum 100% of tower height if the tower is located within one hundred (100) feet of residential districts A, AA, or G; otherwise, equivalent to existing yard setbacks for buildings.

Sec. 27-753. Off-street parking (CG).

Subject to the provisions of Sec. 27-752, off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter.

Sec. 27-754. Signs (CG).

Signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter.

Sec. 27-755. Site plan review (CG).

Any quarry operation, or any other use allowed in the General Commercial District GC and which involves new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV. For purposes of this section, "new construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries. In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the last 2 years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in

the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use or a nonconforming use.

Sec. 27-756. Reserved.

PROFESSIONAL OFFICE DISTRICT PO

Sec. 27-757. Purpose (PO).

To create, preserve and enhance an environment for, and conducive to, the development and protection of modern, large-scale conference, research and administrative facilities and institutions of a non-nuisance type in attractive surroundings as well as certain carefully controlled combined residential and recreational uses. This district is typically appropriate to large acreages and is intended to provide for an aesthetically attractive working environment with park or campus-like grounds, attractive buildings, ample employee parking, and other amenities appropriate to an employee-oriented activity where problems of product handling, storage and distribution are not of significant concern. It is intended that development will be of a type such that each is a credit to the other and in which investment in well-designated and maintained plants and grounds is secured by the maintenance of the highest standards throughout the district. The uses permitted by this district shall be limited to those possessing the ability to comply with the standards of operation, performance and environment defined by the district and shall be compatible with the natural surroundings in which they are located. To this end, density of development is limited, concentration of traffic and transportation is minimized, and landscaped open space and screening are required.

Sec. 27-758. Permitted uses (PO).

In the Professional Office District PO, the following uses shall be permitted:

(a) Professional offices and office complexes, including, but not limited to, financial institutions, insurance companies, computer and data processing companies, and other similar professional office facilities;

(b) Research and development laboratories and offices;

(c) Hospitals and associated medical facilities, provided that no veterinary office shall include an animal hospital or kennel;

(d) Accessory uses customarily appurtenant to the permitted uses above including incidental sales and services to serve employees, visitors and/or clients of the permitted uses; provided, that such accessory uses must be in keeping with the spirit and intent of this district; provided further, that accessory uses involving sales and services must be conducted entirely within the main building, the design of which building does not invite the use of these services by the general public. Accessory uses exclude home occupations, but include telecommunication antennas, except that such antennas may not be placed on exempt towers.

(e) Child, adult or combined day care centers.

Sec. 27-759. Special exceptions (PO).

In the Professional Office District PO, the following uses shall be permitted as special exceptions according to the provisions of Article XIV of this Chapter:

(a) High-rise hotels with a minimum of four (4) floors and associated clubhouses, golf courses, and convention centers;

(b) Restaurants, provided there shall be no drive-ins, takeouts or fast-food facilities;

(c) Public utilities and public services facilities to accommodate the public service needs of the various permitted uses and special exception uses allowed in the district.

(d) Municipal uses to accommodate the public service needs of the various omitted uses and special exception uses of the district;

(e) Combined residential and recreational complexes, including associated clubhouses and services on parcels of a minimum of one hundred (100) acres. Services shall include, but not be limited to, golf driving ranges and retail trade associated with recreational complexes located in Professional Office District (PO).

(1) The maximum size of the retail use or uses shall not exceed 15,000 square feet in the aggregate.

(2) The exterior material of the building(s) containing a retail use or uses shall consist of brick, architectural stone, or other similar material equivalent in quality to the exterior treatments of a majority of the other buildings in the PO zoning district. The use of metal or vinyl siding is specifically prohibited.

(3) Sec. 27-761(d)(ii & iii) notwithstanding, a single sign is permitted at an entrance to a lot containing a retail use provided it is a ground sign no more than ten (10) feet in height and no more than eighty (80) square feet in area. For the purposes of this section, a ground sign is a freestanding sign in which the entire bottom is in contact with or is close to the ground.

(f) A public area of land, usually in a natural state, having facilities for rest and/or recreation.

(g) Telecommunication towers.

(h) Day Spa.

(i) Spa Training Schools with associated dormitories located on the same lot.

Sec. 27-760. Space and bulk regulations (PO).

Maximum net residential density: Ten (10) dwelling units per net residential acre.

Minimum lot size: Two (2) acres.

Maximum building coverage: Thirty (30) per cent.

Minimum street frontage: One hundred fifty (150) feet.

Minimum front yard setback: Fifty (50) feet.

Minimum rear yard setback: Twenty-five (25) feet; provided, that the total of the front and rear yard setbacks shall not be less than one hundred (100) feet; and provided further, that neither the front or rear yard setback shall be paved or otherwise used for off-street parking.

Minimum side yard setback: Thirty (30) feet; provided, that there shall be no pavement or off-street parking in the fifteen (15) feet closest to the lot line.

Minimum landscaped open space: Thirty (30) per cent gross lot area; provided, however, any large open tracts of land used for either combined residential and recreational facilities or recreational uses allowed in this zone shall not be counted in determining compliance with this standard.

Maximum building height: Ninety (90) feet.

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

Telecommunication towers, maximum height: Two hundred (200) feet, except that the maximum height shall be one hundred (100) feet if the tower is located within five hundred (500) feet of residential districts A, AA, or G.

Telecommunication towers, yard setbacks: Minimum 100% of tower height if the tower is located within one hundred (100) feet of residential districts A, AA, or G; otherwise, equivalent of existing yard setbacks for buildings.

Sec. 27-761. Performance standards (PO).

In the Professional Office District PO, the following performance standards shall be met in all cases to ensure that the proposed development or use is compatible in appearance, operation, and environmental impact with professional offices and office complexes. An applicant for subdivision, site plan, or special exception approval shall furnish satisfactory written evidence to the Planning Board that the proposed use will meet these standards. If no Planning Board review is required under this Chapter, an applicant for a building or occupancy permit shall furnish satisfactory evidence to the Code Enforcement Officer that the proposed use will meet these standards.

(a) Development proposals shall include a landscape program to illustrate the proposed development and maintenance of open space, roads, paths, and service and parking areas. All land areas not covered by structures, parking area or circulation facilities shall be landscaped and maintained. Existing natural vegetation may be used when determined by the

Planning Board to comply with the purpose and intent of this district.

(b) Development proposals shall include a drainage and erosion control program complying with the substantive provisions of Sec. 24-19(17) and Sec. 24-43 of the Code.

(c) Development proposals shall include a program providing for sidewalks illustrating the manner in which the developer will provide these amenities without detracting from the aesthetics of the district.

(d) Development proposals shall include a full disclosure of any and all signs proposed to be located on the property including, but not limited to, an indication of their size, illumination, landscaping, setbacks, specific locations, heights and construction materials; provided, that signs shall be restricted as follows:

(i) No flashing, rotating or intermittent signs;

(ii) No more than one (1) sign for each building and no more than one (1) sign for each entrance to the lot; provided, that such signs shall not exceed one hundred fifty (150) square feet in surface area per face; and

(iii) Signs shall not be located closer than fifty (50) feet from any lot line and shall not exceed twenty-five (25) feet in height; provided, no sign shall exceed the height of the closest building on the lot.

The burden shall be upon the applicant to demonstrate that the signage plan has not compromised the aesthetics of the district. For properties fronting on Running Hill Road or Cummings Road, signs may be located between twenty-five (25) feet and fifty (50) feet from the Running Hill Road or Cummings Road right-of-way line provided that the City Traffic Engineer certifies there is no significant decrease in visibility that poses a risk to public safety. Any sign so located between twenty-five (25) and fifty (50) feet from the property line shall not exceed seven (7) feet in height above ground level at the highest point nor 7 (seven) feet in width at the widest point.

(e) Development proposals shall include a program of buffers including, but not limited to, an identification of their location, composition, maintenance and ability to remain compatible with large expanses of impervious surface or parking areas. All areas dedicated for mechanical appurtenances or waste disposal shall be screened from view.

(f) Development proposals shall contain sufficient assurances that the proposal shall not be hazardous, obnoxious, offensive, or unsightly by reason of odor, sound vibration, radioactivity, electrical interference, glare, liquid or solid wastes, smoke or other air pollutants, or other distractions.

(g) Development proposals shall include a program identifying the extent to which the developer shall preserve natural features including, but not limited to trees or other vegetation, floodplains, rock outcroppings, surface water bodies, water quality, and wetlands; provided, any such program shall consider and be sensitive to the need to preserve such natural features.

(h) Development proposals shall include a program identifying all proposed traffic controls; parking areas, interior traffic circulation, traffic interface with public highways, and the demonstration that additional traffic generated by the project itself can be accommodated on existing public highways.

(i) Architectural renderings of the buildings and signage showing the general design concept and materials shall be required and shall constitute a condition of approval.

(j) Development proposals shall indicate proposed impact on all public utilities and the proposal shall provide for satisfactory improvements thereto, if necessary, at the applicant's cost.

(k) Development proposals shall include the commencement and completion dates for each portion of the project proposed to be constructed in phases or sections, and the provisions of subsections (a) through (j) above shall apply to each such phase or section.

(l) Any use allowed in the Professional Office District PO involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV. For purposes of this subsection, "new construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City

services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries. In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the last 2 years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use or a nonconforming use.

Sec. 27-762. Reserved.

TRANSITIONAL CENTRAL AND REGIONAL COMMERCIAL DISTRICT CCRT

Sec. 27-763. Purpose (CCRT).

The Transitional Central and Regional Commercial District CCRT is established to create a transitional zoning district similar to the Central and Regional Commercial CCR District. However, in order to provide more compatibility with neighboring office, residential, or other impact-sensitive non-retail property, the CCRT District employs development performance standards similar to those used in the Professional Office and Light Industrial zoning districts and is more selective in terms of the types of retail uses permitted.

Development within the district should be encouraged in centers that are planned as a unit. In addition, uses within the district should be planned to minimize visual degradation of the district and the surrounding area, and to ensure a high standard in site layout, design, landscaping, and buffering so that highway frontage does not present a poor image to the community.

Sec. 27-764. Permitted uses (CCRT).

(a) Retail trade, not including outdoor sales or display except as an accessory use, and not including new or used motor vehicle sales facilities.

(b) Personal services.

(c) Business services.

(d) Financial services, including branch banks.

(e) Professional offices and office complexes.

(f) Restaurants; excluding drive-throughs.

(g) Hotels; including extended stay hotels, but excluding motels.

(h) Accessory buildings and uses, including telecommunication antennas, except that such antennas may not be placed on exempt towers.

(i) Child, adult or combined day care centers.

(j) Telecommunication towers. Site plan approval by the Planning Board is required.

(k) Educational Services.

Sec. 27-765. Special exceptions (CCRT).

(a) Public utility buildings, including substations, pumping stations, and compressor stations.

(b) Government buildings and uses other than professional offices and office complexes.

(b) Fully enclosed places of assembly, amusement, or culture.

(d) Municipal buildings and municipal uses.

(e) Farmers' market subject to the provisions of Sec. 27-1580 et seq.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000])

Sec. 27-766. Space and bulk regulations (CCRT).

Minimum lot area: Twenty thousand (20,000) square feet.

Minimum street frontage: Seventy-five (75) feet.

Minimum front yards: Fifty (50) feet, provided that the twenty (20) feet closest to the lot line shall be landscaped, remain unpaved except for sidewalks and access drives, and not be used for off-street parking; in the event a proposed site improvement plan prohibits parking in each yard abutting a street and such plan is approved by the Planning Board, the minimum front yard shall be thirty (30) feet, shall be landscaped, remain unpaved except for sidewalks and access drives, and not be used for off-street parking.

Minimum side and rear yards: Twenty (20) feet or fifty (50) percent of the building height, whichever is greater, and, except as provided for in Sec. 27-769(e), the buffering requirements of this Chapter shall be met.

Maximum building height: Ninety (90) feet.
Maximum building coverage: Thirty (30) percent.
Minimum landscaped open space: Thirty (30) percent of gross lot area.

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

Telecommunication towers, maximum height: Two hundred (200) feet, except that the maximum height shall be one hundred (100) feet if the tower is located within five hundred (500) feet of residential districts A, AA, or G.

Telecommunication towers, yard setbacks: Minimum 100% of tower height if the tower is located within one hundred (100)

feet of residential districts A, AA, or G; otherwise, equivalent to existing yard setbacks for buildings.

Sec. 27-767. Off-street parking (CCRT).

Subject to the provisions of Sec. 27-774, off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter.

Sec. 27-768. Signs (CCRT).

Signs shall be regulated in accordance with Sec. 27-769, Performance Standards, and with the requirements of Sec. 27-1561 et seq. of this Chapter.

Sec. 27-769. Performance standards (CCRT).

In the Transitional Central and Regional Commercial District CCRT, the following performance standards shall be met in all cases to ensure that the proposed development or use is compatible in appearance, operation, and environmental impact with professional offices and office complexes. An applicant for subdivision, site plan, or special exception approval shall furnish satisfactory written evidence to the Planning Board that the proposed use will meet these standards. If no Planning Board review is required under this Chapter, an applicant for a building or occupancy permit shall furnish satisfactory evidence to the Code Enforcement Officer that the proposed use will meet these standards.

(a) Development proposals shall include a landscape program to illustrate the proposed development and maintenance of open space, roads, paths, and service and parking areas. All land areas not covered by structures, parking area or circulation facilities shall be landscaped and maintained. Existing natural vegetation may be used when determined by the Planning Board to comply with the purpose and intent of this district.

(b) Development proposals shall include a drainage and erosion control program complying with the substantive provisions of Sec. 24-19(17) and Sec. 24-43 of the Code.

(c) Development proposals shall include a program providing for sidewalks illustrating the manner in which the developer will provide these amenities without detracting from the aesthetics of the district.

(d) Development proposals shall include a full disclosure of any and all signs proposed to be located on the property including, but not limited to, an indication of their size, illumination, landscaping, setbacks, specific locations, heights and construction materials; provided, that signs shall be restricted as follows:

(a) No flashing, rotating or intermittent signs;

(b) No portable signs or banners;

(c) No roof mounted signs;

(d) No wall mounted signs shall project above the face of the building wall;

(e) No more than one free standing identification sign for each entrance to the lot and no freestanding signs other than at entrances.

(f) No free standing identification sign shall exceed twenty-five feet in height.

The burden shall be upon the applicant to demonstrate that the signage plan has not compromised the aesthetics of the district;

(e) Development proposals shall include a program of buffers including, but not limited to, an identification of their location, composition, maintenance and ability to remain compatible with large expanses of impervious surface or parking areas. All areas dedicated for mechanical appurtenances or waste disposal shall be screened from view. Where the CCRT District abuts a zoning district that permits residential uses, any application for development must include a 30 foot wide buffer strip between the zone line of the residential district and any structure, paving, or other site disturbance associated with the development other than that for vehicular or pedestrian access between the two zoning districts. The buffer strip shall be landscaped as follows:

1. 6-8' high evergreen shrubs shall be planted in an alternating pattern, averaging 10' on center, within 15' of the property boundary.

2. At least one row of deciduous trees, not less than 2 1/2"-3" caliper DBH, and spaced an average of 20' apart and within 25' of the property boundary.

3. In lieu of the foregoing planting requirements, the Board may determine that the existing vegetation may be supplemented to achieve an equivalent means of minimizing the visual and noise impact.

(f) Development proposals shall contain sufficient assurances that the proposal shall not be hazardous, obnoxious, offensive, or unsightly by reason of odor, sound vibration, radioactivity, electrical interference, glare, liquid or solid wastes, smoke or other air pollutants, or other distractions.

(g) Development proposals shall include a program identifying the extent to which the developer shall preserve natural features including, but not limited to trees or other vegetation, floodplains, rock outcroppings, surface water bodies, water quality, and wetlands; provided, any such program shall consider and be sensitive to the need to preserve such natural features.

(h) Development proposals shall include a program identifying all proposed traffic controls; parking areas, interior traffic circulation, traffic interface with public highways, and the demonstration that additional traffic generated by the project itself can be accommodated on existing public highways.

(i) Architectural renderings of the buildings and signage showing the general design concept and materials shall be required and shall constitute a condition of approval.

(j) Development proposals shall indicate proposed impact on all public utilities and the proposal shall provide for satisfactory improvements thereto, if necessary, at the applicant's cost.

(k) Development proposals shall include the commencement and completion dates for each portion of the project proposed to be constructed in phases or sections, and the provisions of subsections (a) through (j) above shall apply to each such phase or section.

(l) Any use allowed in the Transitional Central and Regional Commercial District CCRT involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of

floor area, shall be subject to the site plan review requirements of Article XIV. For purposes of this subsection, "new construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries. In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the last 2 years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use or a nonconforming use.

Sec. 27-770. Reserved.

CENTRAL AND REGIONAL COMMERCIAL DISTRICT CCR

Sec. 27-771. Purpose (CCR).

The Central and Regional Commercial District is established to promote and protect the central trading area of the City. It is intended to accommodate the full range of city-wide and regional comparison shopping facilities, business and financial services, and cultural and entertainment uses which are oriented to serve a regional market area. As a regional market area, the district is recognized as a substantial traffic generator and should be located adjacent to major transportation facilities. Development within the district should be encouraged in centers that are planned as a unit. The Central and Regional Commercial District is usually supplemented by an adjacent General Commercial District

providing storage, wholesale, supply, repair services, and by certain other services and retail uses normally found in close proximity to but apart from the Central and Regional Commercial District.

Uses within the district should be planned to minimize visual degradation of the district and the surrounding area, and to ensure a high standard in site layout, design, landscaping, and buffering so that highway frontage does not present a poor image to the community.

Sec. 27-772. Permitted uses (CCR).

(a) Retail trade, not including outdoor sales or display except as an accessory use, and not including new or used motor vehicle sales facilities.

(b) Personal services.

(c) Business services.

(d) Financial services, including branch banks.

(e) Professional offices and office complexes.

(f) Fully enclosed places of assembly, amusement, or culture.

(g) Restaurants.

(h) Hotels and motels.

(i) Accessory buildings and uses, including telecommunication antennas, except that such antennas may not be placed on exempt towers.

(j) Child, adult or combined day care centers.

(k) Extended stay hotels.

(l) Telecommunication towers. Site plan approval by the Planning Board is required.

(m) Educational Services.

Sec. 27-773. Special exceptions (CCR).

(a) Public utility buildings, including substations, pumping stations, and compressor stations.

(b) Government buildings and uses other than professional offices and office complexes.

(c) Community buildings and/or grounds for games, recreation, or sports, provided that any such use does not generate a volume or frequency of traffic that is incompatible with the purpose of this district as set forth in Sec. 27-771 above.

(d) Outdoor sales or display other than as permitted as an accessory use, upon such conditions as the Planning Board may impose to further the intent and purpose of this Chapter, including:

(1) A limitation on the maximum percentage of ground area which may be devoted to such outdoor sales or display;

(2) A requirement that such outdoor sales or display be restricted to a specific portion of the site;

(3) A limitation on the hours of operation for, and the number of units included within, such outdoor sales or display; and

(4) A requirement that the site be landscaped or contain one or more buffers to provide adequate protection to neighboring properties from detrimental visual or other features of such outdoor sales or display, provided that any such butter may contain a limited display area for motor vehicles as part of a site improvement plan approved by the Planning Board, which plan may impose limits on the number and type of motor vehicles allowed in the display area, and may require landscaping, lighting, stone walls, or similar features.

(e) Automotive filling stations, automotive repair services, and car washes, provided that gasoline pumps or other service appliances shall not extend nearer than fifty (50) feet to the street line; and provided that no unlicensed vehicles, or junked or wrecked vehicles, shall be allowed to be parked or stored on-site, and no trucks, trailers, or buses shall be allowed to remain parked on-site unless being worked upon or being serviced by employees of the station, and upon such

conditions as the Planning Board may impose to further the intent and purpose of this Chapter, including:

(1) A limitation on the type and scope of work which may be performed at the station, in order to minimize, reduce or eliminate noxious or hazardous uses, or other kinds of nuisances or uses incompatible with neighboring uses; and

(2) A limitation on the hours of operation, and the number of vehicles which may be serviced during the allowed hours of operation; and

(3) A requirement that the site be landscaped or contain one or more buffers to provide adequate protection to neighboring properties from detrimental visual or other features of the use.

(f) New motor vehicle sales facilities, with limited used motor vehicle sales as an accessory use, upon such conditions as the Planning Board may impose to further the intent and purpose of this Chapter, including:

(1) A limitation on the number and location of new and used cars stored and displayed on site; and

(2) The conditions for outdoor sales or display set forth in Sec. 27-773(d) above.

(g) Passenger shuttle service facility, provided that the site contain buffers along its street frontage and side yards to provide adequate protection to neighboring properties and the community from detrimental visual features of the use.

(h) Automobile rental facility, provided that the site contain buffers along its street frontage and side yards to provide adequate protection to neighboring properties and the community from detrimental visual features of the use.

(i) Medical marijuana dispensary.

(k) Farmers' market subject to the provisions of Sec. 27-1580 et seq.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000])

Sec. 27-774. Space and bulk regulations (CCR).

Minimum lot area: Twenty thousand (20,000) square feet.

Minimum street frontage: Seventy-five (75) feet.

Minimum front yards: Fifty (50) feet, provided that the twenty (20) feet closest to the lot line shall be landscaped, remain unpaved except for sidewalks and access drives, and not be used for off-street parking; in the event a proposed site improvement plan prohibits parking in each yard abutting a street and such plan is approved by the Planning Board, the minimum front yard shall be thirty (30) feet, shall be landscaped, remain unpaved except for sidewalks and access drives, and not be used for off-street parking.

Minimum rear yards: Twenty (20) feet or fifty (50) percent of the building height, whichever is greater, and the buffering requirements of this Chapter shall be met.

Minimum side yards: (a) twenty (20) feet or fifty (50) percent of the building height, whichever is greater, and the buffering requirements of this Chapter shall be met; or (b) subject to subdivision and site plan approval, where the side yard abuts another lot in the CCR District, if the owners of both lots (or all lots if the subject side yards involve more than two abutting lots) enter into a written agreement, binding upon such owners and their respective heirs, successors and assigns and in a form suitable for recording in the Registry of Deeds, allowing a lesser common side yard setback, the side setback may be reduced to zero (0) feet, and such agreement shall (I) provide for mutual construction, maintenance, repair and access easements for any buildings, parking areas, or other improvements which reasonably require the use or support of the abutting lot(s) for such purposes, and (ii) provide for appropriate fire safety construction standards. If shared or common parking and/or shared access is used to satisfy the standards of the Zoning Ordinance, subdivision approval or site plan approval, then the agreement shall also make enforceable provisions for such parking and/or access to be maintained to a uniform or consistent quality in order to ensure a harmonious appearance.

Maximum building height: Ninety (90) feet.

Maximum building coverage: Thirty (30) percent~~.~~; provided, however, that where a proposed division of an existing, improved parcel of land which has previously received Site Plan approval

would create a nonconformity for any resulting lot for maximum building coverage, such division will be permitted provided that the owner(s) of the resulting lots shall provide a written agreement, binding upon such owners and their respective heirs, successors and assigns and in a form suitable for recording in the Registry of Deeds, by which the maximum building coverage for all lots, when taken together, shall be met.

Minimum landscaped open space: Twenty (20) percent of gross lot area; provided, however, that where a proposed division of an existing, improved parcel of land which has previously received Site Plan approval would create a nonconformity for any resulting lot for minimum landscaped open space, such division will be permitted provided that the owner(s) of the resulting lots shall provide a written agreement, binding upon such owners and their respective heirs, successors and assigns and in a form suitable for recording in the Registry of Deeds, by which the minimum landscaped open space for all lots, when taken together, shall be met. The agreement shall also make enforceable provisions for such landscaped open space to be maintained to a uniform or consistent quality in order to ensure a harmonious appearance.

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

Telecommunication towers, maximum height: Two hundred (200) feet, except that the maximum height shall be one hundred (100) feet if the tower is located within five hundred (500) feet of residential districts A, AA, or G.

Telecommunication towers, yard setbacks: Minimum 100% of tower height if the tower is located within one hundred (100) feet of residential districts A, AA, or G; otherwise, equivalent to existing yard setbacks for buildings.

Sec. 27-775. Off-street parking (CCR).

Subject to the provisions of Sec. 27-774, off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter.

Sec. 27-776. Signs (CCR).

Signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter.

Sec. 27-777. Site plan review (CCR).

Any use allowed in the Central and Regional Commercial District CCR involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV. For purposes of this section, "new construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries. In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the last 2 years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use or a nonconforming use.

Sec. 27-778. Reserved.

COMMERCIAL DISTRICT C

Sec. 27-779. Purpose (C).

To provide general retail sales, services and business spaces within the City of South Portland in locations capable of conveniently serving community wide and/or regional trade areas. These shall be incompliance with the performance standards of this and all other applicable ordinances of the City of South Portland.

Sec. 27-780. Permitted uses (C).

(a) Retail businesses and service establishments including warehousing and wholesale distribution related thereto, but exclusive of junkyards, salvaging operations; outdoor sales and services.

(b) Business and professional offices.

(c) Fully enclosed places of assembly, amusement, culture and government.

(d) Clubs, hotels and motels, and restaurants.

(e) Transportation termini.

(f) Storing and handling of petroleum and/or petroleum products, excluding automobile filling stations which are governed by Sec. 27-781(d), and as noted in Sec. 27-1517; provided, however, that any such storing and handling of petroleum and/or petroleum products shall not include the bulk loading of crude oil onto any marine tank vessel.

(g) Residential uses in air space above the preceding permitted uses and at net densities not less than ten (10) or more than seventeen (17) dwelling units per acre. The minimum space and bulk regulations of a G District shall apply.

(h) Accessory buildings and uses, including telecommunication antennas, except that such antennas may not be placed on exempt towers.

(i) Any use permitted in Limited Business District L-B Zone.

(j) Recreational or community activity buildings, grounds for games or sports, except those operated for a profit.

(k) Charitable and philanthropic organizations.

(l) Child, adult or combined day care centers.

(Ord. No.1-14/15, 7/7/14 [Fiscal Note: Less than $1000])

Sec. 27-781. Special exceptions (C).

(a) Pumping stations, compressor stations, substations, sewerage treatment facilities and public utility facilities.

(b) Outdoor sales and services as regulated in the Limited Business District.

(c) Light manufacturing.

(d) Automotive filling stations provided that gasoline pumps or other service appliances shall not extend nearer than twenty-five (25) feet to the street line and that no unlicensed vehicles, or junked or wrecked vehicles will be permitted to be parked or stored on the premises, and no trucks, trailers, or buses will be permitted to remain parked upon the premises unless being worked upon or being serviced by employees of the station.

(e) The removal of sod, loam, sand, gravel and quarried stone for sale or use on other than the same premises from which it is removed. The requirement for a permit shall not apply to instances where such removal is clearly and only incidental to the construction of a building for which a building permit has been issued.

(f) Monopole telecommunication towers.

(g) Combined motor vehicle washing and gasoline or any other flammable liquids sale or dispensing. Special attention must be made to meet site plan requirements regarding traffic and adequate separation of car wash drainage from the flammable liquid dispensing area.

(h) Accessory dwelling units subject to the provisions of Sec. 27-1576 et seq.

(i) Farmers' market subject to the provisions of Sec. 27-1580 et seq.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000])

Sec. 27-782. Space and bulk regulations (C).

Minimum lot area: Ten thousand (10,000) square feet, except that the space and bulk requirements for permitted residential uses shall be those of an RG Residential District.

Minimum street frontage: Twenty-five (25) feet.

Minimum front yards: Fifteen (15) feet.

Minimum side and rear yards: None required except where the side and/or rear yard abuts a residential district in which case it/they shall be a minimum of fifteen (15) feet or fifty (50) per cent of the building height, whichever is greater and the buffering requirements of this Chapter shall be met.

Maximum building height: Forty-five (45) feet, except for petroleum storage tanks which should have a maximum height of sixty (60) feet.

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

Telecommunication towers, maximum height: One hundred fifty (150) feet, except that the maximum height shall be one hundred (100) feet if the tower is located within five hundred (500) feet of residential districts A, AA, or G. A monopole tower may be a maximum height of one hundred eighty (180) feet only if it provides for co-location in its initial application, and this is evidenced by having two or more co-applicants.

The Board of Appeals may grant a variance of the maximum tower height where, because of the topography of a particular property, a greater height is necessary for the effective use of the tower and the property otherwise meets the variance requirements of State law.

Telecommunication towers, all yard setbacks: Minimum 100% of tower height.

Sec. 27-783. Off-street parking (C).

Off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter.

Sec. 27-784. Signs (C).

Signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter.

Sec. 27-785. Site plan review (C).

Any use allowed in the Commercial District C, involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV; provided, that this section shall not apply to single-family detached dwellings or their accessory buildings. For purposes of this section, "new construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise odors, or other annoying or dangerous emissions detectable at lot boundaries. In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the last 2 years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use or a nonconforming use.

Sec. 27-786. Prohibition related to implementation of Part 1 of the recommendations of the Draft Ordinance Committee dated July 1, 2014.

Notwithstanding the provisions of Sec. 27-1517, Standards for Above Ground Storage Tanks, there shall be no installation, construction, reconstruction, modification, or alteration of new or existing facilities, structures, or equipment, including but not limited to those with the potential to emit air pollutants, for the purpose of bulk loading of crude oil onto any marine tank vessel in the

Commercial District or Shoreland Area Overlay District.
(Ord.No. 1-14/15, 7/7/14 [Fiscal Note: Less than $1000])

Secs. 27-787 - 27-789. Reserved.

MAIN STREET COMMUNITY COMMERCIAL MSCC

Sec. 27-800. Purpose (MSCC).

To provide a higher density, mixed residential and commercial hub within the Thornton Heights neighborhood of South Portland. This is a destination business district that effectively balances pedestrian accessibility and safety with the need to maintain vehicular mobility. It is a mixed-use center providing services to the surrounding neighborhood as well as to Main Street motorists.

Sec. 27-801. Permitted Uses (MSCC).

(a) *Residential:*

1. Single-family detached dwellings, exclusive of mobile homes, in existence as of April 1, 2014. After this date, new single-family detached dwellings are not permitted.

2. Attached single-family, two-family, and multi-family dwellings, exclusive of mobile homes.

3. Congregate care facilities, assisted living facilities, and nursing homes.

4. Combined living/working spaces, including, but not limited, to artist residences with studio space.

5. Congregate housing individual unit ownership facilities.

6. Community homes.

(b) *Hotels, motels, or other accommodation services:*

1. Hotels, motels, tourist lodging, not including trailers or mobile homes, but including a maximum of two (2) dwelling units for resident operators of tourist accommodations. Effective April 1, 2014, the conversion of any of these structures to dwellings is only permitted if both of the following standards are met:

   (a) Each dwelling unit is at least 600 sq. ft. in floor area and provides complete housekeeping facilities for one family; and

   (b) The building containing the dwelling units meets the design standards and all other standards applicable to new buildings in the Main Street Community Commercial zoning district.

2. Bed & breakfast inns.

(c) *Commercial:*

1. Medical, business, and professional offices.

2. Retail stores and service establishments, provided that such facilities may not be open to the public between the hours of 12:00 a.m. and 6:00 a.m. This provision does not include outdoor sales and service, gasoline filling stations, junkyards, salvage operations, warehouse discount stores, pawn shops, and alternative financial establishments.

3. Drive-through facilities for stores, shops, banks, and offices; drive-through facilities for restaurants or other establishments selling food or beverages are not permitted. Any microphone, speaker, or other device used for oral communication between customers in vehicles and service providers shall be a minimum of 25 feet from the property line and shall be situated and designed so as to minimize off-site aural impacts.

4. Personal and business services.

5. Restaurants and other places for the serving of food or beverages, provided that such facilities may not be open between the hours of 1:00 a.m. and 6:00 a.m.

(d) *Public assembly, institutional, or community facilities:*

1. Churches and parish houses.

2. Museums and art galleries.

3. Funeral homes, not including cemeteries.

4. Public and private educational facilities, including child, adult, or combined day care centers.

5. Municipal buildings and uses.

6. Charitable and philanthropic organizations.

(e) *Utility and related facilities:*

1. Municipal uses, including pumping stations.

(f) *Other:*

1. Accessory uses, including but not limited to accessory energy generation facilities.

2. Multiple/Mixed uses.

3. Studios for artists and craftspeople.

Sec. 27-802 Special Exceptions (MSCC).

(a) *Residential:*

1. Accessory dwelling units subject to the provisions of Sec. 27-1576 et seq.

(b) *Commercial:*

1. Outdoor sales, display and services, other than accessory uses as defined in Sec. 27-201, subject, in addition to other ordinance requirements, to the following terms and conditions:

   (i) The Planning Board may limit the percentage of area coverage;

   (ii) The Planning Board may restrict the outdoor sales, display, and services to a specific portion of the lot in question;

   (iii) The Planning Board may limit the time and/or number of units involved in such outdoor sales, display or service.

2. Motor vehicle repair shops provided that no unlicensed vehicles, or junked or wrecked vehicles will be permitted to be parked or stored on the premises, and no trucks, trailers, or buses will be permitted to remain parked upon the premises unless being worked upon or being serviced by employees of the shop.

3. Farmers' markets subject to the provisions of Sec. 27-1580 et seq.

(c) *Public assembly, institutional, or community facilities:*

1. Recreational or community activity facilities, whether operated on a for-profit or not-for-profit basis.

2. Theaters not exceeding 12,000 square feet in total building floor area.

(d) *Transportation-related facilities:*

1. Surface parking lots.

2. Multi-storied parking structures.

(e) *Utility and related facilities:*

1. Public utility facilities, including substations.

2. Radio, television, or wireless antennas, provided that telecommunication towers are not permitted.

Sec. 27-803. Space and bulk regulations (MSCC).

Minimum lot area:	3,500 sq. ft.
Maximum residential density:	Twenty-four (24) dwelling units per net residential acre.
Minimum building height for buildings constructed after April 1, 2014:	Twenty-four (24) feet.
Maximum building height:	Fifty (50) feet.
Maximum number of stories:	Three (3).
Minimum front yard setback:	Five (5) feet, provided that for construction of new structures after April 1, 2014, and further limited to front yards defined by Main Street, the area between a front wall of the structure and the front property line may not be used for parking or vehicular access, except for driveways.
Maximum front yard setback:	Fifteen (15) feet.
Minimum side and rear yard setbacks:	Side setback = none; rear setback = 20 feet; provided, however, (i) where the side or rear yard abuts

a residential zoning district, the buffering requirements of this Chapter shall be met; and (ii) where the side or rear yard abuts a residential zoning district and the principal or accessory building height exceeds thirty (30) feet, the applicable setback shall be a minimum of fifty (50) percent of the building height.

Minimum street frontage: Twenty-five (25) feet.

Maximum lot coverage: Eighty (80) percent.

Sec. 27-804. Off-street parking (MSCC)

(a) Off-street vehicle parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter.

(b) A minimum of 1.0 bicycle spaces per 30 required non-residential off-street parking spaces, or 3.0 bicycle spaces, whichever is greater, and 0.5 bicycle spaces per residential dwelling unit must be provided. Bicycle spaces shall be supplied through bicycle racks or other facilities providing secure storage for individual bicycles. Bicycle spaces shall be at least 2 feet 6 inches in width and 6 feet in length, with a minimum overhead vertical clearance of 7 feet. Racks and other fixtures must be securely affixed to the ground and allow for the bicycle to be locked and chained. The spaces may be indoors or outdoors and shall be located within 50 feet of the primary entrance. The spaces shall not be located behind any wall, shrubbery, or other visual obstruction lying between the principal building and the bicycle spaces. If required bicycle spaces are not visible from the street, signs must be posted indicating their location. Areas used for required bicycle parking shall be paved, drained, and well lighted. Spaces within

offices and commercial facilities, located on balconies, or within residential dwelling units shall not be counted toward required parking.

Sec. 27-805. Buffering (MSCC)

Sec. 5-58(5)(a) and other sections of the Code notwithstanding, any use in the Main Street Community Commercial zoning district that requires Site Plan approval from the Planning Board and that abuts a residential property in another zone must provide a buffer strip to physically separate and screen the use from abutting residential properties in a manner acceptable to the Planning Board. The buffer shall consist of trees, shrubs, fences, walls, berms, or any combination thereof. It must be a minimum of six (6) feet wide and extend along the entire length of any property line that is in or adjacent to the other zone. The screening from the buffer must be sufficient to ameliorate commercial or other non-residential views that otherwise would be detrimental to the quality of life of the abutting residential occupants and/or to their property values. Uses with driveways or other access ways at least ten (10) feet wide adjacent to a residential zoning district may satisfy the buffer width requirement by providing a fence or other screening between the drive/access way and the abutting lot without a width requirement for the fence or screening. In all cases the Planning Board shall determine the adequacy of the quality, function, height, and other characteristics of any proposed fencing, landscaping, or other buffering.

Sec. 27-806. Signs (MSCC)

Signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter.

Sec. 27-807. Site plan review (MSCC)

Any use allowed in this District, involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV; provided, that this section shall not apply to single-family detached dwellings or their accessory buildings. For purposes of this section, "new construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries.

In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the last two (2) years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use, or a nonconforming use.

Sec. 27-808. Design standards (MSCC).

All building construction or remodeling projects within the Main Street Community Commercial zoning district must comply with the Design Standards for Neighborhood Activity Centers in Sec. 27-1572 et seq.

Sec. 27-809. Applicability date (MSCC)

Notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, the applicability date of Ordinance

#14-13/14 adopting this zoning district is March 10, 2014, the date it first appeared on a City Council agenda.

(Ord. No. 14-13/14, 5/5/14 [Fiscal Note: Less than $1000])

ARTICLE VIII. Reserved

Secs. 27-810 – 27-900. Reserved.

ARTICLE IX. Industrial Districts

LIGHT INDUSTRIAL DISTRICT IL

Sec. 27-901. Purpose (IL).

The Light Industrial District is established to provide areas for light industrial, airport infrastructure and the development of airport related enterprises and other permitted or special exception uses which are designed, constructed, and maintained to be compatible in appearance, operation, and environmental impact with professional offices and office complexes. Sales and service establishments should be developed within centers that are planned as a unit. Airport Enterprises and airport infrastructure developed within the airport boundaries should be designed and constructed to be compatible in appearance and operation and environmental impact with existing airport complexes and infrastructure.

Sec. 27-902. Permitted uses (IL).

(a) Light industrial uses.

(b) Professional offices and office complexes.

(c) Business services.

(d) Financial services, not including branch banks or facilities for drive-through customer transactions.

(e) Accessory buildings and uses, including telecommunication antennas, except that such antennas may not be placed on exempt towers.

(f) Child, adult or combined day care centers

(g) Telecommunication towers. Site plan approval by the Planning Board is required.

(h) Aviation facilities and services expressly limited to the following:

(1) Administration;
(2) Air freight operations;
(3) Physical plant service, repair and storage;
(4) Charter flight service;
(5) Airport carrier operations, including ground support and fueling;
(6) Aircraft and aircraft accessory sales services;
(7) Flying school;
(8) Aircraft hangars;
(9) Access spurs;
(10) Parking lots associated with aviation facilities;
(11) Airport deicing fluid delivery and storage areas;
(12) Processing buildings, above and below ground storage tanks, pump stations and other related infrastructure required for spent aircraft deicing fluid recovery and recycling operations;
(13) Aircraft taxiways, taxilanes, aprons and lighting;
(14) Aircraft runways existing as of April 22, 2009, associated approach lighting, noise abatement measures, safety and communication related improvements and other infrastructure;
(15) Airport related stormwater control facilities;
(16) Special provisions as to restricted access areas:

16.1 Runways, taxiways, and other areas of the airport accessible to aircraft, whether access is restricted by the Federal Aviation Administration or not, shall be known as "restricted access areas" and must be subject to the special provisions of this section.

16.2 Use of lots in restricted areas shall be limited to uses which do not require or encourage access or visits by the public, but do provide technical administrative or other support to aviation operations.

16.3 Lots in restricted access areas shall not be subject to the provisions of Sec. 27-904 as to space and bulk regulations, or Sec. 27-908, (a), (c), (e), and (g), performance standards.

16.4 All construction requires site plan approval.

16.5 Maximum structure height: Seventy-five (75) feet, except within one hundred (100) feet of the "IL" zone in which the height limit shall be forty-five (45) feet. No structure or tree, however, shall be erected, altered, allowed to grow or maintained to a height in excess of that allowed by the applicable Federal Aviation Administration (FAA) regulation.

(17) Aviation and jet fuel storage at the Portland International Jetport, compliant with FAA, State & Federal regulations and accessory to general aviation facility uses located within South Portland. The combined total fuel storage capacity of all aviation and jet fuel storage tanks in that portion of the Portland International Jetport that is located within the municipal boundaries of South Portland shall not exceed 50,000 gallons (see also Sec. 27-1517) regarding above ground storage tanks as well as other pertinent provisions of the Code). Transportation of fuel to storage tanks in that portion of the Portland International Jetport that is located within the municipal boundaries of South Portland shall be permitted only via Jetport Plaza Road.

(i) Day Spa.

(j) Spa Training School, excluding dormitories.

(k) Research and development laboratories and offices.

(l) Post-Secondary or adult educational Services.

Sec. 27-903. Special exceptions (IL).

(a) Wholesale trade.

(b) Warehousing and distribution facilities.

(c) Public utility buildings, including substations, pumping stations and compressor stations.

(d) Government buildings and uses other than professional offices and office complexes.

(e) Community buildings and/or grounds for games, recreation or sports, provided that any such use does not generate a volume or frequency of traffic that is incompatible with the purpose of this district as set forth in Sec. 27-901 above.

(f) Membership sports or recreation clubs.

(g) Retail trade, ancillary to and located in a structure housing a permitted use or special exception (a) through (f).

(h) Personal services, ancillary to and located in a structure housing a permitted use or special exception (a) through (f).

(i) Restaurants, provided that there shall be no drive-through restaurants, ancillary to and located in a structure housing a permitted use or special exception (a) through (f).

Sec. 27-904. Space and bulk regulations (IL).

Minimum lot area: Thirty thousand (30,000) square feet.

Minimum street frontage: One hundred (100) feet.

Minimum front yards: Twenty (20) feet, provided that the yard shall be landscaped, remain unpaved except for sidewalks and access drives, and not be used for off-street parking, except that for subdivision lots which received final plan approval before July 20, 1987, and which were undeveloped as of July 20, 1987, the off-street parking regulations contained in Sec. 27-1556(k) shall apply.

Minimum side and rear yards: Twenty (20) feet or fifty (50) percent of the building height, whichever is greater, and the buffering requirements of this Chapter shall be met. The minimum side and rear setbacks can be eliminated by allowing for the location of covered passageways that cross property lines to join two buildings on adjacent lots within this zoning district. Owners of the lots on which any covered passageway is built in accordance with this section shall execute a written agreement stating their consent to the elimination of the setbacks. The owners shall record the agreement within ninety (90) days of its execution in the Cumberland County Registry of Deeds and submit 3 copies of the recorded agreement to the Planning Department.

Maximum building height: Forty-five (45) feet, except that buildings may have a height of up to ninety (90) feet if the following standards are met:

(1) The lot is at least two (2) acres in size;

(2) The front setback is at least thirty (30) feet and the yard is landscaped and remains unpaved except for sidewalks and access drives and is not used for off-street parking. The exemption for landscaping of subdivision lots approved before July 20, 1987 and undeveloped as of July 20, 1987 shall not apply to any building above forty-five (45) feet high.

Maximum building coverage: Thirty (30) percent.

Minimum landscaped open space: Twenty-five (25) percent of gross lot area.

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

Telecommunication towers, maximum height: Two hundred (200) feet, except that the maximum height shall be one hundred (100) feet if the tower is located within five hundred (500) feet of residential districts A, AA, or G.

Telecommunication towers, yard setbacks: Minimum 100% of tower height if the tower is located within one hundred (100) feet of residential districts A, AA, or G; otherwise equivalent to existing yard setbacks for buildings.

Sec. 27-905. Off-street parking (IL).

Off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter.

Sec. 27-906. Signs (IL).

Subject to the provisions of Sec. 27-908, signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter.

Sec. 27-907 Site plan review (IL).

Any use allowed in the Light Industrial District IL involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV. For purposes of this section, "new construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located.

The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries. In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the last 2 years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use or a nonconforming use.

Sec. 27-908. Performance standards (IL).

In the Light Industrial District (IL) the following performance standards shall be met in all cases to ensure that the proposed development or use is compatible in appearance, operation, and environmental impact with professional offices and office complexes. An applicant for subdivision, site plan, or special exception approval shall furnish satisfactory written evidence to the Planning Board that the proposed use will meet these standards. If no Planning Board review is required under this Chapter, an applicant for a building or occupancy permit

shall furnish satisfactory evidence to the Code Enforcement Officer that the proposed use will meet these standards.

(a) Development proposals shall include a landscape program to illustrate the proposed development and maintenance of open space, roads, paths, and service and parking areas. All land areas not covered by structures, parking area or circulation facilities shall be landscaped and maintained. Existing natural vegetation may be used when determined by the Planning Board to comply with the purpose and intent of this district.

(b) Development proposals shall include a drainage and erosion control program complying with the substantive provisions of Sec. 24-19(17) and Sec. 24-43 of the Code.

(c) Development proposals shall include a program providing for sidewalks illustrating the manner in which the developer will provide these amenities without detracting from the aesthetics of the district.

(d) Development proposals shall include a full disclosure of any and all signs proposed to be located on the property including, but not limited to, an indication of their size, illumination, landscaping, setbacks, specific locations, heights and construction materials, provided that signs shall be restricted as follows:

(i) No flashing, rotating or intermittent signs.

(ii) No more than one free-standing sign for each building, no more than one building-mounted sign on each side of the building, and no more than one sign for each entrance to the lot; provided that no such sign shall exceed sixty (60) square feet in surface area per face; and

(iii) Signs shall not exceed twenty-five (25) feet in height; provided, no sign shall exceed the height of the closest building on the lot.

The burden shall be upon the applicant to demonstrate that the signage plan has not compromised the aesthetics of the district.

(e) Development proposals shall include a program of buffers including, but not limited to, an identification of their location, composition, maintenance and ability to remain compatible with large expanses of impervious surface or

parking areas. All areas dedicated for mechanical appurtenances or waste disposal shall be screened from view;

(f) Development proposals shall contain sufficient assurances that the proposal shall not be hazardous, obnoxious, offensive, or unsightly by reason of odor, sound vibration, radioactivity, electrical interference, glare, liquid or solid wastes, smoke or other air pollutants, or other distractions.

(g) Development proposals shall include a program identifying the extent to which the developer shall preserve natural features including, but not limited to, trees or other vegetation, floodplains, rock outcroppings, surface water bodies, water quality, and wetlands; provided, any such program shall consider and be sensitive to the need to preserve such natural features.

(h) Development proposals shall include a program identifying all proposed traffic controls, parking areas, interior traffic circulation, traffic interface with public highways, and the demonstration that additional traffic generated by the project itself can be accommodated on existing public highways.

(i) Architectural renderings of the buildings and signage showing the general design concept and materials shall be required and shall constitute a condition of approval.

(j) Development proposals shall indicate proposed impact on all public utilities and the proposal shall provide for satisfactory improvements thereto, if necessary, at the applicant's cost.

(k) Development proposals shall include the commencement and completion dates for each portion of the project proposed to be constructed in phases or sections, and the provisions of subsections (a) through (j) above shall apply to each such phase or section.

Secs. 27-909 - 27-920. Reserved.

SHIPYARD DISTRICT S

Sec. 27-921. Purpose (S).

The Shipyard District S is established to promote the Shipyard area in South Portland as a robust waterfront center for office complexes, commercial uses, marine uses, and light industrial activities. The Shipyard District S seeks to maintain the conforming status of existing businesses, to prevent residential development and associated land use conflicts, and to minimize the impacts of development on adjacent zoning districts. The uses allowed in the Shipyard District shall be in compliance with the performance standards of this and all other applicable ordinances of the City of South Portland.

Sec. 27-922. Permitted uses (S).

The following uses are permitted in the Shipyard District S:

(a) Business and professional offices and office complexes.

(b) Business services.

(c) Financial services.

(d) Hotels, motels, and inns.

(e) Restaurants and other places for the serving of food or beverages, provided, however, such facilities may not be open between the hours of 1:00 a.m. and 6:00 a.m.

(f) Light industrial uses.

(g) Petroleum storage tank farms and accessory piers, pumping & distribution facilities as governed by all applicable sections of the Code.

(h) General bottled gas distribution and bottling of non-flammable and non-toxic gases.

(i) Marine uses.

(j) Piers and wharves used for permitted uses of this zoning district.

(k) Accessory buildings and uses, including child, adult or combined day care centers, and including telecommunication antennas, except that such antennas may not be placed on exempt towers, and provided that no premises shall be used for both the washing of motor vehicles and the sale or dispensing of gasoline or any flammable liquids.

(l) Municipal parks.

(m) Public utility buildings, including substations, pumping stations and compressor stations.

(n) Storing and handling of petroleum and/or petroleum products subject to the provisions of Sec. 27-1517, excluding automobile filling stations; provided, however, that any such storing and handling of petroleum and/or petroleum products shall not include the bulk loading of crude oil onto any marine tank vessel.

(Ord. No. 1-14/15, 7/7/14 [Fiscal Note: Less than $1000])

Sec. 27-923. Special exceptions (S).

The following uses are permitted as special exceptions only if any such use conforms to Article XIV of this Chapter and all other applicable ordinances and regulations of the City of South Portland:

(a) Wholesale trade.

(b) Warehousing and distribution facilities.

(c) Government buildings and uses other than professional offices and office complexes.

(d) Community buildings and/or grounds for games, recreation or sports.

(e) Membership sports or recreation clubs.

(f) Retail businesses and service establishments, other than business and financial services as permitted above, exclusive of junkyards and salvaging operations.

(g) Monopole telecommunication towers.

(h) Piers and wharves used for special exception uses of this zoning district.

(i) Farmers' market subject to the provisions of Sec. 27-1580 et seq.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000])

Sec. 27-924. Limitation on uses (S).

(a) No building or structure shall be erected, altered or used and no premises shall be used except for one or more of the uses designated as permitted uses or special exceptions identified in this Article.

Sec. 27-925. Performance standards (S).

In the Shipyard District (S) the following performance standards shall be met in all cases to ensure that the proposed development or use is compatible with other allowed uses, preserves open and landscaped open space, and minimizes the potential conflict among uses in the district. An applicant for subdivision, site plan, or special exception approval shall furnish satisfactory written evidence to the Planning Board that the proposed use will meet these standards. If no Planning Board review is required under this Chapter, an applicant for a building or occupancy permit shall furnish satisfactory evidence to the Code Enforcement Officer that the proposed use will meet the standards.

(a) Development proposals shall include a landscape plan showing all proposed landscaped and open areas on the site. The plan shall show the proposed treatment of the setback areas and any other areas where landscaping is proposed. Existing natural vegetation may be used when the Planning Board determines that it complies with the purpose and intent of this district.

(b) Development proposals shall include a drainage and erosion control program complying with the substantive provisions of Sec. 24-19(17) and Sec. 24-43 of the Code.

(c) Development proposals shall include a program providing for sidewalks, paths, and other pedestrian circulation systems to connect the development to existing public sidewalks or pathways in the immediate vicinity of the site.

(d) Development proposals shall indicate the location, size, and design of all signs. Except as otherwise required by safety regulations, the signs shall conform to the standards of Sec. 27-1561 et seq. and the following additional requirements:

(i) The maximum height of a freestanding sign shall be ten (10) feet.

(ii) Each use may have one freestanding sign not to exceed sixty (60) square feet in area.

(iii) Each parcel may have a directional sign at each point of vehicular or pedestrian access not exceeding twenty-four (24) square feet in area.

(iv) Each use may have an unlimited number of signs attached to the building or buildings in which the use is located, but the combined area of attached signs for any use shall not exceed one hundred (100) square feet of sign area.

(v) No flashing, rotating, or intermittent signs shall be permitted.

(e) Development proposals shall include a landscaped buffer if the parcel abuts a residential district. The site plan shall show the details of the proposed buffer including, but not limited to, an identification of their location, composition, maintenance, and ability to remain compatible with large expanses of impervious surface or parking areas. All areas dedicated for mechanical appurtenances or waste disposal shall be screened from view if they will be visible from a public street.

(f) Development proposals shall conform to the performance of standards of this ordinance; in the case of conflicts, the more restrictive standards shall apply.

(g) Development proposals shall include a program identifying all proposed traffic controls, parking areas, interior traffic circulation and traffic interface with public roadways, and shall demonstrate that additional traffic generated by the project itself can be accommodated on

existing public roadways or that satisfactory improvements, if necessary, will be made at the developer's cost.

(h) Architectural drawings of the buildings and signage showing the general design concept and materials shall be required and shall constitute a condition of approval.

(i) Development proposals shall indicate proposed impact on all public utilities and the proposal shall provide for satisfactory improvements thereto, if necessary, at the developer's cost.

(j) Development proposals shall include the commencement and completion dates for each portion of the project proposed to be constructed in phases or sections, and the provisions of subsections (a) through (i) above shall apply to each such phase or section.

Sec. 27-926. Space and bulk regulations (S).

Minimum lot area: Thirty thousand (30,000) square feet.

Minimum street frontage: Twenty-five (25) feet.

Minimum front yard setback: Twenty (20) feet.

Minimum side yards: Twenty (20) feet.

Minimum rear yards: Twenty (20) feet.

At least 50% of the width of the required setback yards shall be landscaped and shall not be used for parking or storage but may be crossed by access or service drives.

Maximum building height: Eighty-six (86) feet, except that stacks for ventilation purposes may be constructed to such greater height as may be reasonably necessary for the safe, efficient and/or healthful operation of the enterprise.

Maximum Building Coverage of Lot: Sixty-five (65) percent.

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

Telecommunication towers, maximum height: One hundred fifty (150) feet, except that the maximum height shall be one hundred (100) feet if the tower is located within five hundred (500) feet of residential districts A, AA or G. A monopole tower may be a maximum height of one hundred eighty (180) feet

only if it provides for co-location in its initial application, and this is evidenced by having two or more co-applicants.

The Board of Appeals may grant a variance of the maximum tower height where, because of the topography of a particular property, a greater height is necessary for the effective use of the tower and the property otherwise meets the variance requirements of State law.

Telecommunication towers, all yard setbacks: Minimum 100% of tower height.

Sec. 27-927. Off-street parking (S).

Off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter.

Sec. 27-928. Signs (S).

Signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter.

Sec. 27-929. Site plan review (S).

Any use allowed in the Shipyard District S involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV. For purposes of this section, "new construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries. In determining for meaning (c) above the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of

the building within the last 2 years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use or a nonconforming use.

Sec. 27-930. Prohibition related to implementation of Part 1 of the recommendations of the Draft Ordinance Committee dated July 1, 2014.

Notwithstanding the provisions of Sec. 27-1517, Standards for Above Ground Storage Tanks, there shall be no installation, construction, reconstruction, modification, or alteration of new or existing facilities, structures, or equipment, including but not limited to those with the potential to emit air pollutants, for the purpose of bulk loading of crude oil onto any marine tank vessel in the Shipyard District or Shoreland Area Overlay District.

(Ord. No. 1-14/15, 7/7/14 [Fiscal Note: Less than $1000])

Sec. 27-931 — 27-940. Reserved.

INDUSTRIAL DISTRICT I

Sec. 27-941. Purpose (I).

To provide districts within the City of South Portland for manufacturing, processing, treatment, research, warehousing, storage and distribution and to which end all the performance standards as set forth in this Chapter and all other applicable ordinances of the City of South Portland shall apply.

Sec. 27-942. Permitted uses (I).

(a) In industrial districts no building shall be erected, altered or used and no premises shall be used except for one or more of the purposes listed below:

(1) Manufacturing, storing and distributing: Any manufacturing, processing and assembling operations; research and development; storing, warehousing and distributing; transportation terminals and rights-of-way; shops of tradesmen; and operations clearly similar in nature to the specific uses named above. The storing and handling of petroleum and/or petroleum products is governed by Sec. 27-1517.

The applicant for a building or occupancy permit shall show by written exhibit attached to the application for permit that the use shall not be noxious, offensive or detrimental to the vicinity or to the city by reason of special danger of fire or explosion, pollution of waterways, emission of corrosive, toxic or noisome fumes, gas, smoke, soot, obnoxious dust, disagreeable odors, offensive noises or vibrations or other objectionable characteristics, provided that on petition, after a refusal of permit by the Building Inspector, the Board of Appeals may issue a permit for a use which, in its judgment and because of special conditions imposed by it, will not be dangerous or detrimental to the neighborhood.

(2) Accessory buildings and uses, including telecommunication antennas, except that such antennas may not be placed on exempt towers, and provided that no premises shall be used for both the washing of motor vehicles and the sale or dispensing of gasoline or any flammable liquids.

(3) Any use permitted in Commercial District C Zone provided that all residential uses shall meet the space and bulk regulations set forth in Sec. 27-946.

(4) Child, adult or combined day care centers.

Sec. 27-943. Special exceptions (I).

(a) Municipal buildings and municipal uses.

(b) Pumping stations, compressor stations, substations, sewerage treatment facilities and public utility facilities.

(c) Extractive industry subject to the performance standards of this Chapter.

(d) Automotive filling stations provided that gasoline pumps or other service appliances shall not extend nearer than twenty-five (25) feet to the street line and that no unlicensed vehicles, or junked or wrecked vehicles will be permitted to be parked or stored on the premises, and no trucks, trailers, or buses will be permitted to remain parked upon the premises unless being worked upon or being serviced by employees of the station.

(e) Monopole telecommunication towers.

(f) Accessory dwelling units subject to the provisions of Sec. 27-1576 et seq.

(g) Farmers' market subject to the provisions of Sec. 27-1580 et seq.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000])

Sec. 27-944. Prohibited uses (I).

No building or structure shall be erected, altered, enlarged, rebuilt, or used and no premises shall be used for any of the following specified trades, industries or uses:

(1) Ammonia, bleaching powder or chlorine manufacture or refining.

(2) Asphalt manufacture or refining.

(3) Blast furnace.

(4) Bulk loading of crude oil onto any marine tank vessel.

(5) Cement, gypsum, lime, or plaster of Paris manufacture.

(6) Coke manufacture.

(7) Creosote manufacture.

(8) Dextrine, glucose or starch manufacture.

(9) Distillation of bones, coal or wood, or manufacture of any of their by-products. (10) Dye manufacture.

(11) Explosives or fireworks manufacture, or storage in excess of five hundred (500) pounds.

(12) Fat, grease, lard or tallow manufacture, refining or rendering.

(13) Fertilizer manufacture.

(14) Gas (fuel or illuminating) manufacture in excess of one thousand (1,000) cubic feet per day, or storage in excess of ten thousand (10,000) cubic feet, except that plants for the manufacture, compression and storage of acetylene gas in cylinders and plants for storage and charging of liquefied petroleum gas (defined as any material which is composed predominantly of any of the following hydrocarbons or mixtures of them: Propane, propylene, butane, and butylene) into cylinders may be operated in buildings, on structures, and in storage spaces designed, constructed, and installed in accordance with the Building Code and located not nearer than one hundred (100) feet from the nearest street line, property line, or tidewater, nor nearer than fifty (50) feet from a railroad right-of-way, without the foregoing limitations as to quantities thereof stored or manufactured.

(15) Gelatin, glue or size manufacture.

(16) Hair processing.

(17) Hot rolling mill.

(18) Hydrochloric, nitric, picric, sulfuric, or sulphurous acid manufacture.

(19) Incineration, cremation, or reduction of dead animals, garbage, offal, or refuse except by the City, or its agents, and except when accumulated and consumed on the same premises without the emission of odor.

(20) Lampblack manufacture.

(21) Linoleum or oilcloth manufacture.

(22) Match manufacture.

(23) Metal or ore reduction or smelting.

(24) Refining of petroleum or other flammable liquids or the manufacture of petroleum products or other flammable liquids.

(25) Pyroxylin manufacture, manufacture of articles thereof, or storage in excess of five hundred (500) pounds unless in a vault approved by the inspector of buildings.

(26) Rubber manufacture or treatment involving offensive odor.

(27) Slaughtering, except as permitted by the Director of Health.

(28) Stockyards.

(29) Tanning, curing, or storage of raw hides or skins.

(30) Tar distillation or manufacture.

(31) Turpentine or varnish manufacture.

(32) Any other trade, industry, or use that is injurious, noxious, or offensive to a neighborhood by reason of the emission of fumes, dust, smoke, vibration, or noise to a degree in excess of the performance standards as set forth in Article XV of this Chapter.

(Ord. No. 1-14/15, 7/7/14 [Fiscal Note: Less than $1000])

Sec. 27-945. Space and bulk regulations (I).

The following shall apply to all nonresidential building in the district:

Minimum lot area: Thirty thousand (30,000) square feet.

Maximum building coverage of lot: Forty (40) per cent.

Minimum street frontage: One hundred (100) feet.

Minimum front yard setback: Twenty (20) feet.

Minimum side yards: Twenty (20) feet.

Minimum rear yards: Twenty (20) feet.

Maximum building height: Eighty-six (86) feet, except that stacks for ventilation purposes may be constructed to such greater

height as may be reasonably necessary for the safe, efficient, and/or healthful operation of the enterprise.

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

Telecommunication towers, maximum height: One hundred fifty (150) feet, except that the maximum height shall be one hundred (100) feet if the tower is located within five hundred (500) feet of residential districts A, AA or G. A monopole tower may be a maximum height of one hundred eighty (180) feet only if it provides for co-location in its initial application, and this is evidenced by having two or more co-applicants.

The Board of Appeals may grant a variance of the maximum tower height where, because of the topography of a particular property, a greater height is necessary for the effective use of the tower and the property otherwise meets the variance requirements of State law.

Telecommunication towers, all yard setbacks: Minimum 100% of tower height.

Sec. 27-946. Residential space and bulk regulations (I).

The following shall apply to all residential buildings in the district:

Maximum net residential density: Seventeen (17) dwelling units per net residential acre.

Minimum lot area: Seven thousand five hundred (7,500) square feet.

Minimum street frontage: Seventy-five (75) feet.

Minimum front yards, all buildings: Twenty (20) feet.

Minimum rear and side yards:

Principal buildings: Fifteen (15) feet, except that principal buildings higher than thirty (30) feet shall have side and rear yards not less than fifty (50) percent of building height.

Accessory buildings: Six (6) feet rear yard.

Accessory buildings: Six (6) feet side yard.

Maximum building height: Eighty-six (86) feet.

Maximum building coverage: Thirty-three (33) per cent.

Minimum distance between principal buildings on same lot: The height equivalent of the taller buildings.

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

Sec. 27-947. Off-street parking (I).

Off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter.

Sec. 27-948. Signs (I).

Signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter.

Sec. 27-949. Site plan review (I).

Any use allowed in the Industrial District I, involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV; provided, that this section shall not apply to single-family detached dwellings or their accessory buildings. For purposes of this section, "new construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries. In determining the relative degree of impact of a proposed use, the comparison shall be to either (i)

the most recent lawful use of the building or (ii) any lawful use of the building within the last 2 years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use or a nonconforming use.

Secs. 27-950 – 27-960. Reserved.

NON-RESIDENTIAL INDUSTRIAL DISTRICT INR

Sec. 27-961. Purpose (INR).

The non-residential industrial district (INR) is established to provide areas within the City of South Portland for manufacturing, processing, treatment, research, warehousing, storage and distribution activities which are separated from residential uses. No building shall be erected, altered or used and no premises shall be used except for one or more of the uses designated as permitted uses or special exceptions identified in this Article and such uses shall be subject to the performance standards set forth in this Chapter and to all other applicable ordinances of the city.

Sec. 27-962. Permitted uses (INR).

The following uses are permitted in the non-residential industrial district (INR):

(1) Manufacturing, storing and distributing: Any manufacturing, processing and assembling operations; research and development; storing, warehousing and distributing; transportation terminals, and rights-of-way; shops of tradesmen; and operations clearly similar in nature to the specific uses named above. The storing and handling of petroleum and/or petroleum products is governed by Sec. 27-1517.

The applicant for a building or occupancy permit shall show by written exhibit attached to the application for permit that the use shall not be noxious, offensive or detrimental to the vicinity or to the city by reason of special danger of fire or explosion, pollution of waterways, emission of corrosive, toxic, obnoxious, offensive or noisome fumes, gas, smoke, soot, dust, or creation of odors, offensive noises or vibrations or other objectionable characteristics, provided that on petition, after a refusal of permit by the Building Inspector, the Board of Appeals may issue a permit for a use which, in its judgment and because of special conditions imposed by it, will not be dangerous or detrimental to the vicinity.

(2) Accessory buildings and uses, including telecommunication antennas, except that such antennas may not be placed on exempt towers.

(3) Any use permitted in Commercial District C Zone, provided that no residential uses shall be allowed in the Non-Residential Industrial District (INR).

(4) Child, adult or combined day care centers.

(5) Telecommunication towers. Site plan approval by the Planning Board is required.

(6) Meteorological tower (MET tower) on property identified by the City of South Portland as Assessor's Map 56, Lot 4D.

Sec. 27-963. Special exceptions (INR).

The following uses are permitted as special exceptions only:

(1) Municipal buildings and municipal uses.

(2) Pumping stations, compressor stations, substations, sewerage treatment facilities, and public utility facilities.

(3) Extractive industry subject to the performance standards of this Chapter.

(4) Automotive filling stations provided that gasoline pumps or other service appliances shall not extend nearer than twenty-five (25) feet to the street line and that no unlicensed vehicles, or junked or wrecked vehicles will be permitted to

be parked or stored on the premises, and no trucks, trailers, or buses will be permitted to remain parked upon the premises unless being worked upon or being serviced by employees of the station.

(5) Sorting center for construction and demolition material.

(6) Combined motor vehicle washing and gasoline or any other flammable liquids sale or dispensing. Special attention must be made to meet site plan requirements regarding traffic and adequate separation of car wash drainage from the flammable liquid dispensing area.

(7) Automobile graveyards, automobile recycling businesses or junkyards, provided that they meet the standards set forth in Sec. 27-970.

(8) Medical marijuana dispensary.

(9) Farmers' market subject to the provisions of Sec. 27-1580 et seq.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000])

Sec. 27-964. Prohibited uses (INR).

No building or structure shall be erected, altered, enlarged, rebuilt, or used and no premises shall be used for any of the following specified trades, industries, or uses:

(1) Ammonia, bleaching powder, or chlorine manufacture or refining.

(2) Asphalt manufacture or refining.

(3) Blast furnace.

(4) Bulk loading of crude oil onto any marine tank vessel.

(5) Cement, gypsum, lime, or plaster of Paris manufacture.

(6) Coke manufacture.

(7) Creosote manufacture.

(8) Dextrine, glucose, or starch manufacture.

(9) Distillation of bones, coal, or wood, or manufacture of any of their by-products.

(10) Dye manufacture.

(11) Explosives or fireworks manufacture, or storage in excess of five hundred (500) pounds.

(12) Fat, grease, lard, or tallow manufacture, refining or rendering.

(13) Fertilizer manufacture.

(14) Gas (fuel or illuminating) manufacture in excess of one thousand (1,000) cubic feet per day, or storage in excess of ten thousand (10,000) cubic feet, except that plants for the manufacture, compression, and storage of acetylene gas in cylinders and plants for storage and charging of liquefied petroleum gas (defined as any material which is composed predominantly of any of the following hydrocarbons or mixtures of them: Propane, propylene, butane, and butylene) into cylinders may be operated in buildings, on structures, and in storage spaces designed, constructed, and installed in accordance with the Building Code and located not nearer than one hundred (100) feet from the nearest street line, property line, or tidewater, nor nearer than fifty (50) feet from a railroad right-of-way, without the foregoing limitations as to quantities thereof stored or manufactured.

(15) Gelatin, glue or size manufacture.

(16) Hair processing.

(17) Hot rolling mill.

(18) Hydrochloric, nitric, picric, sulfuric, or sulphurous acid manufacture.

(19) Incineration, cremation, or reduction of dead animals, garbage, offal, or refuse except by the City, or its agents, and except when accumulated and consumed on the same premises without the emission of odor.

(20) Lampblack manufacture.

(21) Linoleum or oilcloth manufacture.

(22) Match manufacture.

(23) Metal or ore reduction or smelting.

(24) Refining of petroleum or other flammable liquids or the manufacture of petroleum products or other flammable liquids.

(25) Pyroxylin manufacture, manufacture of articles

thereof, or storage in excess of five hundred (500) pounds unless in a vault approved by the Building Inspector.

(26) Rubber manufacture or treatment involving offensive odor.

(27) Slaughtering, except as permitted by the Director of Health.

(28) Stockyards.

(29) Tanning, curing, or storage of raw hides or skins.

(30) Tar distillation or manufacture.

(31) Turpentine or varnish manufacture.

(32) Any other trade, industry, or use that is injurious, noxious, or offensive to a neighborhood by reason of the emission of fumes, dust, smoke, vibration, or noise to a degree in excess of the performance standards as set forth in Article XV of this Chapter.

(Ord. No. 1-14/15-7/7/14 [Fiscal Note: Less than $1000])

Sec. 27-965. Space and bulk regulations (INR).

Minimum lot area: Thirty thousand (30,000) square feet.

Maximum building coverage of lot: Forty (40) percent.

Minimum street frontage: One hundred (100) feet.

Minimum front yard setback: Twenty (20) feet.

Minimum side yards: Twenty (20) feet.

Minimum rear yards: Twenty (20) feet.

Maximum building height: Eighty-six (86) feet, except that stacks for ventilation purposes may be constructed to such greater height as may be reasonably necessary for the safe, efficient and/or healthful operation of the enterprise.

Meteorological tower, maximum height: One hundred twenty (120) feet.

Meteorological tower, yard setbacks: Minimum of 100% of tower height from any property boundary; two hundred (200) feet from any residential zoning district.

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

Telecommunication towers, maximum height: Two hundred (200) feet, except that the maximum height shall be one hundred (100) feet if the tower is located within five hundred (500) feet of residential districts A, AA, or G.

Telecommunication towers, yard setbacks: Minimum 100% of tower height if the tower is located within one hundred (100) feet of residential districts A, AA, or G; otherwise, equivalent to existing yard setbacks for buildings.

Sec. 27-966. Off-street parking (INR).

Off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter.

Sec. 27-967. Signs (INR).

Signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter.

Sec. 27-968. Site plan review (INR).

Any use allowed in the non-residential industrial district (INR) involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV. For purposes of this section, "new construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors,

or other annoying or dangerous emissions detectable at lot boundaries. In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the last 2 years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use or a nonconforming use.

Sec. 27-969. Submission requirements for applications for special exception approval of an automobile graveyard, automobile recycling business or junkyard (INR).

In addition to the general application requirements pursuant to this Chapter, applicants for special exception approvals for automobile graveyards, automobile recycling businesses or junkyards must submit the following:

A. Results of environmental tests at the site of the proposed facility conducted within the immediately preceding twelve months showing levels of priority pollutants and any other pollutants tested for in the soil, surface water and groundwater.
B. The maximum storage height of any piles of metal or other material.
C. The location of any areas on the site used for processing, preparing or storage of materials.
D. The location of any sand and/or gravel aquifer and/or any sand or gravel aquifer recharge area as described on the Maine Geological Survey significant aquifer map for the Portland West Quadrangle (GSM Map No. 99-11) or as mapped by a State of Maine certified geologist or other competent professional.
E. The location of any residences, schools, public parks, public playgrounds, public bathing beaches, churches, or cemeteries within 500 feet of the area where metal and/or materials will be stored or processed.
F. The boundaries of the 100-year floodplain.
G. A description of the types of metal or other materials proposed to be processed at the site.
H. A statement of the average volume of metal or other material proposed to be handled at the site annually.
I. A description of the method of handling metal or other material and the destination to which metal or other material is to be sent.

J. A noise control plan or demonstration of minor sound impact as required by Sec. 30-6 of the Code.

Sec. 27-970. Standards for automobile graveyards, automobile recycling businesses and junkyards (INR).

A. Highways; Interstate System and Primary System. An automobile graveyard or junkyard may not be located within 1,000 of the right-of-way of any highway incorporated in both the Interstate System and Primary System or within 600 feet of the right of way of any other highway, except for:

1. Those automobile graveyards or junkyards that are kept entirely screened from ordinary view from the highway at all times by natural objects, plantings or fences. Required screening must be:
(a) at a height, density and depth sufficient to accomplish complete screening from ordinary view;
(b) well constructed and property maintained at a minimum height of 6 feet;
(c) placed outside of the highway right-of-way; and
(d) acceptable to the Municipal Officers; and

2. Those automobile graveyards or junkyards located within areas that have been zoned for industrial use and located more than 600 feet but less than 1,000 feet from the right-of-way of any highway incorporated in both the Interstate System and Primary System.

For purposes of this section, "highway" shall mean any public way, and Interstate system" shall mean those portions of the Maine Turnpike and the state highway system incorporated in the National System of Interstate and Defense Highways, as officially designated by the Department of Transportation.

B. Limitation on new automobile graveyards or junkyards. An approval may not be granted for an automobile graveyard or junkyard established after October 3, 1973 and located within 100 feet of any highway.

C. Public facilities. An approval may not be granted for an automobile graveyard or junkyard that is:

1. Located within 300 feet of a public building, public park, public playground, public beach, school, church or cemetery; and
2. Within ordinary view from a public building, public park, public playground, public beach, school, church or cemetery.

D. Residences. An approval may not be granted for an automobile graveyard, automobile recycling business or junkyard that is located within 1000 feet of the zone line of any zoning district in South Portland or Scarborough in which residential uses are permitted.

E. Public and private water supplies. An approval may not be granted for an automobile graveyard, junkyard or automobile recycling business that handles junk, scrap metal, vehicles or other solid waste within 300 feet of a well that serves as a public or private water supply. This prohibition does not include a private well that serves only the automobile graveyard, junkyard, automobile recycling business or the owner's or operator's abutting residence. This prohibition does not apply to wells installed after an automobile graveyard, junkyard or automobile recycling business has already received an approval from the Planning Board and a license from the City Council.

Automobile graveyards, junkyards and automobile recycling businesses operating under the terms of licenses issued prior to November 6, 2005 and handling junk, scrap metal, vehicles or other solid waste within 300 feet of wells that serve as public or private water supplies may continue to operate in those locations under the terms of those licenses. The Planning Board may approve a special exception application allowing the continued handling of junk, scrap metal or other solid waste within 300 feet of a well serving as public or private water supply as long as no further encroachment toward the well occurs and there is no evidence of contamination of the well.

F. Operating standards for automobile graveyards and junkyards. All automobile graveyards and junkyards must comply with the following operating standards to be approved as a special exception:

1. All fluids, including, but not limited to, engine lubricant, transmission fluid, brake fluid, battery acid, engine coolant, gasoline and oil, must be

properly handled in such a manner that they do not leak, flow or discharge into or onto the ground or into a body of water;

2. A vehicle containing fluids may not be stored or dismantled:
   (a) Within 100 feet of any body of water or freshwater wetland, as defined by 38 M.R.S.A. § 436-A(5), as may be amended;
   (b) Within the 100-year floodplain; or
   (c) Over a mapped sand and gravel aquifer;
3. Junk, scrap metal, vehicles or other solid wastes may not be placed or deposited, directly or indirectly, into the inland waters or tidal waters of the State or on the ice of inland waters or tidal waters or on the banks of inland waters or tidal waters in such a manner that they may fall or be washed into these waters; and
4. Junkyard and automobile graveyard owners must demonstrate that the facility or facilities for which they seek approval are, or are part of, a viable business entity engaged in the business of salvaging, recycling, dismantling, processing, repairing or rebuilding junk or vehicles for the purpose of sale, trade or personal use.
5. All areas of the site on which metal or other materials will be handled or stored must be covered by pavement, concrete or similar impervious surface sufficient to protect soil, groundwater, streams, water bodies or wetlands on- and off-site.
6. The maximum height of any pile of metal or other materials stored or handled at the site is thirty (30) feet.
7. To reduce the impact of noise, all mechanized sorting, baling or processing of metals or other materials outdoors shall be limited to the hours between 7:00 a.m. and 7:00 p.m. Monday through Saturday. Materials delivered by motor vehicle to be handled or processed may only be delivered to the site between the hours of 7:00 a.m. and 3:30 p.m.

   This limitation on hours is in addition to the provisions of Chapter 30, Control of Noise from New Development.
8. No on-street queuing of motor vehicles making deliveries shall be permitted.

G. Operating standards for automobile recycling businesses. An automobile recycling business must comply with the

following operating standards to be approved as a special exception:

1. The site of the yard must be enclosed by a visual screen that complies with the screening requirement of subsection (A) of this section;
2. A vehicle containing fluids may not be stored within 100 feet of any body of water or freshwater wetland, as defined by 38 M.R.S.A. § 436-A(5), as may be amended;
3. A vehicle may not be dismantled or stored within 500 feet of a school, church, cemetery or public playground or park that existed on the date the special exception approval was granted;
4. A vehicle may not be dismantled or stored over a sand and gravel aquifer or aquifer recharge area;
5. A vehicle containing fluids may not be dismantled or stored within the 100-year floodplain;
6. Except as provided in subsection E of this section, a vehicle may not be dismantled or stored within 300 feet of a well that serves as a public or private water supply, excluding a private well that serves only the automobile recycling business or the owner or operator's abutting residence;
7. A vehicle may not be located or dismantled closer than 20 feet from any lot line, unless the operator has notarized written permission from the abutting property owner; and
8. Dismantling of a vehicle must be performed in accordance with the following standards:

   (a) The battery must be removed.
   (b) Engine lubricant, transmission fluid, brake fluid and engine coolant must be drained into watertight, covered containers and must be recycled or disposed of in accordance with applicable federal or state laws, rules or regulations.
   (c) Fluids from a vehicle may not be permitted to flow or be discharged into or onto the ground,
   (d) The recycling operation must comply with all applicable federal or state laws related to hazardous materials.
9. All areas of the site on which metal or other materials will be handled or stored must be covered by pavement, concrete or similar impervious surface

sufficient to protect soil, groundwater, streams, water bodies or wetlands on- and off-site.

10. The maximum height of any pile of metal or other materials stored or handled at the site is thirty (30) feet.
11. To reduce the impact of noise, all mechanized sorting, baling or processing of metals or other materials outdoors shall be limited to the hours between 7:00 a.m. and 7:00 p.m. Monday through Saturday. Materials delivered by motor vehicle to be handled or processed may only be delivered to the site between the hours of 7:00 a.m. and 3:30 p.m. This limitation on hours is in addition to the provisions of Chapter 30, Control of Noise from New Development.
12. No on-street queuing of motor vehicles making deliveries shall be permitted.

Secs. 27-971 – 27-1000. Reserved.

ARTICLE X. Residential Conditional/Contract Districts

CONDITIONAL RESIDENTIAL USE DISTRICT A-1

Sec. 27-1001. Purpose (A-1).

Pursuant to Sec. 27-117 of the Code, conditional or contract zoning, the property on the westerly side of outer Highland Avenue shown on the Official Zoning Map as Conditional Residential Use District A-1 is rezoned from Residential Use District A to Conditional Residential Use District A-1 with conditions and restrictions.

The purpose of the Conditional Residential Use District A-1 is to provide residential areas within the City of South Portland of medium density in a manner which will promote a wholesome living environment while allowing for access to adjacent land in the Non-Residential Industrial District. To this end residential development shall not exceed four (4) dwelling units per met residential acre and may preferably occur in accordance with the provisions of Sec. 27-1501 et seq.

Sec. 27-1002. Permitted uses (A-1).

In the Conditional Residential Use District A-1 the following uses shall be permitted:

(a) Single-family detached dwellings, exclusive of mobile homes.

(b) Pre-existing farms.

(c) Churches, parish houses, public or parochial schools, libraries, museums, fire stations.

(d) Accessory uses including home occupations and telecommunication antennas, except that such antennas may not be placed on exempt towers.

(e) Cable television facilities in existence on February 1, 1997 or for which an application has been submitted to the City by

February 1, 1997, including studios and other buildings, structures or uses necessary or accessory to the operation of a cable television system, provided that such system be operated under a franchise from the City of South Portland. Cable television signal towers and transmitters in existence as of February 1, 1997 or for which an application has been submitted to the City by February 1, 1997, also are permitted; the installation after that date on such towers of telecommunication antennas, involving transmission as well as reception of radio waves, for public radio service, or common carrier services, is not permitted.

(f) Driveway access through the Conditional Residential Use District A-1 to the Non-Residential Industrial District (INR) to serve a non-residential use in the INR District provided that:

(1) the parcel of land in the INR District is in the same ownership;
(2) each parcel of land may be served by only one driveway;
(3) a driveway serving any such non-residential use in the INR District shall be continuously paved for a minimum of 50 feet from Highland Avenue; and
(4) a driveway serving any such non-residential use in the INR District shall be approved by the Planning Board if the proposed use requires subdivision or site plan approval.

Sec. 27-1003. Special exceptions (A-1).

In the Conditional Residential Use District A-1 the following uses shall be permitted as special exceptions according to the provisions of Article XIV of this Chapter:

(a) Municipal buildings and municipal uses other than those included in Sec. 27-1002 above.

(b) Public utility facilities including substations, pumping stations and sewage treatment facilities.

(c) Nursing homes, exclusive of mental care.

(d) Funeral homes and cemeteries.

(e) Private educational facilities.

(f) Beauty parlors and beauty shops, provided that such activities are conducted as home occupations only, subject to the terms and conditions contained in the definition of home occupation set forth in Sec. 27-201 and subject to the further condition that such activity shall not be conducted utilizing more than two (2) chairs serving more than two (2) customers at any given time.

(g) Recreational or community activity buildings, grounds for games or sports except those operated for a profit.

(h) Commercial greenhouses with accessory uses incidental and subordinate thereto; provided, however, the sale or rental of manufactured or handmade goods must remain clearly subordinate to the raising and sale of plant goods.

(i) Community homes, which shall be permitted unless in the judgment of the Planning Board there is documented evidence that one or more of the conditions listed in Sec. 27-1405 of this Chapter cannot be satisfactorily met.

(j) Telephone answering services, provided that such activity shall be subject to the terms and conditions contained in the definition of home occupation set forth in Sec. 27-201, except that such activity must be carried on by a member of the family either owning or residing in the dwelling unit and except that paragraph (b) of said home occupation definition shall not apply.

(k) Accessory dwelling units subject to the provisions of Sec. 27-1576 et seq.

(l) Farmers' market subject to the provisions of Sec. 27-1580et seq.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000])

Sec. 27-1004. Space and bulk regulations (A-1).

Maximum net residential density: Four (4) dwelling units per net residential acre.

Minimum lot area: Twelve thousand five hundred (12,500) square feet.

Minimum area per family: Ten thousand (10,000) square feet.

Minimum street frontage: Seventy-five (75) feet.

Minimum front yard, all buildings: Twenty (20) feet.

Minimum side yards: Six (6) feet.

Minimum rear yards: Twenty (20) feet.

Except that buildings higher than thirty (30) feet shall have side and rear yards not less than fifty (50) per cent of building height.

Accessory buildings: Six (6) feet rear yard.

Accessory buildings: Six (6) feet side yard.

Maximum building height: Thirty-five (35) feet

Maximum building coverage: Twenty-five (25) per cent.

Minimum distance between principal buildings on same lot: The height equivalent of the taller building.

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

Sec. 27-1005. Off-street parking (A-1).

In the Conditional Residential Use District A-1, off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter.

Sec. 27-1006. Signs (A-1).

In the Conditional Residential Use District A-1, signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter.

Sec. 27-1007. Farm animals and produce (A-1).

In the Conditional Residential Use District A-1, the keeping of farm-type animals, including but not limited to horses, ponies,

cattle, pigs and fowl, except pet chickens as regulated in Chapter 3; the keeping of dogs, cats and rabbits for commercial purposes and other uses offensive and detrimental to the neighborhood are prohibited. The sale of produce raised on the premises is permitted provided off-street parking spaces are provided in sufficient numbers to avoid any parking on public streets or highways. This section shall not apply to pre-existing farms as defined in Sec. 27-201.

Sec. 27-1008. Site plan review (A-1).

Any use allowed in the Conditional Residential Use District A-1, involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV; provided, that this section shall not apply to single-family detached dwellings or their accessory buildings. For purposes of this section, "new construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries. In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the last 2 years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use or a nonconforming use.

Secs. 27-1009 – 27-1010. Reserved.

CONDITIONAL SHIPYARD DISTRICT S-1

Sec. 27-1011. Purpose (S-1).

Pursuant to Sec. 27-117 of the Code, conditional or contract zoning, the property identified as Assessor's Map 5, Lot 70, (the "Property") which adjoins residential and industrial areas of the City is rezoned from Industrial District I to Conditional Shipyard District S-1, with a number of conditions and restrictions relating to the physical development and operation of the property. The purpose of the Conditional Shipyard District S-1 is to provide suitable areas within the City of South Portland of high residential density in a manner which will promote a wholesome living environment for frail elderly and handicapped residents who require congregate housing and/or assisted living services, in areas close to other City services.

Sec. 27-1012. Zone Changed from Industrial I to Conditional Shipyard District S-1 With Conditions.

The property identified in Sec. 27-1011 above and shown on the Official Zoning Map as Conditional Shipyard District S-1 is rezoned from Industrial District I to Conditional Shipyard District S-1 with conditions and restrictions.

Sec. 27-1013. Conditions to Zone Change to S-1.

Pursuant to Sec. 27-117 of the Code, the property described in this Article shall be limited as follows:

(a) The conditional zone is specifically intended to prohibit industrial uses which would otherwise be permitted under the Industrial zoning.
(b) Not less than forty (40%) percent of the residential units to be constructed upon any parcel within the zone shall be reserved for residents with incomes at eighty percent (80%) or less of area median income.
(c) South Portland Housing Development Corporation ("SPHDC") applicant for the conditional zoning and ground lessee of

the Property shall cause Maine Technical College System ("MTCS") owner of the Property and ground lessor to grant to the City a twenty (20) foot wide easement for the relocated Greenbelt Easement to replace the easement from MTCS recorded in Book 11479, Page 203. SPHDC shall subordinate its leasehold interest to the interest of the City under the Greenbelt Easement as relocated. SPHDC, its affiliates or agents shall construct the walkway to the satisfaction of the Director of Parks and Recreation and the City Engineer or other duly designated person and no Certificate of Use and Occupancy shall be issued for any development on the Property until the walkway is completed. No portion of the Property on which the Greenbelt Easement will be located shall be conveyed to a third party by MTSC or SPHDC prior to the delivery of the easement deed to the City.

(d) SPHDC shall construct a new eight (8) inch waterline within the Preble Street Extension right-of-way from Broadway leading to the Property, with the design and construction completed to the satisfaction of the City Engineer or other duly designated person. Said waterline shall be constructed before or during construction of any development on the Property and no Certificate of Use and Occupancy shall be issued for any development on the Property until the waterline is completed and operable and approved by the City Engineer or other duly designated person.

(e) SPHDC shall construct a storm drainage system for the Property which directs storm water drainage for the Property to the new separated storm water drainage system being constructed by the City on Stanford Street. The storm drainage system shall be constructed before or during construction of any development on the Property and no Certificate of Use and Occupancy shall be issued for any development on the Property until the storm drainage system is completed and operable and approved by the City Engineer or other duly designated person.

(f) SPHDC shall reconstruct Preble Street Extension to the satisfaction of the City Engineer or other duly designated person. Preble Street Extension shall be reconstructed before or during construction of any development on the Property and no Certificate of Use and Occupancy shall be issued for any development on the Property until the reconstruction of Preble Street Extension is completed and approved by the City Engineer or other duly designated person.

(g) SPHDC shall install appropriate landscaping plantings and other site amenities as determined by the Planning Board.

(h) SPHDC shall install a bus shelter on the Property along Henley Street if the City's Bus Service Director deems one necessary. The Design of the bus shelter shall be approved by the City's Bus Service Director. SPHDC shall cause MTCS to grant an easement to the City for the use and maintenance of the bus shelter.

(i) SPHDC shall construct additional parking on a portion of the Property adjoining Stanford and Henley Streets sufficient to increase the off street parking to up to one (1) parking space for each 2 congregate or assisted living units, if in the determination of the City's Traffic Engineer, additional parking is required for the congregate or assisted housing development following one year of operation at ninety-five percent (95%) or greater occupancy. Prior to the issuance of a certificate of occupancy for phase II of the congregate or assisted housing development (if the development is developed in phases) or prior to the issuance of a certificate of occupancy for such number of units as would cause the parking spaces allocated to the congregate and assisted housing uses to fall below one (1) parking space for each two (2) congregate or assisted housing units (if the development is not developed in phases) SPHDC shall enter into an escrow agreement with the City upon terms and conditions acceptable to Corporation Counsel, which escrow agreement shall be funded with a deposit account, letter of credit acceptable to the City or other form of performance guaranty acceptable to the City.

(j) Site plan review shall include approval by the Planning Board on the exterior design of the structure, provided, however, that the Planning Board shall endeavor to keep the cost of any design changes required by the Planning Board within SPHDC's budget for the development.

Sec. 27-1014. Permitted Uses (S-1).

In the Conditional District S-1, the following uses shall be permitted:

(a) Congregate care and assisted living facilities containing multi-family dwellings for the frail elderly and handicapped. "Assisted living facilities" shall mean residential facilities for the frail elderly that provide rooms, meals, personal care, supervision of self administered medication and other related services, but not including dependent, convalescent or nursing home care.

(b) Public and private educational facilities.

(c) Child, adult or combined day-care centers.

(d) Accessory uses, limited to services provided to residents of the facility and their family members and care providers, but not including home occupations.
(e) Office uses for management of the congregate housing and assisted living facilities and for related public and private housing management services
(f) Walking or jogging paths consistent with the City's Green Belt Walkway Plan.

Sec. 27-1015. Space and Bulk Regulations (S-1).

(a) Minimum street frontage: twenty-five (25') feet
(b) Minimum front yards, all buildings: The greater of twenty (20') feet or half the height of the building.
(c) Minimum rear and side yards; all buildings: Fifteen (15') feet.
(d) Minimum distance between principal buildings on the same lot: Forty (40') feet.
(e) Maximum Building Height: Eighty-Six (86) Feet, measured at the building on the southeasterly side of the Property.
(f) Maximum residential density: Twenty-nine and five one hundredths (29.05) dwelling units per acre.
(g) Maximum Building coverage. Maximum building coverage on a lot shall be 40%.
(h) Shoreland and Floodplain Management Regulations: Any lot or portion of a lot located within the shoreland area or a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article V of Chapter 5 of the Code.
(i) Covered Passageways: Covered passageways of not more than ten (10) feet in width and ten (10) feet in height and not less than forty feet (40') in length are permitted between adjoining buildings subject to conditions and limitations as may be established by the Planning Board during any site plan review to which any development on the Property may be subject.

Sec. 27-1016. Performance Standards (S-1).

(a) Signs. Three (3) signs for each of the housing and educational facilities shall be allowed on the Property, one such sign to be located at the entrance at Preble Street Extension and another sign to be located at the entrance on

Henley Street. Additionally, one sign not larger than two (2) feet by three (3) feet shall be allowed on each building near its entrance. No sign shall be larger than sixteen (16) square feet.

(b) Storage and Display. No exterior storage or display of materials, supplies, inventory or equipment associated with the use or with any other non-residential activity is permitted. No interior storage or warehousing is permitted except for materials associated with the permitted uses.

Sec. 27-1017. Off-Street Parking (S-1).

Except as set forth in this Sec. 27-1017, Off-Street Parking shall be provided in accordance with the regulations of Sec. 27-1556 of this Chapter.

(a) Congregate or Assisted Living Facilities: One (1) parking space shall be required for each three congregate or assisted living units, subject to increase as set forth in Sec. 27-1013(i) above. In addition, one parking space shall be provided for each employee of the facility and one parking space for each 10 units shall be provided for guest and service provider parking.

(b) Permitted office uses: One (1) parking space for each three hundred fifty (350) square feet of floor area of office space, exclusive of storage.

(c) Day care facilities: One (1) parking space for each three hundred fifty (350) square feet of floor area, exclusive of storage.

(d) Educational facilities: Five (5) parking spaces for each one thousand (1,000) square feet of floor area, exclusive of storage.

Secs. 27-1018 — 27-1030. Reserved.

CONDITIONAL RESIDENTIAL USE DISTRICT G-1

Sec. 27-1031. Purpose (G-1).

Pursuant to Sec. 27-117 of the Code, conditional or contract zoning, the property identified as Assessor's Map 59, Lots 13A & 24, and Map 60, Lot 1 as of the April 1, 2000 assessment date (the "Property") located on outer Highland Avenue is rezoned from Rural Residential RF to Conditional Residential Use District G-1, with a number of conditions and restrictions relating to the physical development and operation of the property. The purpose of the Conditional Residential Use District G-1 is to provide a residential area within the City of South Portland of moderate and high density in a manner, which will promote a wholesome living environment. The location of a local retail store, personal services, or a medical and professional office within this district shall serve the needs of the immediate neighborhood and community. To this end, residential development shall not exceed 17 dwelling units per net residential acre and may occur in accordance with Sec. 1501 et seq. of this Chapter.

Sec. 27-1032. Conditions to Zone Change to Conditional Residential Use District G-1.

Pursuant to Sec. 27-117 of the Code, the property described in this Article shall be limited as follows:

The individual dwelling units will not be permitted to have direct driveway access to the new City street.

(a) There will be no more than three curb cuts on the new City street to access proposed development.

(b) No new curb cuts will be permitted from Highland Avenue to access proposed development in this Zone.

(c) The proposed 50-foot wide buffer along the new City street will not be disturbed and the developer will maintain existing trees for buffering, as required by the DEP and Planning Board.

(d) The developer will construct a bus shelter on the property with associated easements for maintenance by the City as deemed necessary by the City Bus Service Director if the City extends bus service to this district.

(e) The developer will construct walkways connecting with the City's Green Belt Walkway Plan as required by the Planning Board at the time of site plan approval.

(f) No buildings will exceed 45 feet in height, except Assessor's Map 59 Lot 24 the maximum shall be 35 feet.

(g) All proposed signage and exterior design of structures will be subject to approval of the Planning Board.

(h) All structures will be set back a minimum of 10 feet from all wetlands that encumber the property unless a permit is obtained from DEP and/or the Planning Board.

(i) The total number of residential dwellings in this zone will not exceed one hundred and two (102) units, with no fewer than 42 shall be located in a single apartment-style building for "elderly" residents as defined by applicable HUD regulations.

(j) All deeds and rental contracts shall contain notice that nearby City playfields may result in associated noise, traffic, and lighting impacts.

(k) The developer will designate as permanent open space a minimum of four (4) acres of the northerly portion of the site adjacent to the Old Bog Road.

Sec. 27-1033. Permitted Uses (G-1).

In the Conditional Residential Use District G-1 the following uses shall be permitted:

(a) Dwellings, exclusive of mobile homes.

(b) Public and private educational facilities including child, adult or combined day care centers.

(c) Accessory uses including home occupations.

(d) Any use permitted in Residential District A zone.

Sec. 27-1034. Special Exceptions (G-1).

In the Conditional Residential Use District G-1, the following uses shall be permitted as special exceptions according to the provisions of Article XIV of this Chapter:

(a) A local retail store, exclusive of a drive-through intended specifically for the convenience and service of residents of the immediate area. A local retail store is defined under this section as a retail establishment offering for sale prepackaged food products, beverages, tobacco products, household items, newspapers and magazines, sandwiches and other freshly prepared foods, such as salads. No gasoline pumps are permitted. No exterior storage of materials, supplies, inventory or equipment associated with the use is permitted except for an ice machine and a secure residential propane tank exchange locker. Hours of operation are limited to 6:00 A.M. to 10:00 P.M. One outdoor banner or pennant is permitted not to exceed thirty (30) square feet. This use is limited to the property identified as Assessor's Map 59, Lot 24 as of the April 1, 2000 assessment date.

(b) Personal services. For the purposes of this Article only, personal services shall be defined as establishments primarily engaged in providing services generally involving the care of the person or his/her apparel. This use is limited to the property identified as Assessor's Map 59, Lot 24 as of the April 1, 2000 assessment date.

(c) Medical and professional offices, exclusive of drive-throughs. This use is limited to the property identified as Assessor's Map 59, Lot 24 as of the April 1, 2000 assessment date.

(d) Municipal buildings and municipal uses.

(e) Public utility facilities including substations and pumping stations.

(f) Recreational or community activity buildings, grounds for games or sports except those operated for a profit.

(g) Charitable and philanthropic organizations.

(h) Farmers' market subject to the provisions of Sec. 27-1580 et seq.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000])

Sec. 27-1035. Space and Bulk Regulations (G-1).

Maximum net residential density: seventeen (17) dwelling units per net residential acre.

Maximum number of residential dwelling units permitted in G-1 Zone is one hundred and two (102) units.

Minimum lot area: one (1) acre.

Minimum street frontage: Seventy-five (75) feet.

Minimum front yard, all buildings: Twenty (20) feet.

Minimum side yards: Fifteen (15) feet.*

Minimum rear yards: Twenty (20) feet.*

* Except that buildings higher than thirty (30) feet shall have side and rear yards not less than fifty (50) percent of building height.

Minimum setback from lots on Highland Avenue: seventy-five (75) feet.

Accessory buildings: Six (6) feet rear yard.

Accessory buildings: Six (6) feet side yard.

Notwithstanding side or rear yard setback requirement of this or any other zoning district, a minimum of sixty (60) foot set back from the stream channel is required for all structures on lands adjacent to Gambler's Arm Brook, except as provided below:

(a) Detention ponds.

(b) Stormwater treatment facilities.

(c) Walking or jogging paths or recreation areas.

Maximum building height: forty-five (45) feet.

Maximum building coverage: Thirty-three (33) percent.

Maximum building footprint area for special exception uses as identified in Sec. 27-1034(a), (b), and (c): two-thousand-five-hundred (2,500) square feet.

Maximum building height for special exception uses as identified in Sec. 27-1034(a), (b), and(c): Thirty-five (35) feet; pitched roof required.

Minimum distance between principal buildings on same lot: The height equivalent of the taller building.

Shoreland and Floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

Sec. 27-1036. Off-Street Parking (G-1).

In the Conditional Residential Use District G-1, off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter; provided, however, notwithstanding any provisions of this Chapter to the contrary, a minimum of one and a quarter (1.25) off-street parking spaces shall be required per dwelling unit in all multifamily elderly residential structures.

Sec. 27-1037. Signs (G-1).

In the Conditional Residential Use District G-1, signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter and the following special restrictions:

(a) Each elderly housing project may have up to three (3) permanent signs on their property. One sign not larger than six (6) square feet shall be allowed on each building near its entrance. The other two (2) free-standing signs shall not exceed sixteen (16) square feet in area and ten (10) feet in height.

(b) A local retail store may have two (2) permanent signs, one being a freestanding sign no more than ten (10) feet high and no larger than eighty (80) square feet, and the other being a building mounted sign no more than four (4) feet high and no larger than forty (40) square feet. Internal or external illumination is allowed for both signs during allowed hours of operation. The freestanding sign may include as an integral part of the sign, a reader board no larger than forty (40) square feet. Except for the reader board portion of the freestanding sign, internal illumination is limited to letters, numbers and design elements and may not project from other portions of the sign. Electronic changeable message boards and signs are prohibited.

(c) Personal services and medical and professional offices may have two (2) permanent signs, one being a freestanding sign no more than ten (10) feet high and no larger than forty (40) square feet, and the other being a building mounted sign no more than four (4) feet high and no larger than forty (40) square feet. Reader boards and electronic changeable message boards and signs are prohibited.

(d) No portable or temporary signs are permitted except as provided above. Electronic message changeable boards and signs are prohibited.

In the event of a conflict between these special restrictions and the requirements of Sec. 27-1561 et seq. of the Chapter, the more restrictive of the provisions shall control.

Sec. 27-1038. Farm Animals (G-1).

In the Conditional Residential Use District G-1, the keeping of farm-type animals, including but not limited to horses, ponies, cattle, pigs and fowl, except pet chickens as

regulated in Chapter 3; the keeping of dogs, cats and rabbits for commercial purposes and other uses offensive and detrimental to the neighborhood are prohibited.

Sec. 27-1039. Site Plan Review (G-1).

Any use allowed in the Conditional Residential Use District G-1 involving new construction which; when added to new constriction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV; provided, that this section shall not apply to single-family detached dwellings or their accessory buildings. For purposes of this section, "new construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries. In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the last 2 years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use or a nonconforming use.

Sec. 27-1040. Reserved.

CONTRACT RESIDENTIAL DISTRICT G-2

Sec. 27-1041. Purpose (G-2).

To provide residential areas with the City of South Portland of high density in a manner which will promote a wholesome living environment for elderly and handicapped residents. To this end residential development shall not exceed the residential acreage provided in this Article.

Sec. 27-1042. Permitted uses (G-2).

In the Contract Residential District G-2, the following uses shall be permitted:

(a) Multifamily dwellings for the elderly and handicapped;

(b) Accessory uses, but not including home occupations;

(c) Recreation areas open to the public; and

(d) Child, adult or combined day care centers.

Sec. 27-1043. Special exceptions (G-2).

In the Contract Residential District G-2, the following uses shall be permitted as special exceptions according to the provisions of Article XIV of this Chapter:

(a) Congregate housing or congregate care facilities.

(b) Farmers' market subject to the provisions of Sec. 27-1580 et seq.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000])

Sec. 27-1044. Space and bulk regulations (G-2).

Minimum street frontage: Seventy-five (75) feet.

Minimum front yards, all buildings: Twenty (20) feet.

Minimum rear and side yards, all buildings: Fifteen (15) feet.

Minimum distance between buildings on same lot: The height equivalent of the taller building.

Height limitations: Thirty (30) feet as measured at the building end on the northern side of the site.

Maximum residential density: 14.84 dwelling units per acre.

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

Sec. 27-1045. Off-street parking (G-2).

In this district, off-street parking shall be provided as follows:

Multifamily (elderly): One-third (1/3) parking space per unit.

Handicapped: One handicapped-accessible space per handicapped-accessible unit.

Guest parking: As determined by the Planning Board.

Sec. 27-1046. Signs (G-2).

In the Contract Residential District G-2, signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter.

Sec. 27-1047. Site plan review (G-2).

Site plan review shall be required in accordance with Article XIV of this Chapter.

Sec. 27-1048. Farm animals and produce (G-2).

In the Contract Residential District G-2, the keeping of farm-type animals, including, but not limited to horse, ponies, cattle, pigs and fowl, except pet chickens as regulated in Chapter 3; the keeping of dogs, cats and rabbits for commercial purposes and other uses offensive and detrimental to the neighborhood are prohibited. The sale of produce raised on the premises is not permitted.

Sec. 27-1049. Contract Zone Agreement (G-2).

The property located in this zoning district is subject to the Contract Zone Agreement between the City and Ridgeland Estates Joint Venture or its assignee, a copy of which is on file in the City Clerk's office and incorporated herein by reference.

Sec. 27-1050. Reserved.

CONDITIONAL RESIDENTIAL AND LIMITED COMMERCIAL USE DISTRICT G-3

Sec. 27-1051. Purpose (G-3).

Pursuant to Sec. 27-117 of the Code, conditional or contract zoning, the property identified as Assessor's Map 50, Lot 17 and those portions of Assessor's Map 44, Lots 15A and 16 lying southerly of the boundary between land of the Portland International Jetport/Long Creek Correctional Facility and land leased or otherwise conveyed to Long Creek Redevelopment LLC by the State of Maine, as said boundary is shown on the plan entitled "Redevelopment Plan for the former Maine Youth Center Site," and being the former location of the Maine Youth Center, operated by the State of Maine, Department of Corrections, is rezoned from Residential District G and Rural Residential District RF to Conditional Residential and Limited Commercial Use District G-3, with a number of conditions and restrictions

relating to the physical development and operation of the property and off-site improvements. The purposes of the Conditional Residential and Limited Commercial Use District G-3 are: To allow an adaptive re-use of the Youth Center Property which will provide for affordable rental housing and opportunities for home ownership; to permit limited amounts of office /commercial development; to rehabilitate historic structures and areas on the site; and to afford new opportunities for public access to Long Creek and this area of historic significance.

Sec. 27-1052. Conditions to Zone Change to Conditional Residential and Limited Commercial Use District G-3.

Pursuant to Sec. 27-117 of the Code, the property described in this Article shall be limited as follows:

(a) Master plan. The location of townhouses, family apartments, residential condominiums and non-residential uses within the site shall occur within the general areas shown for such uses on a plan entitled, "Redevelopment Plan for the former Maine Youth Center Site," by Winton Scott Architects, et al., and dated July 2006, and as amended by Carroll Associates on March 30, 2016, a copy of which shall be kept on file at the Planning Department of the City of South Portland.

(b) Phased development. Development of the site shall be accomplished in four (4) phases, as follows:

(1) Phase one shall consist of no more than 70 residential units;

(2) Phases II through IV shall consist of a mix of townhouses, apartments, residential condominiums and/or non-residential uses, subject to the following limitations on the residential elements:

(i) Phase II shall be limited to not more than seventy (70) dwelling units;
(ii) Phase III shall be limited to not more than seventy (70) dwelling units; and
(iii) Phase IV shall be limited to not more than one hundred twenty-five (125) dwelling units.

(c) Ownership. Dwelling units constructed in the area of the above referenced "Master Plan" labeled "Terrace Housing" shall be offered for sale to the general public as condominium units.

(d) Affordability. A minimum of fifty percent (50%) of the dwelling units constructed in the zone will be affordable to and reserved for households with incomes at or below eighty percent (80%) of the area median income, adjusted for family size, as defined by the United States Department of Housing and Urban Development.

(e) Traffic improvements.

(1) The Maine Mall signal project must be completed and operational before certificates of occupancy may be issued for any development at Brickhill.

(2) The intersection improvements at Westbrook Street and Western Avenue_must be opened for vehicular travel by the public before certificates of occupancy may be issued which when added to all Brickhill development for which occupancy permits previously have been granted, would generate more than 89 PM peak hour trip ends, as determined by a qualified traffic engineer.

(3) All access rights shall be obtained, and all necessary facilities installed, for the emergency access road, as depicted on the Conceptual Emergency Access Layout drawing #2 by Gorrill-Palmer Engineers, and the I-295 Exit 3 reconfiguration must be under construction before certificates of occupancy may be issued which when added to all Brickhill development for which occupancy permits previously have been granted, would generate more than 183 PM peak hour trip ends, as determined by a qualified traffic engineer.

(4) No certificate of occupancy shall be issued until Long Creek Redevelopment, LLC, or its designee, pays to the City a sum equal to one hundred fifty dollars ($150.00) times the number of PM peak hour trips estimated for the phase. Said funds to be used by the City for construction of turning lanes at the intersection of Westbrook Street and Western Avenue.

(f) Public amenities.

(1) Phase I approval shall be conditioned upon the developer's providing reasonable public access to Long Creek and designated open spaces. Public parking shall be provided adjacent to the community park.

(2) Phase II approval shall be conditioned upon the developer's offering its interest in the community park to the City for use as a public park area.

(3) Phase III shall be conditioned upon the developer's constructing and offering to the City a public boat landing, with parking, on Long Creek suitable for launching hand carried vessels.

(g) Historic preservation. The cottage buildings within the zone which are listed on the National Register of Historic places shall be rehabilitated.

(h) Long Creek Redevelopment LLC, or its designee, shall pay a sum of $75,000 to the City of South Portland to be issued toward sidewalk construction project. This sum shall be provided by the start of construction.

(Ord. No. 10-15/16, 6/6/16 [Fiscal Note: Less than $1000])

Sec. 27-1053. Permitted Uses (G-3).

In the Conditional Residential and Limited Commercial Use District G-3, the following uses shall be permitted:

(a) Dwellings, including condominiums and multi-family residential structures, elderly housing, veteran and/or student housing.

(b) Public and private educational facilities, including child, adult, or combined facilities.

(c) Recreational or community activity buildings, grounds for games or sports except those operated for a profit.

(d) Municipal buildings and municipal uses.

(e) Medical and professional offices.

(f) Local retail stores and businesses, not exceeding twenty-five hundred (2,500) square feet of floor area and not

including gas stations and outdoor sales.

(g) Museums and cultural facilities.

(h) Public utility facilities, including substations, pumping stations and sewage treatment facilities.

(i) Accessory structures and uses.

Sec. 27-1054. Space and Bulk Regulations (G-3).

Maximum net residential density: Ten (10) dwelling units per net residential acre. Notwithstanding the phased development of the site, net residential density and other density calculations shall be based upon the total site area, less required area deductions.

Maximum number of residential dwelling units: Three hundred thirty-five (335).

Maximum area of non-residential development: 15 acres including building coverage, parking and landscaping.

Minimum lot area: Seven thousand five hundred (7,500) square feet.

Minimum street frontage: Seventy-five (75) feet.

Minimum front yard: Ten (10) feet.

Minimum side and rear yard: Ten (10) feet.

Minimum distance between principal buildings:

Residential use - Fifteen (15) feet.

Non-residential use – Height equivalent of the taller building.

Accessory buildings: Six (6) feet side and rear yard.

Maximum building height:

Residential use – Forty-five (45) feet.

Non-residential use – Sixty (60) feet.

Landscaped open space: At least thirty-three percent (33%) of the net residential acreage within the zone.

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article 4 of Chapter 5 of the Code except that, within the Shoreland Area Overlay District, the minimum water setback from the upland edge of a wetland for all principal and accessory buildings shall be twenty-five (25) feet.

(Ord. No. 10-15/16, 6/6/16 [Fiscal Note: Less than $1000])

Sec. 27-1055. Off-Street Parking (G-3).

In the Conditional Residential and Limited Commercial Use District G-3, off-street parking shall be provided in accordance with requirements of Sec. 27-1556 of this Chapter, except as follows:

(a) Parallel parking spaces shall be a minimum of eight (8) feet wide by twenty (20) feet long.

(b) Driveway access for parallel parking spaces shall be a minimum of twenty-one (21) feet wide for two-way traffic.

(c) On-street parking is not permitted on public streets within the zone.

(d) Parking ratios shall be as follows:

(i) Multifamily (non-elderly): Two (2) spaces per dwelling unit. Up to 20% of the required parking may be "compact" spaces to allow for smaller and/or energy efficient vehicles. Compact spaces shall be eight (8) feet wide by sixteen (16) feet long and shall be designated as such on the site plan and with signage once constructed.

(ii) Multifamily (elderly): One-half (1/2) space per dwelling unit.

(iii) Single-family attached: Two (2) spaces per dwelling unit.

(Ord. No. 10-15/16, 6/6/16 [Fiscal Note: Less than $1000])

Sec. 27-1056. Street Standards (G-3).

In the Conditional Residential and Limited Commercial Use District G-3, the street standards for all streets shall be those for "local" streets set forth in Sec. 24-42 of the Code, except as follows:

Minimum pavement width: 26 feet

Minimum Centerline Radius: 95 feet

Minimum tangent between reverse curves: 35 feet

Minimum distance between street intersections
Opposite Side: 135 feet

Sidewalks: Constructed on one side of the street only, with twelve (12) foot esplanade and street trees that are not closer than eight (8) feet from the edge of pavement.

Curbing: sloped

Sec. 27-1057. Signs (G-3).

In the Conditional Residential and Limited Commercial Use District G-3, signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter and the following special restrictions:

(a) Specific proposals for all exterior signage shall be subject to review of the Planning Board and shall include a full disclosure of any and all signs to be located on the property, including, but not limited to, an indication of their size, illumination, landscaping, setbacks, specific locations, heights and construction materials, provided that all signs be restricted as indicated below.

(b) Two (2) freestanding permanent use shall be limited to one (1) freestanding sign for each building, no more than two (2) building mounted signs for each building face, and no more than one (1) sign for each entrance to the lot, provided that no freestanding sign shall exceed thirty (30) square feet and the building mounted signs shall not exceed

one hundred fifty (150) square feet in surface area per face. Freestanding signs shall not exceed ten (10) feet in height, and building mounted signs shall not exceed the height of the building.

(c) Each residential development cluster (Townhomes, Terrace Housing, etc.) may have up to two (2) freestanding permanent signs not exceeding twenty (20) square feet in surface area per face and eight (8) feet in height on their property. In addition, two signs not larger than six (6) square feet shall be allowed on each building near its entrances.

(d) Signage for non-residential use shall be limited to one (1) freestanding sign for each building, no more than two (2) building mounted signs for each building face, and no more than one (1) sign for each entrance to the lot, provided that no freestanding sign shall exceed thirty (30) square feet and the building mounted signs shall not exceed one hundred fifty (150) square feet in surface area per face. Freestanding signs shall not exceed ten (10) feet in height, and building mounted signs shall not exceed the height of the building.

(e) No flashing, rotating, or intermittent signs shall be allowed.

(f) No portable or temporary signs are permitted.

CONDITIONAL RESIDENTIAL USE DISTRICT G-4

Sec. 27-1058. Purpose (G-4).

Pursuant to Sec. 27-117 of the Code, the property identified as Assessor's Map 10, Lot 117 as of the April 1, 2013 assessment date (the "Property"), is rezoned from Residential District A to Conditional Residential Use District G-4, with a number of conditions and restrictions relating to the physical development and operation of the Property. The purposes of the Conditional Residential Use District G-4 are: To permit the conversion of the former Roosevelt School property into multi-family residential use in a manner that maintains elements of the

existing school building, follows best architectural practices for multi-family infills in single-family residential neighborhoods, and ensures a sizeable area of unpaved green space on the Property.

Sec. 27-1059. Conditions to Zone Change (G-4).

The following conditions shall apply to the Conditional Residential Use District G 4:

(a) Unless otherwise approved by the City Council, modifications and additions to the existing school building are required to adhere to the historic preservation standards of the U.S. National Parks Service, to the extent practical and feasible, with particular emphasis placed on the Pine Street façade and front entry landscape as well as the massing and cladding of any new addition so as to be visually distinct while subordinate in scale to the school building.

(b) The existing architectural design of the school building is compatible with the surrounding neighborhood. Any new construction shall be designed to continue architectural design compatibility within the residential neighborhood.

(c) New construction and/or remodeling must meet minimum Leadership in Energy & Environmental Design (LEED) construction standards but does not need to be LEED certified.

(d) Prior to the issuance of a certificate of occupancy for the Property, a ten (10) foot wide public access pedestrian easement connecting the Sprague and Mussey Streets corner of the property with Chase Street shall be provided to the City of South Portland and recorded at the Cumberland County Registry of Deeds.

(e) All electrical service to the building shall be underground.

Sec. 27-1060. Permitted Uses (G-4).

In the Conditional Residential Use District G-4, the following uses shall be permitted:

(a) Dwellings, exclusive of mobile homes.

(b) Public and private educational facilities, including child, adult, or combined facilities.

(c) Accessory uses, including home occupations.

Sec. 27-1061. Special Exception Uses (G-4).

In the Conditional Residential Use District G-4, the following uses shall be permitted as special exceptions according to the provisions of Article XIV of this Chapter:

(a) Farmers' market subject to the provisions of Sec. 27-1580 et. seq.

Sec. 27-1062. Space and Bulk Regulations (G-4).

Maximum number of residential dwelling units for the Property: Nineteen (19).

Minimum lot area: One acre.

Minimum street frontage: Seventy-five (75) feet.

Minimum front yard, all buildings: Ten (10) feet.

Minimum side and rear yards: Fifteen (15) feet; except that principal buildings higher than thirty (30) feet shall have side and rear yards not less than fifty (50) percent of the building height.

Accessory buildings: Six (6) feet side and rear yard.

Maximum building height: Fifty (50) feet.

Minimum landscaped open space: Thirty percent (30%) of gross lot area.

Sec. 27-1063. Off-Street Parking (G-4).

In the Conditional Residential Use District G-4, off-street parking shall be provided in accordance with requirements of Sec. 27-1556 of this Chapter.

Sec. 27-1064. Landscape Standards (G-4).

In the Conditional Residential Use District G-4, any Site Plan application shall include a landscape program for all land areas not proposed to be covered by structures, parking area, or circulation facilities.

Sec. 27-1065. Signs (G-4).

In the Conditional Residential Use District G-4, signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter, except as follows:

(a) One (1) building-mounted sign is permitted. It shall not exceed three (3) feet in height nor eight (8) feet in length.

(b) One (1) ground sign (a free-standing sign without a physical gap between the message portion of the sign and the sign base) is permitted. It shall not exceed five (5) feet in height nor six (6) feet in length.

(c) Other types of signs may be permitted by the Planning Board or Code Enforcement Officer, as appropriate, such as parking area signs required for traffic circulation.

(d) No sign may be internally illuminated, animated, consist of changeable letters, or be an electronic message board. External illumination is permitted.

Sec. 27-1066. Farm animals and produce (G-4).

In the Conditional Residential Use District G-4, the keeping of farm-type animals, including but not limited to horses, ponies, cattle, pigs and fowl (except pet chickens as regulated in Chapter 3); the keeping of dogs, cats and rabbits for commercial purposes; and other similar uses offensive and

detrimental to the neighborhood are prohibited. The sale of produce raised on the premises is permitted provided off-street parking spaces are provided in sufficient numbers to avoid any parking on public streets or highways.

Sec. 27-1067. Site plan review (G-4).

Any use allowed in the Conditional Residential Use District G-4, involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV; provided, that this section shall not apply to single-family detached dwellings or their accessory buildings. For purposes of this section, "new construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries. In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the last 2 years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use or a conforming use.

Secs. 27-1068 – 27-1100. Reserved.

(Ord. No.7-13/14, 2/19/14 [Fiscal Note: Less than $1000])

ARTICLE XI. Reserved

Secs. 27-1101 – 27-1200. Reserved.

ARTICLE XII. Mixed-Use, Commercial, Industrial Conditional/Contract Districts

CONDITIONAL ARMORY ZONE CAZ

Sec. 27-1201. Purpose (CAZ).

Pursuant to Sec. 27-117 of the Code, the property identified as Assessor's Map 19, Lot 158 as of the April 1, 2014 assessment date (hereinafter the "Property") located on Broadway is rezoned from Residential A to Conditional Armory Zone, with a number of conditions and restrictions relating to the physical development and operation of the Property. The purpose of the Conditional Armory Zone is to provide an appropriate reuse opportunity for the former State of Maine Armory facility. This conditional zoning district provides for the use of the former Armory facility as an automotive filling station, convenience store, restaurant and business & professional services and related activities and includes specific performance standards to minimize negative impacts to the surrounding neighborhood.

Sec. 27-1202. Conditions (CAZ).

The following conditions shall apply to the Conditional Armory Zone:

(a) The South Portland Arts and Historic Preservation Committee (hereinafter "AHPC") shall have the opportunity to comment on proposed changes to the existing building with a view not of achieving historical restoration but of preservation and reuse that respects the original architecture as limited in scope to the conditions set forth in this section.

(b) Prior to commencement of any redevelopment of the Property, all exterior masonry art work on the Drill Hall portion of the Property shall be documented in both written and photographic format. Such masonry art work

on the Property shall either be reused or else conveyed to the City of South Portland (hereinafter the "City") at no expense to the City via a bill of sale.

(c) The Head House, the Tower, and the masonry end parapet wall of the Drill Hall shall be retained and maintained.

(d) Wherever possible, original brick and masonry materials on the Head House and remaining Drill Hall parapet shall be retained and repaired. Wherever this is not feasible, replacement materials will as fully as possible replicate the original features in material and design. Best efforts shall be made to match the style of window and paint color used in any building improvements made to the Property to the style of window and exterior paint color original to the Armory building.

(e) Two outdoor pad sites for the display of public art on the Broadway side of the Property shall be provided to the City. The Property owner shall retain the right to approve, in advance, the size of the art work to be displayed on such pad sites in order to ensure that the art work does not interfere with the visibility of Property's businesses.

(f) The Property owner shall enter into a permanent Façade Preservation Agreement with the City to ensure that, after the removal of the Drill Hall portion of the building, the Head House and the Tower of the Armory building shall be preserved. The permanent Façade Preservation Agreement shall be recorded in the Registry of Deeds.

(g) The Property owner shall grant the City an easement for a future walking path connecting the Greenbelt Walkway and Hinckley Park; the exact location of the easement shall be mutually agreed upon.

(h) Except where restricted, a vegetated buffer shall be planted along the easterly side of the Property, from the gas islands canopy to the Property's intersection with the northern side of the Hudson Road paper street, that will screen views of the gas station from the property line. The Planning Board may require additional landscaping and buffering for the site.

Sec. 27-1203. Permitted uses (CAZ).

In the Conditional Armory Zone, the following uses shall be permitted on the Lot 158 parcel:

(a) Automotive filling stations provided that gasoline pumps or other service appliances shall be located behind the retail store; such facilities may not be open to the public between the hours of 11:00 p.m. and 5:00 a.m., and the facility shall not be used as an automotive repair shop. Auditory advertisements are not permitted.

(b) Municipal buildings and municipal uses.

(c) Personal services.

(d) Business and professional offices.

(e) Restaurants and other places for the serving of food or beverages, provided, however, such facilities may not be open between the hours of 11:00 p.m. and 5:00 a.m. Restaurant drive-through facilities are not permitted.

(f) Local retail stores, provided however, such facilities may not be open between the hours of 11:00 p.m. and 5:00 a.m.

(g) Child, adult or combined care centers.

(i) Charitable and philanthropic organizations

Sec. 27-1204. Space and bulk regulations (CAZ).

Minimum lot area: Twelve thousand five hundred (12,500) square feet.

Minimum street frontage: Seventy-five (75) feet.

Minimum front yard, all buildings: Twenty (20) feet.

Minimum side yards, principal buildings: Fifteen (15) feet.

Minimum rear yards, principal buildings: Twenty (20) feet, except that principal buildings higher than thirty (30) feet shall have side and rear yards not less than fifty (50) per cent of the building height.

Accessory buildings: Six (6) feet side and rear yards.

Maximum building height: Forty (40) feet.

Maximum building coverage: Twenty-five (25) per cent.

Minimum distance between principal buildings on same lot: The height equivalent of the taller building.

Sec. 27-1205. Off-street parking (CAZ).

In the Conditional Armory Zone, off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter.

Sec. 27-1206. Signs (CAZ).

In the Conditional Armory Zone, development proposals shall include a signage plan to be approved by the Planning Board for any and all signs proposed to be located on the Property, including, but not limited to, a specification of their size, illumination, landscaping, setbacks, locations, heights, and construction materials; provided that signs shall be restricted as follows:

(a) All signage shall be integrated with the original architectural design of the building.
(b) No, flashing, rotating, or intermittent signs.
(c) No portable or temporary signs shall be allowed in the front or side yards.
(d) No electronic message signs except for the gas pricing.
(e) Building Signs: A maximum of two (2) signs are allowed on the front façade of the Armory building no larger than eighty (80) square feet individually or one hundred twenty (120) square feet in total. A maximum of one (1) sign is allowed on each side façade of the Armory building no larger than thirty six (36) square feet individually. Signs are allowed on the rear façade of the building no larger than one hundred and twenty (120) square feet in total. Building signs shall not be internally illuminated. No commercial signage is permitted anywhere within the central area of the Head House’s front façade—the entrance area bordered on each side by raised brick pilasters.

(f) One free-standing monument sign with a maximum height of eighteen (18) feet from the ground and a maximum sign area of one hundred (100) square feet is allowed on the Property but only in the Broadway front yard; provided, however, that a second free-standing monument sign with a maximum height of eight (8) feet from the ground and a maximum sign area of forty-eight (48) square feet may be allowed if only a single front building façade sign no larger than eighty (80) square feet is used instead of the two front façade signs allowed pursuant to subsection (c) above.

(g) Canopy signs are allowed on the sides of the gas station canopy over the gas islands and shall be contained within the canopy fascia. The height of the canopy fascia shall not exceed four (4) feet.

(h) Signs may be further restricted in size and height if in the determination of the City's Traffic Engineer the location of a proposed sign would constitute a traffic safety hazard without modification of the sign dimensions.

(i) Up to four (4) pendant fabric signs are allowed on the front façade of the Armory building so long as the pendants do not advertise a business or a product.

In the event of a conflict between the sign standards herein and the general sign regulations set forth in Secs. 27-1561 to 27-1564 of this ordinance, this section shall control.

Sec. 27-1207. Site plan review (CAZ).

Any use allowed in the Conditional Armory Zone involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV. For purposes of this section, "new construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries. In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the

last 2 years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use or a nonconforming use.

Secs. 27-1208 – 27-1220. Reserved.

(Ord. No. 7-09/10, 11/2/09 [Fiscal Note: Less than $1000]; Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000; Ord. No. 12-14/15, 4/6/15 [Fiscal Note: Less than $1000])

CONDITIONAL CLARK'S POND CENTRAL AND REGIONAL COMMERCIAL DISTRICT CPCCR

Sec. 27-1221. Purpose (CPCCR).

Pursuant to Sec. 27-117 of the Code, conditional or contract zoning, the property identified by Assessor's Map 66, Lots 1A, 9A, 13-19, which is uniquely located adjacent to Jackson Brook, Red Brook, and Clark's Pond, is rezoned from Suburban Commercial District CS to Central and Regional Commercial District CCR, with a number of conditions and restrictions relating to the physical development and operation of the property. The conditions relate to the fact that Clark's Pond is a significant natural resource and are intended (1) to ensure a visual and physical connection to public spaces developed as part of the 1983 Clark's Pond Study Recreation Plan; (2) to be consistent with the intent of the 1992 South Portland Comprehensive Plan in providing a visually attractive development; and (3) creating a pleasant environment for pedestrians.

Sec. 27-1222. Zone Changed from CS to CCR with Conditions (CPCCR).

The property identified in Sec. 27-1221 above and shown on the Official Zoning Map as Clark's Pond Central and Regional Commercial District CPCCR is rezoned from Suburban Commercial District CS to Central and Regional Commercial District CCR with conditions and restrictions.

Sec. 27-1223. Conditions to Zone Change to CCR (CPCCR).

Pursuant to Sec. 27-117 of the Code, the property described in Sec. 27-1221 above shall be limited as follows:

(a) Development proposals shall include a landscape program to illustrate the proposed development and maintenance of open space, roads, paths, and service and parking areas. All land areas not covered by structures, parking area, or circulation facilities shall be landscaped and maintained. Existing natural vegetation may be used if determined by the Planning Board to comply with the intent of this subparagraph.

The space between the 100-foot easement and the building, including any paving and work areas associated with it, shall be treated with a combination of special landscape elements, grade changes, fencing, and other features to enhance the aesthetics of the area for users of the adjacent easement area. As part of responding to this performance standard, BDH Realty Trust may propose plantings within the 100-foot easement. Any such proposed plantings that are approved by the Planning Board shall be purchased and installed by BDH Realty Trust and maintained by the City.

(b) Development proposals shall include a program of buffers including, but not limited to, an identification of their location, composition, maintenance, and ability to remain compatible with large expanses of impervious surface or parking areas. All areas dedicated for mechanical appurtenances or waste disposal, which are for all practical purposes at ground level, shall be screened from view with an opaque buffer of berms and plantings. A combination of topographic changes, berms, fences, and landscaping shall be used to screen loading areas.

(c) BDH Realty Trust agrees to donate land in fee, as described in the map on file in the City Clerk’s office, to the City of South Portland for the purpose of implementing that portion of the Recreation Plan contained in the Clark's Pond Study, dated December 1983, that lies within the property described in paragraph 1 above. BDH Realty reserves the right to use that land donated to the City for meeting buffer requirements.

(d) BDH Realty Trust agrees to donate an easement for land, as described in the map on file in the City Clerk’s office, to the City of South Portland for the purpose of implementing that portion of the Recreation Plan contained in the Clark's Pond Study, dated December 1983, that lies within the property described in paragraph 1 above. BDH Realty Trust reserves the right to use that easement donated to the City for meeting buffer requirements and for meeting the landscape requirements contained in Sec. 27-774 of the Code. This reservation of rights does not relieve BDH Realty Trust from the requirement to meet landscape standards associated with yard setbacks or parking.

(e) BDH Realty Trust agrees to dedicate and provide a sign for five (5) parking spaces in a future developed area of this property. The spaces shall be located to provide easy access between the parking spaces and the public space associated with Clark's Pond. With this convenience in mind, the parking spaces shall not be located on Lot 3 as shown on the subdivision plat recorded 9/6/89, Book 181, Page 7 in the Cumberland County Registry of Deeds. BDH Realty Trust reserves the right to use the five (5) parking spaces for meeting the standards contained in Sec. 27-1556 of the Code.

(f) The requirements of this subparagraph shall only apply to lots in the subdivision, as shown on the subdivision plat recorded 9/6/89, Book 181, Page 7 in the Cumberland County Registry of Deeds, that are jointly developed or merged with all or any portion of another lot or right-of-way.

If any structure is positioned on the property such that the exterior wall closest to the 100-foot easement associated with Red Brook or the main branch or south branch of Jackson Brook, as shown on the map on file in the City Clerk’s office, is located within 50 feet of the easement and runs a distance of more than 300 feet (as measured in a straight line without regard to irregularities in the wall), there shall be a "break" in the building at least every 300 feet. The break shall have a minimum width of 50 feet or a 1 to 2 height to width ratio, whichever is greater.

The "break" may be an actual physical break that divides the structure into two buildings, or an architectural element (such as, but not limited to, an atrium or archway) that is an integral part of a single building. The break shall allow the public to see and pass between the front of the building and the public space associated with Clark's Pond. Nothing

in this requirement shall prevent utilization of the space in the break for uses allowed in the CCR District as long as the uses do not unduly interfere with the passage of people or view through the space in the break.

If any building is within 50 feet of the 100-foot easement, special architectural treatment of the wall of that building will be used to mitigate the effect of the structure on users of the adjacent 100-foot easement.

(g) For the purposes of this Article, the term "BDH Realty Trust" shall include any heirs, assigns, designees or successors in interest to BDH Realty Trust. All obligations and rights of BDH Realty Trust under this Article shall run with the land and shall apply to any successor in interest to BDH Realty Trust.

Sec. 27-1224 - 27-1240. Reserved.

CONDITIONAL NON-RESIDENTIAL INDUSTRIAL MUNICIPAL SOLID WASTE TRANSFER DISTRICT INR-MSW-1

Sec. 27-1241. Purpose (INR-MSW-1).

Pursuant to Sec. 27-117 of the Code, conditional or Contract Zoning, the property identified as Assessor's Map 80-A, Lots 1C and 2Bas of the April 1, 2009 assessment date, which is uniquely located in a non-residential industrial (INR) district, is rezoned from Non-Residential Industrial (INR) to Conditional Non-Residential Industrial Municipal Solid Waste Transfer District 1 (INR-MSW-1), with a number of conditions and restrictions relating to the physical development and operation of the property. The conditions relate to the fact that the lot is located in a densely developed industrial district that is near existing residential uses and are intended (1) to ensure compatibility with the uses of the Non-Residential Industrial (INR) District; and (2) to be consistent with the intent of the 1992 South Portland Comprehensive Plan to encourage industrial business expansion and formation in this area.

Sec. 27-1242. Zone changed from Non-Residential Industrial to Conditional Non-Residential Industrial Municipal Solid Waste Transfer District 1 (INR-MSW-1) with conditions.

The property identified in Sec. 27-1241 above and shown on the Official Zoning Map as Conditional Non-Residential Industrial Municipal Solid Waste Transfer District 1 (INR-MSW-1) is rezoned from Non-Residential Industrial (INR) to Conditional Non-Residential Industrial Municipal Solid Waste Transfer District 1 (INR-MSW-1)with conditions and restrictions.

Sec. 27-1243. Conditions to Zone Change to INR-MSW-1.

Pursuant to Sec. 27-117 of the Code, the property described in this Article shall be limited as follows:

A. Any Transfer Station for Municipal Solid Waste operating in the INR-MSW-1 District must be an accessory use to a primary waste hauling, recycling or sorting center for construction and demolition material use located at the site.

B. A Transfer Station for Municipal Solid Waste operating in the INR-MSW-1 District may store municipal solid waste on the site only when the regional solid waste disposal facility at which the owner or operator of the Transfer Station deposits solid waste diverts solid waste from the owner or operator because of a shutdown, insufficient handling capacity to accommodate the solid waste or similar operational restriction.

C. No municipal solid waste stored at the Transfer Station for Municipal Solid Waste may remain at the site for a period longer than 72 consecutive hours.

D. The operator of a Transfer Station for Municipal Solid Waste permitted under this section shall be required to obtain an annual license to operate from the City Clerk.

E. The operator of a Transfer Station for Municipal Solid Waste permitted under this section shall be required to provide quarterly reports to the City Clerk describing the number of days of operation, the reason(s) the temporary

storage of municipal solid waste was necessary, the quantity of municipal solid waste put through at the station, and any problems and solutions associated with municipal solid waste handling at the station.

F. No solid waste may be incinerated or landfilled in the Conditional INR-MSW-1 District.

G. The storage of special waste, hazardous waste or free liquids is prohibited.

H. Storage of municipal solid waste outside of a building as required below is prohibited.

I. The floor of the storage room area may be used only for off-loading and not for storage of municipal solid waste.

Sec. 27-1244. Definitions (INR-MSW-1).

In applying the provisions of this Article, the following definitions apply and supersede any conflicting definitions that may be found elsewhere in this Chapter:

Free Liquids. Free liquids are flowable liquids as determined by the U.S. Environmental Protections Agency Paint Filter Liquids Test Method 9095 of SW-846, 3rd Edition.

Hazardous Waste. Hazardous waste is a waste substance or material, in any physical state, designated as hazardous under 38 M.R.S.A. § 1319-O, as may be amended. It does not include waste resulting from normal household or agricultural activities.

Municipal Solid Waste. Municipal Solid Waste (MSW) is solid waste, as that term is defined in 38 M.R.S.A. § 1303-C, as may be amended, emanating from household or commercial sources.

Special Waste. Special waste is any solid waste generated by sources other than household or typical commercial establishments that exists in such an unusual quantity or in such a chemical or physical state that it requires special handling, transportation or disposal procedures as defined in 06-096 CMR, Chapter 400.1.

Transfer Station for Municipal Solid Waste. A facility where municipal solid waste is off-loaded for temporary storage into an area within a building meeting the design standards set forth below, and then transferred to a vehicle for transport to off-site disposal facilities.

Sec. 27-1245. Uses; review; space and bulk (INR-MSW-1).

In addition to the uses permitted in the underlying INR District, the following shall be a permitted use in this zoning district:

1. Transfer station for municipal solid waste.

In all other respects, the permitted, special exception and prohibited uses shall be the same as the INR District.

Any uses proposed under this conditional zone shall undergo site plan review.

The space and bulk requirements for the Conditional INR-MSW-1 District shall be those of the INR District; provided, however, that no side setback shall be required for a principal building on a property that meets the following:

(i) the property on which the principal building is located abuts a drainage area that is at least .5 acre in area;
(ii) the drainage area is at least 40 feet wide throughout the portion of the drainage area that abuts the principal building;
(iii) the owner of the property on which the principal building is located has the perpetual legal right to use the abutting drainage area for stormwater drainage purposes as evidenced by an instrument recorded at the Registry of Deeds;
(iv) the zero side setback shall be limited to only one side setback on the property on which the principal building is located;
(v) the side lot line opposite the side lot with the zero side setback shall be subject to double the standard side setback; and
(vi) the length of the zero side setback along the side of the principal building shall be limited to the length of the principal building, and the remainder of that

side lot line shall be subject to the standard side setback.

Sec. 27-1246. Performance Standards (INR-MSW-1).

An accessory use as a transfer station for municipal solid waste in this conditional zone shall comply with the following performance standards in addition to the performance standards for the INR District and any applicable Site Plan performance standards. In the event of a conflict between these performance standards and other standards of this Chapter or other Chapters of the Code, the more restrictive standard shall control, unless otherwise stated.

1. Area used. Any use of the property as a transfer station for municipal solid waste shall be within a building that meets the following standards:

   (a) The building must meet the definition of a building per Sec. 27-201 and meet the Building Code and National Fire Protection Association (NFPA) standards.

   (b) The building shall be constructed with non-combustible materials, shall include a fire suppression system, and shall be designed and operated such that unobstructed egress is maintained and a minimum of two feet (2') of clearance occurs between sprinkler heads and municipal solid waste.

   (c) The building shall be enclosed with operable doors to control odors and rodents.

   (d) The storage area for municipal solid waste shall be designed with walls that will contain all liquids associated with the waste and with floor drains to collect any liquids generated. Floor drains shall be connected to the City sanitary sewerage collection system.

   (e) The storage area for municipal solid waste shall be restricted to a maximum capacity of 30 tons of non-compacted municipal solid waste at any one time.

2. Compliance with local, state and federal laws, codes, standards and regulations. An applicant for approval of a

transfer station for municipal solid waste must show compliance with all applicable local, state and federal laws, codes, standards and regulations.

3. Odor control and fire prevention. An applicant for approval of a transfer station for municipal solid waste must submit written evidence with the application that the use shall not be obnoxious, dangerous or detrimental to the neighboring community due to the creation of offensive odors or fire hazards.

Sec. 27-1247 - 27-1300. Reserved.

ARTICLE XIII. Shoreland Overlay Districts

SHORELAND AREA

DIVISION 1. GENERALLY

Sec. 27-1301. Purpose.

The purpose of this Article is to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect shoreland freshwater and coastal wetlands; to control building sites, placement of buildings and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; to anticipate and respond to the impacts of development in shoreland areas; and to protect and enhance the enjoyable quality of existing shoreland areas as places where people and nature can both exist in productive harmony.

Sec. 27-1302. Authority.

This Article is adopted pursuant to 38 M.R.S.A. § 435 et seq., as may be amended.

Sec. 27-1303. Applicability and Conflict.

This Article applies to the Shoreland Area Overlay District as described in Sec. 27-1311 and to any building built on, over or abutting a dock, wharf or pier, or other building or structure extending below the normal high-water line of a water body or within a wetland.

Whenever a provision of this Article conflicts with or is inconsistent with another provision of this Chapter or any other ordinance, regulation or statute administered by the City, the more restrictive provision shall control.

Sec. 27-1304. Availability.

A certified copy of this Article shall be filed with the City Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Article shall be posted.

Sec. 27-1305. Definitions.

For purposes of this Article, the following words shall be defined as stated herein:

A. *Basement.* Any portion of a structure with a floor-to-ceiling height of six (6) feet or more and having more than fifty percent (50%) of its volume below existing ground level.

B. *Coastal wetlands.* All tidal and subtidal lands; all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low-land that is subject to tidal action during the highest astronomical tide level for the year in which the activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

C. *Driveway.* A vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

D. *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.

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

F. *Foundation.* The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

G. *Functionally water-dependent uses.* Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and that cannot 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 cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to coastal or inland waters.

H. *Lot area*. The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

I. *Minimum lot width.* The closest distance between the side lot lines of a lot. When only two (2) lot lines extend into the Shoreland Area Overlay District, both lot lines shall be considered to be side lot lines.

J. *Normal high-water line.* With respect to non-tidal waters, that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils

and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered a part of the river or great pond. Adjacent to tidal waters, the normal high-water line is the upland edge of the coastal wetland.

K. *Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland.* These are divided into two classifications:

L. *Recent floodplain soils.* The following soil series as described and identified by the National Cooperative Soil Survey:

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

M. *Recreational facility.* A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

N. *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.

O. *Road.* A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage or motorized vehicles.

P. *Salt marsh.* Areas along coastal waters (most often along coastal bays) which support salt tolerant species, and where at average high tide during the growing season, the soil is regularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (Spartina alterniflora). More open areas often support widegeon grass, eelgrass, and Sago pondweed.

Q. *Salt meadow.* Areas which support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season

but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (Spartina patens) and black rush; common threesquare occurs in fresher areas.

R. *Setback, water.* The nearest horizontal distance from the normal high-water line or upland edge of a coastal wetland to the nearest part of a structure, road, parking space or other regulated object or area.

S. *Shore frontage.* The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline at the elevation of the normal high-water line or upland edge of a coastal wetland.

T. *Shoreland freshwater wetland* – A freshwater wetland that is not a forested wetland and that is ten (10) or more contiguous acres, or less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river, stream, or brook, such that, in a natural state, the combined area is in excess of ten (10) acres.

U. *Subsurface sewage disposal system.* A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 M.R.S.A. § 414, as may be amended, any surface wastewater disposal system licensed under 38 M.R.S.A. § 413(10-A), as may be amended, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 M.R.S.A. Chapter 13, subchapter 1, as may be amended.

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

W. *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 on exposed soil, parent material or bedrock, and

which flows to a water body or wetland as defined. This definition does not include the term "stream" as defined elsewhere in this Chapter, and only applies to that portion of the tributary stream located within the shoreland area of the receiving water body or wetland.

X. *Upland edge.* The boundary between upland and a shoreland freshwater or coastal wetland.

Y. *Vegetation.* All live trees, shrubs, ground cover and other plants.

Z. *Volume.* The volume of all portions of a building enclosed by a roof and fixed exterior walls as measured from the exterior faces of the exterior walls and roof.

AA. *Water body.* Any great pond, river, stream or tidal area.

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

CC. *Wetland.* A coastal or shoreland freshwater wetland as herein defined.

(Ord. No. 4-14/15, 7/7/14 [Fiscal Note: Less than $1000])

Secs. 27-1306 – 27-1310. Reserved.

DIVISION 2. ESTABLISHMENT OF DISTRICTS.

Sec. 27-1311. Shoreland Area Overlay District.

The Shoreland Area Overlay District, as shown on the Official Shoreland Zoning Map and which map is made a part of this Article, includes all of the area that is subject to the requirements of this Article. The Shoreland Area Overlay District includes:

- All land areas within two hundred fifty (250) feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action;

- All land areas within two hundred fifty (250) feet, horizontal distance, of the upland edge of a shoreland freshwater wetland; and
- All land areas within the Stream Protection Overlay Subdistricts (SP-1, SP-2, and SP-3).

The provisions of this Article also apply to any and all buildings or structures built on, over or abutting a dock, wharf or pier, or any other building or structure extending or located below the normal high-water line of a water body or within a coastal or shoreland freshwater wetland.

The Shoreland Area Overlay District includes the Shoreland Resource Protection Overlay Subdistrict and the Stream Protection Overlay Subdistricts. Except as otherwise specified, whenever reference is made in this Chapter to the Shoreland Area Overlay District, it shall mean collectively the Shoreland Area Overlay District, the Shoreland Resource Protection Overlay Subdistrict and the Stream Protection Overlay Subdistricts.

Sec. 27-1312. Shoreland Resource Protection Overlay Subdistrict.

The Shoreland Resource Protection Overlay Subdistrict includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This subdistrict shall include the areas listed below when they occur within the limits of the shoreland area, exclusive of the Stream Protection Overlay Subdistricts, except those areas which are currently developed and areas which meet the criteria for any non-residential district listed in this Chapter shall not be included within the Shoreland Resource Protection Overlay Subdistrict. A field determination prepared by a Maine licensed land surveyor, Maine licensed professional engineer, or professional wetland scientist may be required to determine the subdistrict boundary.

A. Areas within 250 feet, horizontal distance, of the upland edge of shoreland freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department of Environmental Protection. For the purposes of

this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.

B. Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This subdistrict shall also include 100-year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

C. Areas of two or more contiguous acres with sustained slopes of 20% or greater.

D. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a shoreland freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

E. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as certain steep coastal bluffs.

Sec. 27-1313. Stream Protection Overlay Subdistricts.

The Stream Protection Overlay Subdistricts consist of the following:

A. The Stream Protection Overlay Subdistrict 1 (SP-1) includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high water line of the following streams or within the Area of Special Flood Hazard (100 Year Floodplain) associated with these streams, whichever is greater, as shown on the Official Shoreland Zoning Map:

1. Mill Creek
2. Kimball Brook
3. Trout Brook
4. Anthoine Creek
5. Barberry Creek
6. Gambler's Arm Brook

A field determination prepared by a Maine licensed land surveyor or Maine licensed professional engineer may be required to identify Areas of Special Hazard (100 Year Floodplain) associated with these streams and thereby to determine the subdistrict boundary.

B. The Stream Protection Overlay Subdistrict 2 (SP-2) includes all land areas within one hundred (100) feet, horizontal distance, of the normal high water line of the following streams or within the Area of Special Flood Hazard (100 Year Floodplain) associated with these streams, whichever is greater, as shown on the Official Shoreland Zoning Map:

1. Long Creek upstream of the dam at Westbrook Street and its major tributaries
2. Red Brook
3. Jackson Brook

A field determination prepared by a Maine licensed land surveyor or Maine licensed professional engineer may be required to identify Areas of Special Hazard (100 Year Floodplain) associated with these streams and thereby to determine the subdistrict boundary.

C. The Stream Protection Overlay Subdistrict 3 (SP-3) includes all land areas within fifty (50) feet, horizontal distance, of the normal high water line of the minor tributaries of Long Creek as shown on the Official Shoreland Zoning Map.

The Stream Protection Overlay Subdistricts exclude those areas that are within the Shoreland Area Overlay District because they are within two hundred-fifty (250) feet, horizontal distance, of the normal high water line of a river or the upland edge of a coastal or shoreland freshwater wetland.

Sec. 27-1314. Interpretation of District Boundaries.

In the event of a conflict between the text of this Chapter describing the Shoreland Area Overlay District and/or its subdistricts and the Official Shoreland Zoning Map, the textual description shall control.

Secs. 27-1315 – 27-1320. Reserved.

DIVISION 3. PERFORMANCE STANDARDS AND DISTRICT REQUIREMENTS.

Sec. 27-1321. Land Uses in the Shoreland Area.

A. Except for the Shoreland Resource Protection Overlay Subdistrict, all permitted uses and special exception uses within the zoning district underlying the Shoreland Area Overlay District may be commenced, maintained, enlarged or expanded as provided in this Chapter unless that use is restricted or prohibited by the other provisions of this Article including the floodplain management provisions of Sec.27-1322 and Article IV of Chapter 5. Within the Shoreland Resource Protection Overlay Subdistrict, only those uses listed in subsection (B) below are permitted.

B. Only the following uses are permitted in the Shoreland Resource Protection Overlay Subdistrict, and all other uses allowed in the underlying district(s) as permitted uses and special exception uses are prohibited:

1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking;

2. Motorized and non-motorized vehicular traffic on existing roads, trails and rails;

3. Hiking trails, inactive trails, bridle paths, pedestrian trails and walkways;

4. Forest management activities;

5. Fire prevention activities;

6. Wildlife management activities;

7. Soil and water conservation activities;

8. Surveying and resource analysis;

9. Emergency Operations;

10. Agriculture and harvesting of wild crops;

11. Non-residential facilities for educational, scientific or nature interpretation purposes;

12. Buildings accessory to existing residential buildings and to uses permitted herein;

13. Temporary piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water line or within a wetland;

14. Permanent piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water line or within a wetland;

15. Public and private recreational areas involving minimal structural development;

16. Parking facilities where the resource protection designation is due to floodplain criteria;

17. Public utility structures;

18. Clearing of vegetation;

19. Filling and earth-moving activities; and

20. Signs.

Sec. 27-1322. Performance Standards.

All land uses and land use activities in the Shoreland Area Overlay District shall comply with the following performance standards. In the event of a conflict between these performance standards and the other standards of this Chapter, the more restrictive standard shall control.

A. Space and Bulk Regulations:

1. Except as otherwise provided in this section, the space and bulk regulations (minimum lot area, minimum street frontage, minimum front, side and rear yards, maximum building height and maximum building coverage) in the Shoreland Area Overlay District shall be the same as the space and bulk requirements of the underlying zoning district.

2. Except as otherwise provided in this Chapter, in the Shoreland Area Overlay District, the following minimum water setbacks for all principal and accessory buildings shall be observed, with such setbacks to be measured by horizontal distance from the normal high-water line of the water body, tributary stream, upland edge of a coastal wetland, or upland edge of a freshwater wetland of special significance, whichever is more restrictive:

   (a) Shoreland Area Overlay District areas (excluding Shoreland Resource Protection Overlay Subdistrict and Stream Protection Overlay Subdistricts areas) included within the Rural Residential, Residential AA, Residential A, Residential G, Residential G-2 Districts and other residential districts: Forty (40) feet.

   (b) Shoreland Area Overlay District areas (excluding Shoreland Resource Protection Overlay Subdistrict and Stream Protection Overlay Subdistricts) included within the Conditional Residential and Limited Commercial Use District G-3: Twenty-five (25) feet

   (c) Shoreland Area Overlay District areas (excluding Shoreland Resource Protection Overlay Subdistrict and Stream Protection Overlay Subdistricts) included within the Limited Business, Commercial, Shipyard, Spring Point Industrial, Professional Office, Central and Regional Commercial, General Commercial, Suburban Commercial, Light Industrial, Non-Residential Industrial Districts, and other non-residential districts: None.

   (d) Shoreland Resource Protection Overlay Subdistrict: Seventy-five (75) feet.

(e) Stream Protection Overlay Subdistrict 1:

- Mill Creek, Trout Brook, Kimball Brook, Anthoine Creek, and Barberry Creek Forty (40) feet

- Gambler's Arm Brook Sixty (60) feet

(f) Stream Protection Overlay Subdistrict 2: Seventy-five (75) feet.

(g) Stream Protection Overlay Subdistrict 3: The setback varies as provided for in Sec. 27-1322(O).

3. Land below the normal high-water line of a water body or upland edge of a coastal or freshwater wetland shall not be included toward calculating minimum lot size.

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B. Principal and Accessory Buildings.

1. The water body, tributary stream, or wetland setbacks listed in Sec. 27-1322(A)(2) above shall apply neither to buildings that require direct access to the water body or wetland as an operational necessity, such as piers, docks, wharves, bridges, retaining walls, and other similar structures, nor to other functionally water-dependent uses.

2. 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 one hundred (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. Accessory structures may be placed in accordance with the standards of floodplain management provisions of Article IV of Chapter 5 and need not meet the elevation requirements of this paragraph.

3. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a shoreland zoning approval from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-

water line of a water body or upland edge of a wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C, as may be amended); and that the applicant demonstrates that no reasonable access alternative exists on the property.

4. For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine licensed professional engineer, a Maine licensed soil scientist, a Maine certified geologist, or other qualified individual to submit an evaluation. If agreement is still not reached between the applicant and the permitting official(s), the applicant may appeal the matter to the Board of Appeals.

5. On a nonconforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the Code Enforcement Officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

6. Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided that all of the following conditions are met:

   (a) The site has been previously altered and an effective vegetated buffer does not exist;

(b) The wall(s) is(are) at least twenty-five (25) feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;

(c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;

(d) The total height of the wall(s), in the aggregate, is(are) no more than twenty-four (24) inches;

(e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.

(f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and

(g) A vegetated buffer area is established within twenty-five (25) feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:

(i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;

(ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;

(iii) Only native species may be used to establish the buffer area;

(iv) A minimum buffer width of fifteen (15) feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;

(v) A footpath not to exceed the standards in Sec. 27-1322(J)(2)(a), may traverse the buffer;

C. Limitations on Activity within Areas of Special Flood Hazard in the Stream Protection Overlay Subdistricts

All land areas in the Stream Protection Overlay Subdistricts that are within Areas of Special Flood Hazard as depicted on the Flood Insurance Rate Maps of the City as described in Article IV of Chapter 5 must comply with the provisions of this section in addition to the requirements of Article IV of Chapter 5.

1. ***Floodplain Management Approval.*** Unless otherwise exempted, all activities including the construction, expansion, or location of buildings or structures, grading, or filling require approval by the Planning Board. Planning Board approval is not required for the placement or alteration of an accessory building, the enlargement of an existing principal building or structure that does not increase the footprint of the building/structure by more than two hundred (200) square feet, or for any activity that does not increase the amount of impervious surface by more than five hundred (500) square feet. If the activity requires subdivision or site plan review or other review by the Planning Board, the floodplain management approval shall occur in conjunction with those other approvals. The application for approval must include the information set forth in Sec. 5-122 of the Code.

In reviewing applications for activities within Areas of Special Flood Hazard, the Planning Board must find that all of the following are met to approve the application and authorize the Code Enforcement Officer to issue a flood hazard development permit in accordance with Sec. 5-121 of the Code:

(a) New development will not change the flow of flood or other surface drainage waters so that other properties become more susceptible to damage.

(b) New development will not adversely affect the natural drainage system's ability to store and/or transport stormwater.

(c) New development will not create special hazards or nuisances when flooded, such as, but not limited to, erosion or other water quality degradation.

(d) No fill is used. For the purposes of this provision, fill does not include:

1) Loaming and seeding (up to a maximum of four (4) inches of loam).

2) Backfilling of foundation, utility, or other ditches and trenches to the existing grade as of May 12, 1987.

3) Grading around foundations necessary to facilitate drainage (up to twelve (12) feet away from the foundation and with a maximum slope of ½" per foot).

4) Filling essential in the construction of access drives built to the existing grade as of May 12, 1987.

5) Filling essential to provide access from an access drive to a public street, including the use of gravel or other fill in the minimum amount necessary to achieve the elevation above existing grade required for safe access to the property. Any fill must be shown to have some beneficial and necessary purpose as demonstrated on the submitted plan. All fill shall be protected against erosion by vegetation cover, rip-rap, or pavement. In no case shall filling be permitted to create a buildable lot that would otherwise be undevelopable.

(e) New buildings and major improvements to existing buildings will not be subject to damage by the base flood.

(f) All applicable development standards of Sec. 5-131 and Sec. 5-132 of the Code are met or exceeded including requirements for the location, elevation, and construction of structures.

2. ***Uses Allowed Within the Floodway***

Only the following uses are permitted within the floodway:

(a) Hiking trails, nature trails, and bridle paths.

(b) Public and private parks and picnic areas of primarily undeveloped natural character.

(c) Nonstructural accessory residential uses, such as lawns and gardens.

(d) Public facilities for educational, scientific or nature interpretation purposes. Such facilities shall not include residential uses.

(e) Recreational uses involving minimal structural development such as golf courses, driving ranges, tennis courts, playing fields, swimming areas, target ranges, trap and skeet ranges, and similar uses.

(f) Non-residential buildings and structures accessory to permitted uses.

(g) Structures accessory to existing residential buildings, provided they are not designed for human habitation and meet construction standards described in Sec. 5-131 and Sec. 5-132 of the Code.

(h) Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, aquaculture, forestry, and wild crop harvesting, provided that the applicant can demonstrate that adequate water quality and erosion controls have been provided.

(i) Public utility structures, provided they meet the standards contained in Sec. 5-131 and Sec. 5-132 of the Code.

(j) Water-related uses such as boat ramps, bridges, culverts, and river crossings of transmission lines, subject to any applicable City, State, or Federal regulations, provided that the proposed structures will not unduly restrict the capacity of the floodways.

(k) Other similar uses or structures in compliance with the requirements of this section.

3. *Uses Allowed in the Floodway Fringe*.

The following uses and structures are allowed in the floodway fringe portions of the Stream Protection Overlay Subdistricts:

(a) All uses and structures allowed pursuant to Sec. 27-1322(C)(2) above.

(b) All uses and structures permitted in the underlying zoning district(s).

D. Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line of a water body or within a wetland.

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

2. The location shall not unreasonably interfere with existing developed or natural beach areas.

3. The facility shall be located so as to minimize adverse effects on fisheries.

4. The facility shall be no larger in dimension than necessary to carry on the activity. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six (6) feet for non-commercial uses.

5. No new structure or enlargement of an existing structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body

or wetland as an operational necessity, except that non-water dependent structures existing as of 2/27/01 and located in the Shipyard District S, Spring Point District SP and the Commercial District C zoning districts are permitted to expand up to a size that is less than 30% of the floor area or volume, as those terms are defined in Sec. 27-1306 herein, during the lifetime of the building. Any such new structure or enlargement of an existing structure allowed hereunder shall be reviewed as appropriate under this Chapter.

6. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units.

7. Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

8. New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

E. Roads, Driveways and Parking Areas.

The following standards shall apply to the construction of roads, driveways and drainage systems, culverts and other related features and parking areas.

1. Except in the Stream Protection Overlay Subdistrict 3, roads, driveways and parking areas shall be set back at least seventy-five (75) feet, horizontal distance, from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road, driveway or parking area setback requirement shall be no less than the applicable Shoreland Area Overlay District water setback as provided in Sec. 27-1322(A)(2), upon a clear showing by

the applicant that appropriate techniques will be used to prevent pollution, erosion and sedimentation of the water body resulting from the portion of the road, driveway or parking area that is proposed to be located within seventy-five (75) feet from the normal high-water line of water bodies, tributary streams or the upland edge of a wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

This paragraph shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted and/or existing structures or to 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 this subsection except for that portion of the road or driveway necessary for direct access to the structure.

2. Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a water body, tributary stream or wetland.

3. New roads and driveways are prohibited in a Shoreland Resource Protection Overlay Subdistrict except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in the Shoreland Resource Protection Overlay Subdistrict, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in the Shoreland Resource Protection Overlay Subdistrict the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a

wetland.

4. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Sec. 27—1322(K).

5. Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.

6. 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.

7. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

8. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

   (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135

6-10	100-80
11-15	80-60
16-20	60-45
21 +	40

(b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

(c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.

(d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.

9. Parking areas shall meet all of the requirements for off-street parking set forth in Sec. 27-1556, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

F. Signs.

The provisions of Sec. 27-1561 et seq. shall govern the use and placement of signs in the Shoreland Area Overlay District except the following provisions shall govern the use of signs in the Shoreland Resource Protection Overlay Subdistrict:

1. Signs relating to goods and services sold on the premises shall be permitted, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

2. Name signs shall be permitted, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.

3. Residential users may display a single sign not over six (6) square feet in area relating to the sale, rental, or lease of the premises.

4. Signs relating to trespassing and hunting shall be permitted without restriction as to number provided that no such sign shall exceed two (2) square feet in area.

5. Signs relating to public safety shall be permitted without restriction.

6. No sign shall extend higher than twenty (20) feet above the ground.

7. Signs may be illuminated only by shielded, non-flashing lights.

G. Storm Water Runoff.

1. All new construction and development that does not require Planning Board review and approval under other provisions of this Chapter or Chapter 24 of the Code shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwater.

2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

H. Septic Waste Disposal.

All sewage disposal within the shoreland area shall be in conformity with Chapter 22. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following:

1. Clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a coastal or shoreland freshwater wetland; and
2. A holding tank is not allowed for a first-time residential use in the shoreland area.

I. Agriculture.

1. All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. §§ 4201-4209, as may be amended).

2. Manure shall not be stored or stockpiled within seventy-five (75) feet, horizontal distance, of the normal high-water line of water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland area must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

3. Agricultural activities involving tilling of soil greater than forty thousand (40,000) square feet in surface area within the shoreland area shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Article.

4. There shall be no new agricultural activities involving tilling of soil greater than forty thousand (40,000) square feet in surface area where some or all of such tilling is within seventy-five (75) feet, horizontal distance, from water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and shoreland freshwater wetlands. Operations in existence as of July 5, 1992 and not in conformance with this provision may be maintained, provided that such operations are conducted with a Conservation Plan to be filed with the Planning Board.

5. After July 5, 1992, newly established livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance, of the normal high-water line of water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams, and shoreland freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan to be filed with the Planning Board.

J. Clearing or Removal of Vegetation for Activities Other Than Timber Harvest

1. Within the strip of land extending seventy-five (75) feet inland, horizontal distance, from the normal high-water line in the Shoreland Resource Protection Overlay Subdistrict abutting a great pond, there shall be no cutting of vegetation except to remove safety hazards.

   Elsewhere in the Shoreland Resource Protection Overlay Subdistrict, the cutting or removal of vegetation shall be limited to that which is necessary for uses permitted in that district.

2. Except in areas as described in subparagraph J(1) above, and except to allow for the development of permitted and special exception uses, within a strip of land extending seventy-five (75) feet, horizontal distance, from the normal high-water line of any water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

   (a) 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.

   (b) Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other natural vegetation is maintained.

   For the purposes of this Article, a "well-distributed stand of trees" adjacent to water bodies, tributary streams, and wetlands is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area as determined by the rating system below:

   Diameter of Tree at 4 1/2 feet
   Above Ground Level (inches) Points

2 - < 4 in.	1
4 - < 8 in.	2
8 - <12 in.	4
12 in. or greater	8

The following shall govern in applying this point system:

(i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;

(ii) Each successive plot must be adjacent to, but not overlap a previous plot;

(iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Article;

(iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Article;

(v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of this Article "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4½) feet above ground level for each 25-foot by 50-foot rectangular plot. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

(c) Pruning of tree branches on the bottom 1/3 of the tree is permitted.

(d) 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 above.

(e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

The provisions contained in subparagraph J(2) above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.

3. At distances greater than seventy-five (75) feet, horizontal distance, from the normal high-water line of any water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 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 purpose of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns, and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland area or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to any non-residential district listed in this Chapter.

4. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Article.

5. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

K. Erosion and Sedimentation Control

1. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions, which require a shoreland zoning approval and which do not require Planning Board review and approval under this Chapter or Chapter 24 of the Code shall also require a written soil erosion and sedimentation control plan pursuant to this subsection. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

   (a) Mulching and revegetation of disturbed soil.

   (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.

   (c) Permanent stabilization structures such as retaining walls or riprap.

2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soils at every phase of construction shall be minimized to reduce the potential for erosion.

4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

   (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500)

square feet and shall be maintained until a catch of vegetation is established.

(b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

(c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

5. Natural and man-made drainageways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

L. Soils.

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface wastewater disposal, and commercial or industrial uses and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine licensed soil scientists, Maine licensed professional engineers, Maine certified geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

M. Water Quality.

No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances

will impair designated uses or the water classification of the water body, tributary stream, or wetland.

N. 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 permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

O. Additional Requirements for the Stream Protection Overlay Subdistrict 3.

1. Approval Required

No activity that involves the clearing of vegetation or the disturbance of the soil including grubbing, excavation, grading, filling, or construction shall be undertaken within the Stream Protection Overlay Subdistrict 3 until the activity has been approved in accordance with the provisions of this section. If the activity is being carried out as part of a project that requires subdivision or site plan review, the Planning Board shall review and approve the activity as part of its review. If the activity is not subject to review by the Planning Board, the property owner shall be responsible for obtaining such approval from the Code Enforcement Officer. The property owner shall submit the information set forth in Sec. 27-1322(O)(4) and the Code Enforcement Officer shall review the submission for conformance with the general standard.

2. General Standard

Use and development of the land within the Stream Protection Overlay Subdistrict 3 shall be carried out in a manner that does not require encroachment on or alteration of the stream valley. The Planning Board or Code Enforcement Officer may approve activities that encroach on or alter the stream valley but only if such encroachment:

(a) is necessary for the reasonable use and/or development of the property, and
(b) there is no reasonable alternative to encroachment on the stream valley, and
(c) the alteration is the minimum necessary for the reasonable use of the property, and
(d) the activity within the stream valley will conform to the performance standards of Sec. 27-1322(O)(3).

3. Performance Standards

Any activity that encroaches upon or alters the stream valley must conform to the following performance standards:

(a) Location of improvements. Buildings, parking lots, structures, stormwater detention facilities, and similar improvements must not be located within the stream valley except for encroachments allowed under the general standard. If roads, drives, utilities, or similar facilities must cross the stream valley, they shall be located and designed to minimize the alteration of the stream valley. Since stream valley encroachments have the potential to confine natural floodplains and channelize flows, encroachments in the stream valley shall not be permitted if they will contribute to downstream degradation or erosion.

(b) Shading of the stream. The stream must be shaded in a manner that will prevent the temperature of the water in the stream from being increased. This requirement applies to intermittent as well as perennial streams. The lack of stream flow at certain times of the year shall not alter the shading requirement. The applicant must demonstrate that the topography of the site, natural vegetation or proposed landscaping within or adjacent of the stream valley, or other means will shade the stream to the degree that would be achieved if the stream were located under a mature forest canopy.

(c) Stabilization of valley side slopes. If altered, the side slopes of the stream valley must be designed, constructed, and maintained to be

stable and to minimize erosion and sedimentation. Stability of the slopes shall be provided through vegetative controls that will result in naturally forested tributary conditions where feasible. Construction materials, grading practices, vegetation and other site development elements must minimize visual impacts and maintain or complement the existing landscape. Any alteration shall conform to the Maine Erosion and Sediment Control BMPs (March 2003) published by the Department of Environmental Protection.

(d) Stormwater discharges. Point discharges of stormwater within the stream valley shall be avoided where possible. If a point discharge of stormwater within the stream valley is required, the location and design of the outlet shall minimize the area of alteration and shall result in stable conditions. Stormwater discharge outlets shall conform to the Maine Stormwater Best Practices Manual, Volumes 1 and 3 (January 2006), published by the Department of Environmental Protection.

4. Submission Requirements

Any activity that involves the clearing of vegetation or the disturbance of the soil including grubbing, excavation, grading, filling, or construction within the Stream Protection Overlay Subdistrict 3 shall submit the following information to the Code Enforcement Officer or to the Planning Board as part of the subdivision or site plan review application. Where the proposed activity is part of an application for subdivision or site plan review, the required information can be included in the plans and related information for the entire project:

(a) a plan showing the area included within the overlay district and supporting documentation including at least the following:

(1) the existing topography of the site at a one (1) foot contour interval unless a different interval is approved by the Code Enforcement Officer;
(2) the limits of the stream valley;

(3) the location of the stream channel including a simple bed material characterization. The bed material characterization must identify the relative percentage of boulders, cobbles, and sand in the streambed within the project area;

(4) the existing vegetative conditions within the stream valley including pictures; and

(5) the location and design of any alterations within the stream valley including grading, filling, utilities, stormwater facilities, structures, landscaping, or other improvements.

(b) an alternatives analysis demonstrating the need for any encroachment on or alterations within the stream valley and how any encroachments have been minimized.

(c) an erosion and sedimentation control plan.

(d) an analysis of the proposed stream shading, including a proposed planting plan if planting within the stream valley is proposed, demonstrating that the shading standard will be met.

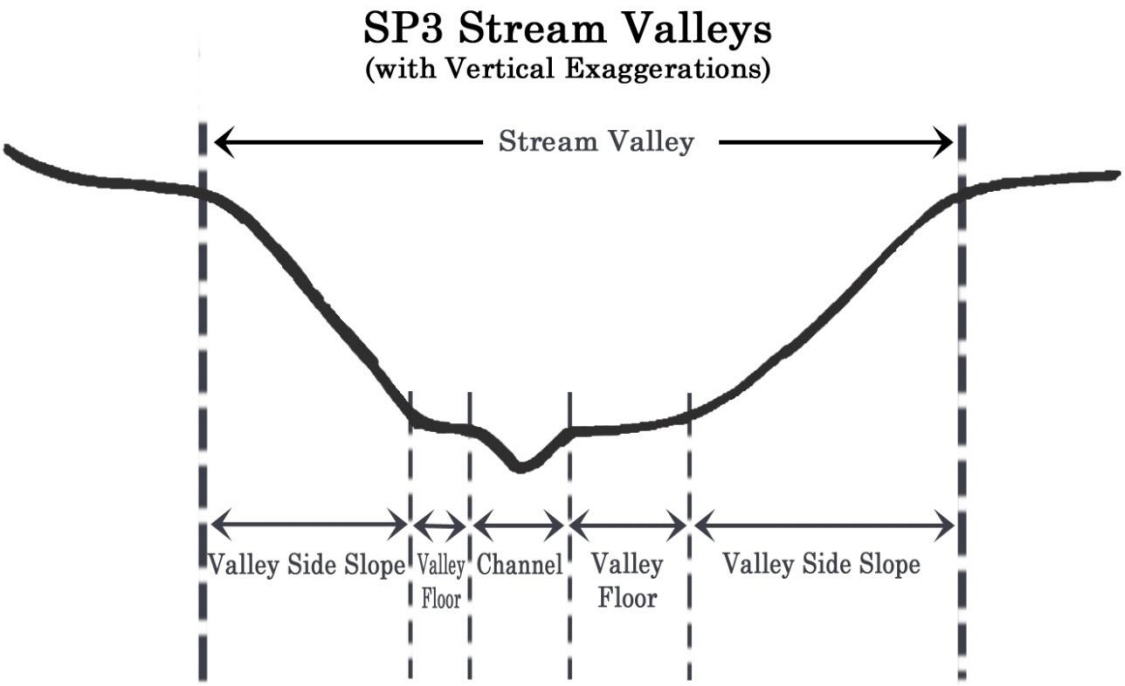
(e) a description of the flow velocities at any stormwater outfalls and open drainage ways entering the stream valley. The description must include information on the existing soil conditions at the outfall or drainage way and how the velocities will be mitigated through stabilization techniques and energy dissipaters such as pools or grade controls. The Planning Board or Code Enforcement Officer may require a hydraulic analysis of downstream stream or floodplain conditions by a Maine licensed professional engineer in order to document potential downstream shear stresses and scour impacts associated with channel constraints or the point discharge of stormwater.

5. Definitions

The following terms shall be defined as follows for the purposes of this section:

Stream valley. The area adjacent to a stream that is bounded by the upper limits of the stream valley side slopes (see following sketch).

Stream valley side slope. The area that slopes upward from the stream channel and the relatively flat stream valley floor (see following sketch).



(Ord. No. 4-14/15, 7/7/14 [Fiscal Note: Less than $1000]

Sec. 27-1323 - 27-1330. Reserved.

DIVISION 4. ADMINISTRATION AND ENFORCEMENT

Sec. 27-1331. Shoreland Zoning Approval.

A. Shoreland Zoning Approval Required.

After July 5, 1992, no person shall engage in any activity or land use regulated by this Chapter or Chapter 24 of the Code and located in the Shoreland Area Overlay District without first obtaining shoreland zoning approval:

1. from the Planning Board for any proposed permanent pier, dock, wharf or other structure or use extending over or below the normal high-water line or within a wetland under this Article, for any special exception under Article XIV of this Chapter, for any site plan under Article XIV of this Chapter or for any proposed subdivision under Chapter 24 of the Code; and

2. from the Code Enforcement Officer for any other activity or land use.

B. Shoreland Zoning Approval Procedures.

The Planning Board shall not approve a proposed permanent pier, dock, wharf or other structure or use extending over or below the normal high-water line or within a wetland or an application for special exception, site plan or subdivision proposed to be located in whole or in part within the Shoreland Area Overlay District nor shall the Code Enforcement Officer issue a building permit or other land use permit under this Chapter for any proposed land use that is not subject to the above Planning Board approvals and that is proposed to be located in whole or in part within the Shoreland Area Overlay District unless the Planning Board or the Code Enforcement Officer also makes a positive finding, with or without conditions and based on the information presented, that the proposed use:

1. Will maintain safe and healthful conditions;

2. Will not result in water pollution, erosion, or sedimentation to surface waters;

3. Will adequately provide for the disposal of all wastewater;

4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

5. Will conserve shoreland vegetation;

6. Will conserve visual points of access to waters as viewed from public facilities;

7. Will conserve actual points of public access to waters;

8. Will protect archaeological and historic resources;

9. Will not adversely affect existing commercial fishing or maritime activities;

10. Will avoid problems associated with floodplain development and use; and

11. Is in conformance with the provisions of this Article.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Article.

If shoreland zoning approval is either denied or issued with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a building or structure if the building or structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or any State law which the municipality is responsible for enforcing.

D. Expiration of Shoreland Zoning Approval.

The shoreland zoning approval shall remain valid only for the duration of and subject to the same terms and conditions of the underlying building permit, subdivision approval, site plan approval or other land use permit with which it is issued.

E. Installation of Public Utility Service.

No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the shoreland area unless written authorization attesting to the validity and currency of all local permits and approvals required under this or any previous Article, has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization

to the municipal officials, indicating that installation has been completed.

Sec. 27-1332. Enforcement.

A. Nuisances.

Any violation of this Article shall be deemed to be a nuisance.

B. Code Enforcement Officer.

1. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Article. If the Code Enforcement Officer shall find that any provision of this Article is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures and abatement of nuisance conditions. A copy of such notices shall be submitted to the Municipal Officers and be maintained as a permanent record.

2. The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to shoreland zoning approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Article.

3. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, shoreland zoning permits granted or denied, variances granted or denied, revocation actions, revocation of shoreland zoning approvals, appeals, court actions, violations investigated, violations found, and fees collected. On an annual basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Control within the Maine Department of Environmental Protection.

C. Fines.

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provisions or requirements of this Article shall be penalized in accordance with 30-A M.R.S.A. § 4452, as may be amended, and each day that a violation of this Article continues shall be deemed a separate violation of this Article.

Sec. 27-1333. Effective date.

This ordinance and the Official Shoreland Zoning Map of the City of South Portland dated February 11, 2009, attested and signed by the City Clerk, shall be submitted to the Commissioner of Environmental Protection following adoption by the City Council and shall not become effective unless approved by the Commissioner; provided, however, that if the Commissioner fails to act upon this ordinance and the said zoning map within forty-five (45) days after receipt of this ordinance and the said zoning map, they shall be deemed approved; and further provided that notwithstanding 1 M.R.S.A. § 302, as may be amended, this ordinance and said zoning map, upon approval or deemed approved by the Commissioner, shall have an effective date retroactive to their effective date under the City Charter; and further provided that this ordinance and said zoning map shall govern all applications for a shoreland zoning permit submitted to the City within said forty-five (45) day period if this ordinance and said zoning map are approved or deemed approved by the Commissioner.

Sec. 27-1334. Amendments.

Copies of amendments, attested and signed by the City Clerk, shall be submitted to the Commissioner of Environmental Protection following adoption by the City Council and shall not become effective unless approved by the Commissioner; provided, however, that if the Commissioner fails to act upon any amendment within forty-five (45) days after receipt of the amendment, the amendment shall be deemed approved; and further provided that notwithstanding 1 M.R.S.A. § 302, as may be amended, the amendment, upon approval or deemed approval by the Commissioner, shall have an effective date retroactive to its effective date under the City Charter; and further provided that the amendment shall govern all applications for a shoreland zoning permit

submitted to the City within said forty-five (45) day period if the amendment is approved or deemed approved by the Commissioner.

Secs. 27-1335 - 27-1400. Reserved.

ARTICLE XIV. Planning Board Review

SPECIAL EXCEPTIONS

Sec. 27-1401. Requirement.

(a) No parcel of land or structure may be employed for any use listed as a special exception use in the zoning district without approval of the Planning Board. No building permit shall issue until the use has been approved by the Planning Board and any such use without prior approval shall be a violation of this Article.

(b) A use listed as a special exception use is a use that would not be appropriate without restriction throughout a zoning district but which, if controlled with conditions, would not injure the public health, safety, order, comfort, convenience, appearance, prosperity or general welfare.

Sec. 27-1402. Authorization; powers and duties of Planning Board.

(a) The Planning Board is hereby authorized to hear and decide upon applications for special exception permits in accordance with state law and the provisions of this Article.

(b) The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for special exception permits.

(c) No special exception permit shall be authorized unless specific provision for such special exception use is made in this Article.

Sec. 27-1403. Application.

(a) Application for a special exception permit shall be made to the Planning Board by submission of a completed application to the Planning Department on forms provided for this

purpose, accompanied by a fee as specified in the Schedule of License, Permit, Inspection and Application Fees established by City Council order.

(b) An application shall incorporate a site plan application.

Sec. 27-1404. Hearing procedure.

(a) Before taking action on any application for special exception permit, the Planning Board shall hold a public hearing. The board shall notify by mail the owners of all property within five hundred (500) feet of the property involved of the nature of the application and of the time and place of the public hearing thereon.

(b) For the purpose of this Article, the owners of property shall be considered to be the parties listed by the assessor of taxes for the City of South Portland as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.

(c) The application shall be in order for hearing at the next meeting of the Planning Board following, by at least seven (7) days, the mailing of notices.

(d) At any hearing a party may appear by agent or attorney. Hearings shall not be continued to other times except for good cause.

(e) The conduct of the hearing shall be determined by rules of the Planning Board, duly adopted. All persons shall abide by the order of the Chairman.

(f) If the Planning Board shall deny an application for special exception, a second request of a similar nature shall not be brought before the Board within two (2) years from the date of the denial by the Board of the first application, unless in the opinion of a majority of the Board, substantial new evidence shall be brought forward or unless the Board finds in its sole and exclusive judgment that an error or mistake of law or a misunderstanding of facts shall have been made.

Sec. 27-1405. Standards.

A special exception use is presumed to be permitted unless the Planning Board finds that the specific proposed use at the proposed location would have a greater adverse impact than would normally be associated with that use at other locations within the same zone. A special exception permit may be granted by the Planning Board only in the event that the applicant has established to the satisfaction of the Board that:

(a) The proposed use meets all requirements of the site plan ordinance. Said site plan standards shall apply to all special exception uses notwithstanding their size.

(b) The proposed use meets all special requirements of the Resource Protection district, if the use is proposed for such district and all requirements of the flood damage prevention ordinance, Sec. 5-101 through Sec. 5-153 of the Code, if proposed for location in areas designated as floodways.

(c) The proposed use will not have a greater adverse impact than would normally be associated with that use at other locations within the same zone and meets all applicable performance standards set forth in this Article.

Sec. 27-1406. Conditions.

In approving a special exception application, the Planning Board may impose such conditions as are consistent with the purposes of this ordinance and the Comprehensive Plan. Conditions may include the following:

(a) The requirement of improvements to public facilities which would be burdened by the special exception use.

(b) Restrictions on access and hours of use.

(c) Requirements for buffering, screening and landscaping in addition to minimum standards in this Article.

(d) Requirement of performance guarantees.

(e) Other restrictions on the design of the site and/or building(s) to minimize the adverse impacts that are associated with the specific use at the proposed location.

Sec. 27-1407. Time limitations.

(a) No special exception permit shall be valid for a period longer than one (1) year from the date of approval or such other time as may be fixed by the Planning Board not to exceed two (2) years, unless the special exception use has commenced or the Start of Construction on the proposed use is actually begun within that period provided, however, that one or more extensions of said time may be granted by the Board if the facts constituting the basis of the decision have not materially changed and the two-year period is not exceeded thereby. The Code Enforcement Officer shall make a determination as to whether the applicant has commenced use or substantial construction on the special exception use.

(b) No structure, building or use of premises previously authorized by special exception permit may be enlarged or expanded without securing prior approval of the Planning Board in the form of a new permit.

Secs. 27-1408 - 27-1420. Reserved.

SITE PLAN REVIEW

Sec. 27-1421. Purpose.

The development of private land may irreparably injure the natural environment both on the site and elsewhere, may adversely affect the use, enjoyment and value of other public and private properties, may seriously impair the quantity and quality of municipal services and facilities, and may adversely affect the health, safety and welfare of the citizens. It is the intent of this Article to provide a practical means by which the City, acting through the Planning Board, may exercise the police power delegated to it to control developments in such a manner that they will minimize adverse impacts on the natural environment, municipal infrastructure, and the safety, health and general welfare of the City.

Sec. 27-1422. Requirement; applicability.

(a) This Article shall apply to all proposals for development, as defined in subsection (c).

(b) No building permit or certificate of occupancy shall be issued for development within the scope of this Article unless and until a site plan of the development has been reviewed and approved by the Planning Board in accordance with the procedures of this Article.

(c) Site plan review shall be required for the following activities:

(1) New construction which by itself or when added to construction completed within the preceding two (2) years, exceeds a minimum floor area, as specified in the provisions of the zoning ordinance pertaining to the district in which the proposed development is located. "New construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries. In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the last 2 years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use or a nonconforming use.

(2) Development activity which creates more than fifteen thousand (15,000) square feet of disturbed area within any five-year period.

(3) Any use proposed for the Shoreland Resource Protection Overlay Subdistrict SRP.

(4) Any special exception use allowed in any zoning district.

(5) Any use proposed for a conditional or contract zone enacted pursuant to Sec. 27-117 shall be subject to site plan review as otherwise provided in this subsection (c).

(6) A stationary vending unit. For purposes of site plan review, a stationary vending unit may be either a principal or an accessory use, depending on the zone in which it is located, and must meet all yard setbacks. Impacts to be considered include, but are not limited to, increases in traffic generation and circulation, parking area, utilization of City services, stormwater run off, noise, odors or other annoying or dangerous emissions detectable at lot boundaries.

(7) Telecommunication towers, as applicable in the specific zoning districts in this Chapter.

(8) Facade and roofing alterations of buildings in Design Review Districts. Facade and roof alterations will be reviewed to ensure compliance with the Design Standards in Sec. 1566 et seq. of this Ordinance. Included is any facade or roof alteration or construction requiring a building permit. The following activities also are included: removal or replacement of facade architectural detailing; facade window or door replacement involving changes of openings; facade siding replacement or installation; roofing replacement or installation; and alteration of any exterior sign. Regardless of whether a building permit is required, site plan approval is not required for facade, roofing, or sign alterations involving ordinary repair or maintenance, repair due to fire or other accidental cause, or repair necessitated by vandalism. In order to provide timely determinations, the Planning Director, after consulting with the Code Enforcement Officer and other relevant City staff, may issue a decision letter to the applicant. If this procedure or its result is unsatisfactory to the applicant, she or he have the right to receive a Planning Board public hearing following the minor amendment site plan review procedures.

Sec. 27-1423. Authorization; powers and duties of Planning Board.

(a) The Planning Board is hereby authorized to hear and decide upon applications for site permits in accordance with state law and the provisions of this Article

(b) The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for site plan permits.

Sec. 27-1424. Application.

(a) Application for a site plan permit shall be made to the Planning Board by submission of a completed application to the Planning Department on forms provided for this purpose, in the numbers required by the Planning Board, accompanied by the required fee. No application shall be reviewed by the Board until it is complete.

(b) (b) Each application for a site plan permit shall consist of the following:

(1) Written statement:

a. Location, zoning district of the site;

b. Record owner of the site;

c. Name, address of the applicant; evidence of title, right, or interest in the site if not the owner; evidence of corporate or partnership status if not an individual;

d. A description of the proposed uses to be located on the site, including quantity and type of residential units, if any;

e. The total land area of the site and total floor area and ground coverage of each proposed building and structure;

f. General summary of existing and proposed easements or other burdens now existing or to be placed on the property; copies of all relevant documents relating to such burdens, including condominium documents;

g. Reasonable evidence of the applicant's technical and financial capability to complete the proposed development;

h. Evidence of receipt of all necessary reviews, approvals, permits and approvals from other agencies;

i. A description of the proposed method of handling solid waste disposal;

j. Applicant's evaluation and demonstration of the adequacy and availability of public facilities and services necessary to serve the proposed development, which shall include sewer, water, power and streets;

k. A description of any problems of drainage or topography, or a representation that, in the opinion of the applicant, there are none;

l. Erosion and sedimentation control plans describing methods of control measures during and after construction of the proposed development; and

m. An estimate of the time period required for completion of the proposed development.

n. A description of how the impact of the development activities on coastal wetlands, vernal pools, including significant vernal pools, and significant wildlife habitats will be minimized and what actions will be taken to mitigate any negative impacts on these resources. Information about the impact on freshwater wetlands, if required, shall be provided in accordance with sub-section (4) Supplemental freshwater wetland information. If the proposed activities require a permit or other approval under the state’s Natural Resources Protection Act or from the Army Corps of Engineers, any such application and supporting information shall be provided as part of the submission.

o. A narrative describing how historic resources or archaeological resources will be preserved and incorporated into the development plan. If an

identified resource will be removed, altered, or not included as part of the development plan, a statement shall be provided as to why the resource cannot be preserved and the options considered but rejected for including it as part of the development plan.

(2) Existing conditions plan. An existing conditions plan prepared by a Maine licensed land surveyor and drawn to scale showing the boundaries of the lot of record; any improvements on the lot, including buildings, structures, and paving; the location of buildings and other improvements on the abutting lots (including those across any streets); the topography indicating contours at intervals as required by the Planning Director but in no event more than five (5) feet intervals or less than one (1) foot intervals on the lot and abutting lots (including those across any streets); the vegetation on the lot and abutting lots (including those across any streets); the direction of drainage flow on, under or across the lot; the location of any freshwater or coastal wetlands and vernal pools, including significant vernal pools, any significant wildlife habitat on or adjacent to the lot, the location and description of all historic and archeological resources on the lot, any existing easements; and the location of all utilities on the lot or in adjacent streets.

(3) Site plan drawings, maps:

a. Name and address of site owner and applicant;

b. Scale and north arrow;

c. Boundaries of the site;

d. Total land area of the site;

e. Topography indicating contours at intervals of not more than two (2) feet. In cases where sufficient detail cannot be shown with two-foot contours one-foot contours and/or spot elevations shall be shown. Existing spot elevations shall be shown in parentheses to be distinguishable from final spot elevations;

f. Existing soil conditions;

g. Location, size, shape, and elevations of existing and proposed buildings or other structures and materials to be used;

h. Location and dimensions of parking areas, loading and unloading facilities, and points of ingress and egress of vehicles to and from the site to public streets;

i. Location of all existing and proposed easements and rights-of-way;

j. Location and dimension of pedestrian access ways;

k. Location and size of existing and proposed utilities;

l. Location of exterior lighting;

m. Location of natural features such as watercourses, marshes, rock outcroppings and stands of trees;

n. Landscaping and screening;

o. A description of any right-of-way, or open space the applicant proposes to designate as public;

p. The name, registration number, seal and signature of the engineer or land surveyor who prepared the plan. Any site plan which proposes construction of a building or buildings which occupies a ground area in excess of eight thousand (8,000) square feet, or which includes parking lots, roads, paved areas, wharves or areas to be stripped or graded and not to be revegetated such that the total project, including any buildings, will occupy a ground area in excess of fifteen thousand (15,000) square feet shall require the seal of a licensed professional engineer;

q. A Stormwater Management Plan meeting the requirements of Sec. 27-1536, Performance Standards with Respect to Stormwater Management. Any application involving more than fifteen thousand

(15,000) square feet of disturbed area must include a Post-Construction Stormwater Management Plan. All other applications must include a Basic Stormwater Management Plan.

r. Drawings which are numbered and dated with space provided for dates of any revisions.

(4) Supplemental freshwater wetland information: If the applicant is required by Sec. 27-1526, Performance Standards for the Alteration of Freshwater Wetlands to demonstrate compliance with the general standard for the alteration of freshwater wetlands, and the parcel contains freshwater wetlands, the application must contain the information set forth in either a. or b. below.

a. Projects requiring a permit for the alteration of Wetlands Under the Maine Natural Resources Protection Act - A project that will involve the alteration of a freshwater wetland that requires a permit other than a "permit-by-rule" from the Maine Department of Environmental Protection (DEP) under the Natural Resources Protection Act must include the materials submitted for such permit or approval, including all supporting documentation, as part of the site plan review application. A project subject to a DEP "permit-by-rule" must submit the information set forth in b. If an upland buffer is required in accordance with Sec. 27-1432, the following additional information must be provided:

1. A delineation of all wetlands, including freshwater wetlands of special significance, and proposed upland buffers on the site plan or a separate plan at the same scale as the site plan.

2. A description of the proposed treatment of the upland buffer to maintain/create these as naturally vegetated buffer strips. If planting will be done within the upland buffer to meet this requirement, the type and extent of planting shall be provided in either a tabular or plan form.

3. A narrative describing how the upland buffer will be managed and maintained over time

including drafts of proposed easements, deed restrictions, or other legally binding documentation.

b. Projects That Do Not Require a Permit for the Alteration of Wetlands Under the Maine Natural Resources Protection Act – A project on a parcel that contains freshwater wetlands but that does not require a permit from the Maine Department of Environmental Protection (DEP) under the Natural Resources Protection Act or a project that is subject to a DEP "permit-by-rule" must provide the following information as part of the application:

1. A plan and accompanying documentation delineating the location, type, and area of freshwater wetlands on the parcel prepared by a professional wetland scientist either on the site plan or on a separate plan drawn at the same scale as the site plan. The documentation must describe the vegetation, soils, and hydrology of the identified wetlands and identify any freshwater wetlands of special significance. The plan must show any areas of marsh or open water within the identified freshwater wetlands. This plan must also show existing and proposed buildings, structures, roads, and other improvements on the parcel, and any waterbodies on the parcel or within seventy-five (75) feet of the wetlands.

2. A statement that there will be no alteration of freshwater wetlands or, if alteration is proposed, a plan showing the area of freshwater wetlands proposed to be filled or otherwise altered. This may be a separate plan or be included as part of the plan required in 1.

3. Color photographs showing the characteristics of the wetland vegetation, soils, and hydrology on the parcel. The photos must be labeled and keyed to the plan provided in 1.

4. If alteration of any freshwater wetlands is proposed, the submission must include an alternatives analysis report prepared by a professional wetland scientist. This report must

address whether there is a practical alternative to the proposed wetlands alteration and, if there is no practical alternative, how the extent of wetland alteration has been minimized. The report must assess at least the following:

a. Whether the need for the alteration could be avoided by using, managing, or expanding one or more other sites.

b. Whether the need for the alteration could be avoided or minimized by reducing the size, scope, configuration, or density of the activity as proposed.

c. Whether the need for the alteration could be avoided or minimized by the location or design of the activity.

5. If upland buffers are required in accordance with Sec. 27-1432, the following additional information must be provided:

a. A delineation of all proposed upland buffers on the site plan or a separate plan at the same scale as the site plan.

b. A description of the proposed treatment of the upland buffer to maintain/create these as naturally vegetated buffer strips. If planting will be done within the upland buffer to meet this requirement, the type and extent of planting shall be provided in either a tabular or plan form.

c. A narrative describing how the upland buffer will be managed and maintained over time including drafts of proposed easements, deed restrictions, or other legally binding documentation.

(c) Each applicant shall pay an application fee as specified in the Schedule of License, Permit, Inspection and Application Fees established by City Council order.

(d) The Planning Board may establish additional requirements for applications by regulation and may, in reviewing any

application for a site plan permit, require the applicant to submit additional information which will aid in review of the proposed development.

(e) The Planning Board may establish a classification of minor site plan developments and adopt modified application forms appropriate for such development. Minor site plan developments shall be those proposed developments which, in the judgment of the Planning Board, are not so substantial in size or potential adverse impact that the full application form described herein is necessary.

(f) Upon receiving an application, the Planning Department shall issue to the applicant a dated receipt. Within thirty (30) days of receipt of an application, the department shall notify the applicant in writing either that the application is a complete application or, if incomplete, the specific additional material needed to make a complete application.

(g) A public hearing on an application for site plan approval shall be held within ninety (90) days of receipt of a completed application, unless the applicant agrees to an extension of the time period.

(h) The Planning Board shall, within thirty (30) days of a public hearing, or such period as the applicant agrees to, issue a decision on the application, said decision to include findings of facts and any conditions imposed by the Board.

(Ord. No. 4-14/15, 7/7/14 [Fiscal Note: Less than $1000])

Sec. 27-1425. Hearing procedure.

(a) Before taking action on any application for a site plan permit, the Planning Board shall hold a public hearing. The Board shall notify by mail the owners of all property within five hundred (500) feet of the property involved of the nature of the application and of the time and place of the public hearing thereon.

(b) For the purpose of this Article, the owners of property shall be considered to be the parties listed by the assessor of taxes for the City of South Portland as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.

(c) The application shall be in order for hearing at the next meeting of the Planning Board following, by at least seven (7) days, the mailing of notices.

(d) At any hearing a party may appear by agent or attorney. Hearings shall not be continued to other times except for good cause.

(e) The conduct of the hearing shall be determined by rules of the Planning Board, duly adopted. All persons shall abide by the order of the Chairman.

(f) If the Planning Board shall deny an application for site plan permit, a second request of a similar nature shall not be brought before the Board within two (2) years from the date of the denial by the Board of the first application, unless in the opinion of a majority of the Board, substantial new evidence shall be brought forward or unless the Board finds in its sole and exclusive judgment that an error or mistake of law or a misunderstanding of facts shall have been made.

Sec. 27-1426. Standards.

The following criteria are to be used by the Planning Board in reviewing applications for site plan permits and shall serve as requirements for approval of such site plans. The site plan shall be approved unless in the judgment of the Planning Board the applicant is not able to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant to demonstrate that the standards have been met. The Planning Board shall consider the following criteria and before granting approval shall determine that:

(a) The proposed development complies with the zoning ordinance and all performance standards therein.

(b) The proposed development will not result in undue water pollution. In making this determination, the Board shall at least consider the elevation of land above sea level and its relation to the floodplains, the nature of soils and subsoils and their ability to adequately support waste disposal if on-site disposal is proposed; the slope of the land and its effect on soil stability and effluents if on-site waste disposal is proposed and; the applicable state and local health and water resources regulations.

(c) The proposed development has sufficient water available for the reasonably foreseeable needs of the development and will not cause an unreasonable burden on an existing water supply.

In making this determination, the Board shall require written evidence from the Portland Water District.

(d) The proposed development will provide for adequate sewage waste disposal and will not cause an unreasonable burden on the ability of the City to dispose of sewage if municipal sewers and drains are to be used. The Board shall require a report from the City Engineer or other duly designated person with respect to the capacity of municipal sewerage system to serve the proposed development.

(e) The proposed development will provide for adequate disposal of solid wastes.

(f) The proposed development will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water.

(g) The proposed development will not cause unreasonable public road congestion or unsafe conditions with respect to use of the proposed public or private ways which will serve users of the development. The Board shall review the location, number, and control of access points, adequacy of adjacent streets, traffic flow, sight distances, turning lanes, and existing or proposed traffic signalization, and pedestrian-vehicular contacts.

Roadways shall meet the access and traffic requirements of Sec. 24-61 of the Code. All roadways and sidewalks shall meet the design and construction standards of Secs. 24-41 and 24-42 of the Code. The Planning Board may waive these requirements upon the recommendation of the City Engineer or other duly designated person and Director of Public Works as provided in Sec. 24-56 of the Code except that the Board shall have no authority to grant a waiver of any right-of-way requirement established in Chapter 24 of the Code.

(h) The proposed development has made adequate provisions for construction and maintenance of convenient and safe access for fire and other emergency vehicles to all buildings, structures and uses.

(i) The proposed development shall meet all design requirements and general construction requirements as established in Chapter 24 of the Code, provided that the Board may waive specific requirements as provided therein. The proposed development shall have minimum 4" square, 4' long granite or concrete monuments at all property corners and angle points and points of curve that abut a municipal property. Properly set existing granite monuments that do not meet these dimension requirements may be considered satisfactory. All other lot corners shall be marked with minimum 3/4" iron pipe or 5/8" steel rebar a minimum of twenty-four (24) inches long. All such markers shall be set 6" above ground, except in lawns, drives and parking areas where they shall be flush. If the subsurface is ledge between one and three feet deep, a two-foot diameter concrete encasement based on the ledge shall be required. If the ledge is less than one foot deep, a 1" diameter steel rod shall be grouted into the ledge. The Board may waive these requirements due to special circumstances of the property.

(j) The proposed development will not generate noise, vibrations, odors, dust, gas, fumes, glare or other annoying and dangerous emissions which are detectable at lot boundaries.

(k) The proposed development has all exterior lights designed to encourage energy efficiency and safe movement of people and vehicles, and to minimize adverse impact on neighboring properties and public ways. Lighting shall be arranged so as to minimize glare and reflection on adjacent properties' and the traveling public.

(l) The proposed development has provided off-street parking spaces and parking lots in accordance with provisions of Sec. 27-1556, except that the Planning Board may increase the parking or landscaping requirements if the proposed development would be likely to need additional parking spaces and landscaping. Parking for handicapped drivers shall be provided as required by state law. Where a parking space ratio is not established in Sec. 27-1556, the Planning Board shall review all available evidence to determine the amount of parking necessary to prevent on-street parking being used by the development. General interior circulation of traffic, separation of pedestrian and vehicular traffic, the needs of service traffic, drive-up facilities, and loading areas shall be considered.

(m) The proposed development will not have an adverse effect on the scenic or natural beauty of the area, aesthetics, historic or archaeological resources sites, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline. Any historic or archeological resources shall be preserved and incorporated into the development plan in a manner that retains its historic or archaeological value if feasible. If an identified resource will be removed or will be altered in a manner that significantly diminishes its historic or archaeological value, the burden is on the applicant to demonstrate that options for preserving the resource have been explored including consultation with the State Historic Preservation Office and the South Portland Historical Society and that such options are not feasible. In determining the feasibility of preserving the resource, the cost of preserving and maintaining the property and the ability to reasonably incorporate it into the development plan shall be considered. If the resource will be removed, the applicant must demonstrate that reasonable efforts have been made to preserve the resource value or relocate the resource to another location.

(n) The landscape of the proposed development shall be developed in such a manner as to minimize tree and soil removal, retaining existing vegetation where desirable and keeping any grade changes in character with the general appearance of neighboring areas.

(o) The bulk and height of proposed buildings and structures and their location on the site shall not be detrimental or injurious to the use and enjoyment of neighboring properties and shall not impose undue burdens on public facilities.

(p) The proposed development shall provide buffers which meet the minimum standards of the Code and shall provide adequate protection to the use, enjoyment and value of neighboring properties.

(q) The proposed development meets all applicable requirements of the Code and is in conformance with the Comprehensive Plan.

(r) The applicant has sufficient title, right or interest in the site of the proposed development to be able to carry out the development.

(s) The applicant has technical capability to complete the proposed development.

(t) The applicant has financial resources sufficient to complete the proposed development.

(u) All development must be carried out so that:

(1) The alteration of any freshwater wetlands on the property will be avoided to the extent feasible considering cost, existing technology and logistics based upon the overall purpose of the project;

(2) The area of freshwater wetlands that is altered will be limited to the minimum amount necessary to complete the project;

(3) A twenty-five foot wide naturally vegetated buffer strip will be maintained between the activity and any river, stream or brook (this is in addition to any requirement for an upland buffer in accordance with Sec. 27-1526(e)); and

(4) The project, including any alteration of freshwater wetlands, will not violate any state water quality law, including those governing the classification of the State's waters.

In determining whether the proposal avoids the alteration of wetlands to the extent feasible and if the area of any alteration is the minimum necessary to complete the project, the Planning Board or the Code Enforcement Officer shall be guided by the State of Maine's Natural Resources Protection Act, Wetlands and Waterbodies Protection Rules Chapter 310 as revised December 5, 2006.

(v) The proposed development has made adequate provisions for the management of the quality and quantity of all stormwater generated by the proposed activities through a Stormwater Management Plan meeting the requirements of Sec. 27-1536. Any development involving more than fifteen thousand (15,000) square feet of disturbed area must meet the requirements for a Post-Construction Stormwater Management Plan. All other applications must meet the requirements for a Basic Stormwater Management Plan.

(w) The proposed development will be carried out so that the impact on vernal pools, including significant vernal pools,

and significant wildlife habitats will be avoided to the extent feasible considering cost, existing technology and logistics based on the overall purpose of the project. If any aspect of the project requires a permit or other approval in accordance with the state's Natural Resources Protect Act or a permit from the Army Corps of Engineers, evidence of issuance of such permit or approval shall constitute satisfaction of this standard for that aspect of the project.

(Ord. No. 4-14/15, 7/7/14 [Fiscal Note: Less than $1000])

Sec. 27-1427. Conditions; off-site public improvements.

(a) The Board may require that an applicant construct or reconstruct off-site public improvements. Public improvements shall include but not be limited to waste water collection and treatment facilities, storm water drainage systems, solid waste facilities, fire protection facilities, roads and traffic control devices, parks and other open space or recreational areas. All such improvements shall be constructed according to the design and construction standards established in Chapter 24 of the Code, unless waived by the Board.

(b) In determining whether public improvements shall be provided by an applicant, the Board shall take into account:

(1) The present condition of the affected public facilities and the existing level of municipal services;

(2) The burden on the existing public facilities and level of services likely to be caused by the proposed development;

(3) The City's Comprehensive Plan for public improvements; and

(4) The reports and recommendations of the City Engineer or other duly designated person, the Director of Public Works and other City staff.

(c) If the Board requires off-site public improvements to be made by an applicant, the applicant shall post performance guarantees as required by this Chapter.

(d) The Board may also impose reasonable conditions of approval related to the standards of approval, performance standards and other provisions of the zoning ordinance. These may include restrictions on access and hours of use of the development and requirements for buffering, screening and landscaping in addition to the minimum standards set forth in the ordinance.

Sec. 27-1428. Time limitations.

(a) No site plan permit shall be valid for a period longer than six (6) months from the date of approval or such other time as may be fixed by the Planning Board not to exceed two (2) years, unless Start of Construction on the proposed development is actually begun within that period; provided, however, that a single, one (1) year extension of said time may be granted for good cause shown if the facts constituting the basis of the decision have not materially changed.

Unless Start of Construction on a development which has received site plan permit shall have commenced within six (6) months of the approval or within such other time as may be agreed upon by the Planning Board and the applicant, the approval shall be deemed to have expired and any building permits shall thereupon be revoked and the Code Enforcement Officer shall take any necessary steps to enforce this subsection. The Code Enforcement Officer shall make a determination as to whether the applicant has commenced substantial construction on the site plan development.

(b) No structure, building or use of premises previously authorized by site plan permit may be enlarged or expanded without securing prior approval of the Planning Board in the form of a new permit, provided that, if at any time before or during development of an approved site plan it becomes necessary or desirable to make modifications to the plan, the Planning Director may approve such modifications provided they do not amount to a waiver or substantial alteration of any condition or requirements set by the Planning Board.

Sec. 27-1429. Performance guarantee—Public Improvements.

(a) No construction shall begin on a site plan development until the applicant has tendered a public improvements performance guarantee in an amount adequate to cover the total costs of all required improvements taking into account the duration of construction and the effect of inflation upon costs. Required improvements may include, but shall not be limited to, monuments, street signs, streets, sidewalks, parking lots, water supply, sewer lines and sewage disposal facilities and storm drainage facilities on- and off-site.

(b) The performance guarantee shall be in the form of a certified check payable to the City, a faithful performance bond running to the City and issued by a surety company licensed to do business in the State of Maine, or an irrevocable letter of credit from a financial institution acceptable to the City Manager. The performance guarantee shall be valid for the duration of time required for completion and approval of the improvements required by the approved site plan. The performance guarantee shall be in an, amount equal to the greater of (1) the cost of the improvements as shown on the approved site plan or (2) the cost of reasonable restoration of the development site, to its pre-development state, which amount shall be determined by the City Engineer. Any dispute regarding the required amount of the performance guarantee may be appealed in writing within ten (10) days of notice of the amount required hereunder to the Planning Director. If the dispute is not resolved to the applicant's satisfaction by the Planning Director, the matter may be appealed in writing within ten (10) days of the Planning Director's decision on the dispute to the City Manager. The City Manager, after due notice and investigation and for good cause shown, may affirm, modify or reverse the disputed decision, reduce the amount required or increase the amount required.

The performance guarantee shall be in a form substantially similar to the terms set forth in Secs. 24-75 through Sec. 24-77 of the Code and approved by the Corporation Counsel.

(c) No building permit allowing construction of any portion of the proposed development shall be issued by the City until the applicant has paid the full amount of the required performance guarantees.

(d) The performance guarantee for public improvements shall not be released by the Planning Board until the following conditions have been met:

(1) The applicant has completed all improvements which served as the basis for the guarantee in accordance with the approved site plan and said improvements have been inspected and found satisfactory by the City Engineer or other duly designated person;

(2) The applicant has furnished to the City Engineer or other duly designated person a written statement from a Maine licensed land surveyor that all pertinent bounds or monuments have been accurately installed; and

(3) The applicant has furnished to the City Engineer or other duly designated person an accurate record plan and profile (original ink drawings on linen) of all drainage lines and structures, sanitary and storm sewerage lines and appurtenances, water mains and appurtenances, and all other utilities as actually installed with sufficient ties for proper identification.

Sec. 27-1430. Performance Guarantee--Erosion control.

(a) No construction shall begin on a site plan, until the applicant has tendered a performance guarantee in an amount adequate to cover the total costs of all soil erosion and sedimentation control incorporated in the site plan approval.

(b) The performance guarantee shall be in the form of a certified check payable to the City, a faithful performance bond running to the City and issued by a surety company licensed to do business in the State of Maine, or an irrevocable letter of credit from a financial institution acceptable to the City Manager. The performance guarantee shall be valid for the duration of time required for completion and approval of the soil erosion and sedimentation control plan required by the approved site plan. The amount of the performance guarantee shall be equal to the cost of rectifying the "worst case" scenario that could be created both on-site and off-site by failure to comply with erosion control measures or the cost of all temporary and permanent erosion and sedimentation controls required by the Code and the approved site plan which amount shall be determined by the City

Engineer or other duly designated person. Any dispute regarding the required amount of the performance guarantee may be appealed in writing within ten (10) days of notice of the amount required hereunder to the Planning Director. If the dispute is not resolved to the applicant's satisfaction by the Planning Director, the matter may be appealed in writing within ten (10) days of the Planning Director's decision on the dispute to the City Manager. The City Manager, after due notice and investigation and for good cause shown, may affirm, modify or reverse the disputed decision, reduce the amount required or increase the amount required.

The performance guarantee shall be in a form substantially similar to the terms set forth in Secs. 24-75 through Sec. 24-77 of the Code and approved by the City Manager and Corporation Counsel.

(c) No building or other permit allowing construction of any portion of the development shall be issued by the City until the applicant has paid the full amount of the required performance guarantee.

(d) Except as authorized in subsection (e), performance guarantees for soil erosion control shall not be released by the Planning Board until all affected areas of the project site and other properties have been inspected and found satisfactory by the City Engineer or other duly designated person.

(e) The amount of the performance guarantee may be reduced as the development progresses and a portion of the guarantee may be released by action of the Planning Board, upon recommendation of the City Engineer or other duly designated person, but not below fifty (50) per cent of its original amount.

(f) Any development requiring erosion control measures as part of its site plan approval shall also require field monitoring and inspection by the City of its erosion control measures. Such monitoring and inspections shall be paid for by the developer on a monthly basis pursuant to a fee established for the project by the City Engineer or other duly designated person. The fee shall be based upon and equal to the cost to the City for such monitoring. Failure to pay the fee in a timely manner as required shall be grounds for revocation of any building permit issued for construction of the development.

Sec. 27-1431. Performance Guarantee--Landscaping.

(a) At the time of site plan approval, the applicant shall tender a performance guarantee in an amount adequate to cover the cost of at least ten (10) per cent of the value of all plantings required by the approved site plan as determined by the City Engineer or other duly designated person. Any dispute regarding the required amount of the performance guarantee may be appealed in writing within ten (10) days of notice of the amount required hereunder to the Planning Director. If the dispute is not resolved to the applicant's satisfaction by the Planning Director, the matter may be appealed in writing within ten (10) days of the Planning Director's decision on the dispute to the City Manager. The City Manager, after due notice and investigation and for good cause shown, may affirm, modify or reverse the disputed decision, reduce the amount required or increase the amount required.

The performance guarantee shall be in a form substantially similar to the terms set forth in Sec. 24-75 through Sec. 24-77 of the Code and approved by the Corporation Counsel.

(b) The performance guarantee shall be in the form of a certified check payable to the City, a faithful performance bond running to the City and issued by a surety company licensed to do business in the State of Maine, or an irrevocable letter of credit from a financial institution acceptable to the City Manager. The performance guarantee shall be valid and binding for the time period through and including the fourth November 1 following the date of site plan approval or such other time period as the Planning Board may require, and shall be subject to the condition that required plantings be maintained in accordance with the terms of site plan approval and in a good and healthy condition.

(c) No building permit allowing construction of any portion of the proposed development shall be issued by the City until the applicant has paid the full amount of the required performance bond.

(d) The performance guarantee for landscaping may not be released by the Planning Board within the three-year period, but may

be released by the Planning Board once the three-year period has passed if all plantings required by the approved site plan are in place and in good and healthy condition, as certified by the City Arborist or City Arborist's designee.

Sec. 27-1432. Alteration of Freshwater Wetlands.

(a) If the parcel contains freshwater wetlands and the activity is not exempt from having to demonstrate compliance with the freshwater wetland alteration standard of Sec. 27-1526, the plan must provide for upland buffers adjacent to the identified freshwater wetlands in accordance with Sec. 27-1526(e).

(b) If the parcel contains freshwater wetlands, and if any of these freshwater wetlands will be altered, the project shall provide compensation or mitigation for the wetland alteration if required by Sec. 27-1526(d) in accordance with the provisions of that section.

Secs. 27-1433 – 27-1500. Reserved.

ARTICLE XV. Standards

CLUSTER DEVELOPMENT

Sec. 27-1501. Special provisions.

In residential districts (AA and A) the following cluster development special provisions may apply subject to the conditions set forth in this Article. The purpose of the cluster development provisions is to: 1. Provide flexibility and permit innovation in the siting of residential housing units; 2. Protect environmental resources; 3. Preserve open space; 4. Provide connections and public access to the existing and future community network of parks and open space; 5. Reduce stormwater runoff and the resulting pollutant loads to streams and other water resources; and, 6. Reduce development costs and municipal maintenance expenses related to roads and other infrastructure.

Sec. 27-1502. Performance standards.

Notwithstanding other provisions of this Chapter relating to space and bulk, the Planning Board in reviewing and approving proposed residential subdivisions located in the residential districts AA and A may modify said provisions relating to space and bulk, one or more of the purposes above, in accordance with the following standards. This shall not be construed as granting variances to relieve hardship. The burden of proof is on the applicant to demonstrate to the Planning Board that the proposed cluster development design provides significantly more public benefit through meeting one of the purposes stated above than would be possible through a design meeting the unmodified space and bulk regulations of the relevant zoning district.

(a) The purpose and intent of this zoning ordinance shall be upheld.

(b) There shall be compliance with all state and local codes and ordinances.

(c) There shall be no approval of any proposed development designed pursuant to the standards of this section which is

to be located on a parcel or contiguous parcels of land less than one hundred thousand (100,000) square feet in area. For the purposes of this Chapter the net residential deduction for streets and access includes the full width of vehicular rights-of-way If such rights-of-way are delineated.

(d) Each building shall be an element of an overall plan for site development. For any proposed development designed pursuant to the standards of this section and located in a Residential AA District or Residential A District, the Planning Board at its discretion may approve the use of single-family attached dwellings as well as single-family detached dwellings, provided that the proposed development adheres to all space and bulk requirements that would otherwise apply in the district in which it is located. For purposes of this section, single-family attached dwelling shall mean dwellings which are attached by a common fire separation wall and which have no dwellings either above or below them. No more than eight (8) such dwellings shall be attached in any single series and each such dwelling shall have direct access to the outside and, further, each such dwelling shall have adjacent to it an exterior yard space of which the occupants of such dwelling have exclusive use. The overall plan shall include a presentation of the architectural style to be utilized in the development.

(e) Front yard setback requirements shall not be modified by a reduction of more than fifty (50) per cent.

(f) Open space between principal buildings shall not be modified to less than the height equivalent of the higher of any two (2) adjacent principal buildings on the same lot.

(g) Frontage requirements shall not be modified by a reduction of more than seventy-five (75) per cent.

(h) Where possible, buildings shall be oriented with respect to scenic vistas, natural landscape features, topography and natural drainage areas.

(i) Development proposals shall include a landscape program to illustrate the proposed treatment of space, roads, paths, service and parking areas. Screening devices shall not impair pedestrian and vehicular safety.

(j) All utilities shall be installed underground wherever possible. All transformer boxes, substations, pumping

stations and meters shall be located and designed as not to be unsightly or hazardous to the public.

(k) Residual open space accumulated by modifying space and bulk requirements within the allowable density limits shall be usable for preserving large trees, tree groves, woods, ponds, streams, glens, rock outcrops, native plant life and wildlife cover, scenic views, fields, for creating or preserving public trails, and for outdoor living purposes, except that recreational activities of an organized nature are prohibited upon any open spaces so accumulated. The use of any open space may be further limited or controlled at the time of final plat approval where necessary to protect adjacent properties or uses.

(1) Net residential area at least equal in area to the cumulative lot size reduction must be maintained as common open space land.

(2) At least twenty-five (25%) percent of the total lot area must be designated as common open space.

(3) In cases where there are no lot lines (e.g., condominium subdivisions), the area within thirty (30') feet of each housing unit shall not be counted toward the required amount of common open space.

(4) Common open space shall be sited so as to adjoin with, or provide trail connections between, existing or potential publicly accessible open space on parcels abutting the subdivision tract.

(5) Consistent with State and Federal law, and particularly in the case of trails, the Planning Board may require that some or all of the common open space also be accessible to the public.

(l) The common open space(s) shall be shown on the subdivision plan and with appropriate notation on the face thereof to indicate that:

(1) It shall not be used for future building lots.

(2) A part or all of the common open space may, at the municipality's option, be accepted in dedication by the municipality for uses permitted in paragraph (k).

(m) (1) If any or all of the common open space is to be reserved for use by the residents, the formation and incorporation by the developer of a neighborhood

association shall be required prior to final plat approval.

(2) Covenants for mandatory membership in the association setting forth the owner's rights and interests and privileges in the association and the common land shall be approved by the Planning Board and included in the deed for each lot.

(3) This neighborhood association shall have the responsibility of maintaining the common open space(s) and operation and maintenance of permitted facilities within such open space(s).

(4) The association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of open spaces.

(5) The developer or subdivider shall maintain control of such open space(s) and be responsible for their maintenance until development sufficient to support the association has taken place or alternately the objectives of clustering have been met. Such determination shall be made by the Planning Board upon request of the neighborhood association or the developer or subdivider.

(n) The developer shall provide performance guarantees in form and amount required under the terms of the subdivision ordinance of the City. Such guarantees shall be for all improvements required under the terms of the said ordinance.

(o) For the purposes of this Article the tract or parcel of land involved must be either in single ownership or the subject of an application filed jointly by the owners of all the property included.

(p) For the purposes of this Article accessory uses may include, as an integral part of the plans for the development, retail and service facilities for the convenience of residents only provided; however, that in the opinion of the Planning Board, such facilities are in no way conflicting with the Comprehensive Plan of the City of South Portland.

Secs. 27-1503 – 27-1510. Reserved.

BUFFER AREAS

Sec. 27-1511. Buffer areas.

No building or structure shall be erected or any use permitted in nonresidential districts which abut residential districts unless the following side and rear yard requirements are satisfied:

(a) All such side and rear yards abutting residential districts shall maintain the district boundary in its natural state to provide a visual screen between districts.

(b) Where no natural buffering can be maintained all such side and rear yards abutting residential districts shall be landscaped to provide a visual screen between districts. Because of varying site conditions landscaping for the purposes of this section may include tree plantings, hedges, fencing, walling and combinations thereof. In no case however, shall said buffer strip be less than six (6) feet in width nor shall any required plantings or vegetation be less than four (4) feet in height.

Secs. 27-1512 – 27-1515. Reserved

PERFORMANCE STANDARDS – GENERAL

Sec. 27-1516. Performance standards; general.

(a) Industrial waste waters may be discharged to municipal sewers only and in such quantities and or of such quality as to be compatible with commonly accepted municipal sewage treatment operations, and subject to the approval of the municipality.

(b) Such waste may require pretreatment at the industrial site in order to render them amenable to municipal treatment processes.

(c) Pretreatment includes, but is not limited to screening, grinding, sedimentation, pH adjustment, surface skimming, chemical oxidation and reduction and dilution.

(d) The disposal of industrial waste waters by means other than the municipal sewerage system must comply with the laws of the State of Maine and the municipality concerning water pollution. Wash water or other process water carrying stone dust, stone particles, silt or other mineral matter will not be accepted into the municipal system. Representatives of the municipality and for the Maine Department of Environmental Protection may enter onto premises for the purpose of gauging, sampling, and testing any waste water streams which may enter into water courses.

(e) Dust, dirt and fly ash shall not exceed three tenths (0.3) grains per cubic foot of flue gas at stack temperature of five hundred (500) degrees Fahrenheit and shall in no manner be destructive, unhealthful, hazardous, nor shall visibility be impaired by the emission of haze which unduly impedes vision within apparent opaqueness equivalent to No. 1 of the Ringelmann Chart as measured at any boundary line, using the procedures of the American Society of Testing Materials. Representatives of the municipality and for the Maine Department of Environmental Protection may enter onto premises for the purpose of testing any and all sources of potential air pollution.

(f) The limitations of subparagraph (e) shall not apply to emissions resulting from soot, blowing on any heat-transfer operation regardless of fuel source provided such emissions do not exceed an aggregate duration of more than one hour in any twenty-four-hour period.

Any industry emitting toxic or odoriferous substances must submit detailed plans to minimize such emissions to the Building Inspector before a permit is granted. Limitations of toxicity and odors of these substances shall be as set forth by the State of Maine.

(g) All air pollution control shall comply with minimum state requirements and detailed plans submitted to the Building Inspector for approval, before a permit is granted.

(h) Noise. Noise is required to be muffled so as not to be objectionable due to intermittence, beat frequency, or shrillness. Noise may equal but not exceed, during any consecutive eight-hour period an average of seventy-five (75) decibels at six hundred (600) cps measured at any boundary line. During the peak activity of sixty (60) minutes in a twenty-four-hour period a noise may not exceed one hundred (100) decibels at six hundred (600) cps when measured at the source.

(i) Upset conditions, breakdowns or scheduled maintenance of any water and air pollution control equipment shall not be deemed to be in violation of established limits as specified above. Such person responsible for such emission will with all practical speed, initiate and complete appropriate reasonable action to correct the conditions causing such emissions to exceed said limits.

(j) In case of doubt, the Building Inspector may employ such dependent, recognized consultant necessary, at the expense of the applicant, to assure compliance with performance standards of this Article and abatement of nuisances.

(k) All artificial lighting, including signing and illumination of buildings and accessory parking areas shall be shaded or screened from adjoining residential areas.

(l) In any zoning district, fences, open or solid, maintained in a manner not to be unsightly in appearance may be erected, provided that the height of solid fences shall not exceed six (6) feet unless located more than five (5) feet from any property line. The maximum height of any fence shall be seven (7) feet.

Sec. 27-1517. Standards for Above Ground Storage Tanks.

(A) Notwithstanding any provision of this Chapter to the contrary, no new above ground storage tanks (in excess of 25,000 gallons capacity – either individually or in the aggregate) for petroleum based products may be erected or used on any parcel of real property in any zoning district

other than on real property actually being used and so improved for such purpose as of the applicable effective date of this subsection (A).

(1) For purposes of this subsection, the phrase "actually being used and so improved" shall be interpreted to mean all contiguous land, in single record ownership as of the applicable effective date of this subsection, any portion of which is in fact developed with and being actively used for such petroleum storage tanks on such date. Nothing in this subsection shall be construed to prohibit maintenance or replacement of existing tanks on such properties nor the construction of new tanks on such properties provided any such maintenance, replacement or new construction complies with all other applicable provisions of law.

(2) Applicable effective date: Notwithstanding 1 M.R.S.A. § 302, as may be amended, or any other provision of law to the contrary, this ordinance amendment shall apply to any application, permit or proceeding filed or submitted to the City of South Portland or any of its agents or boards on or after November 7, 1995.

(3) Waiver: Notwithstanding the provisions of Sec. 27-1517(A) above, the City Council, before review by the Planning Board, in certain circumstances may grant a waiver allowing new above ground storage tanks for petroleum based products in excess of 25,000 gallons but no greater than 50,000 gallons capacity - either individually or in the aggregate. Requests for this waiver shall only be for storage tanks that clearly are accessory to another use or uses and shall require site plan review according to the provisions of Article XIV of this Chapter. In order to grant a waiver, the City Council must find that the proposed project involves special circumstances such that the lower limit of 25,000 gallons is not requisite in the interest of public health, safety, and general welfare.

(4) Notice required: At least seven (7) days prior to the City Council meeting at which the request will be considered, the City Clerk shall provide written notification to the abutters of the parcel for which the waiver is requested advising them of the date and time of the Council meeting at which the waiver will be discussed. The applicant, abutters, or any party that

provides written or oral testimony on the application may appeal the Council's decision to Superior Court within thirty (30) days of the Council's action.

(B) The provisions of (A) also apply to any new above ground storage tanks (in excess of 25,000 gallons capacity or the equivalent capacity - either individually or in the aggregate) used for any purpose.

Sec. 27-1518. Standards for the Modification of Existing Residential Property to Accommodate People with Disabilities.

(A) Notwithstanding the other provisions of this Chapter, existing residential units may be modified to accommodate the needs of a person with a disability that resides on the premises or regularly uses the premises in accordance with the following:

(1) The installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability is permitted even if the access improvements encroach on the required yard setback in which the improvement is located provided that no portion of the access improvement is located within six (6) feet of a front or rear property line or three (3) feet of a side property line. A building permit must be obtained prior to the construction of the improvement.

(2) The installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability that is located within six (6) feet of a front or rear property line or three (3) feet of a side property line is permitted only with the issuance of a disability variance by the Board of Appeals in accordance with Sec. 27-152(b)(3). If a variance is granted by the Board of Appeals, a building permit must be obtained prior to the construction of the improvement.

(B) For the purpose of this section, a disability has the same meaning as a physical or mental handicap under Title 5, Section 4553 of the Maine Revised Statues Annotated.

Sec. 27-1519. Corner clearances.

To maintain safe traffic vision in all residential districts, between the sidelines of intersecting streets and a line joining point on such lines, twenty (20) feet distant from their point of intersection, or in the case of a rounded street corner, the point of intersection of their tangents, no building or structure may be erected and no vegetation other than shade trees may be maintained above a height of three (3) feet above the plane through their curb grades.

Sec. 27-1520. Manufactured housing.

Notwithstanding other provisions of this Chapter to the contrary, manufactured housing as defined in Sec. 27-201 shall only be allowed in the residential districts (RF, AA, A and G) and shall also be subject to the following requirements:

(a) Notwithstanding the provisions of Sec. 27-112, manufactured housing may only be placed on lots which satisfy the then current standard minimum lot size, minimum frontage, and other applicable space and bulk requirements for the zone in which it is located;

(b) Manufactured housing must meet the following design criteria:

(1) At least forty (40) percent of the roof being doubled-pitched at three (3) in twelve (12) or greater and covered with material that is residential in appearance including, but not limited to, approved wood, asphalt composition shingles or fiberglass, but excluding corrugated aluminum, corrugated fiberglass, or metal roof;

(2) Exterior siding that is not high-gloss in finish and is otherwise residential in appearance including, but not limited to, clapboards, simulated clapboards such as conventional vinyl or metal siding, wood shingles, shakes, or similar material, but excluding smooth, ribbed or corrugated metal or plastic panels;

(3) Must be placed on a permanent foundation that complies with the City's Building Code for residential structures;

(4) The hitch, axles and wheels must be removed;

(5) Must be oriented on the lot so that the long axis of the unit is parallel with the street. A perpendicular or diagonal placement may be permitted if there is a building addition or substantial landscaping so that the narrow dimension of the unit as so modified facing the street is no less than fifty (50) per cent of its long dimension;

(6) Must be landscaped to be compatible with surrounding properties;

(7) Must meet all applicable fire, safety, health, plumbing, electrical, and building code requirements;

(8) Must be at least fourteen (14) feet in width; and

(9) All fuel oil supply systems shall be constructed and installed within the foundation wall or underground within all applicable building and safety codes except that any bottled gas tanks may be fenced so as not to be clearly visible from the street or abutting properties.

Sec. 27-1521. Accessory energy generation facilities.

(a) Ground-mounted solar photovoltaic installations may not exceed a maximum rated output of electrical power production in direct current (DC) of 250 kW.

(b) Wind energy systems may be roof-mounted or, under certain conditions, free-standing. Free-standing wind energy systems are only allowed on lots greater than 0.5 acre in size and may not exceed the height of the zone or 45 feet, whichever is less. Other space and bulk standards notwithstanding, the setback from any property line for a free-standing wind energy system shall be a minimum of 110% of the height of the system. In all cases, the noise standards set out in Chapter 30, Control of Noise from New Development, shall be met.

(Ord. No. 14-13/14, 5/5/14 [Fiscal Note: Less than $1000])

Secs. 27-1522--27-1225. Reserved.

PERFORMANCE STANDARDS – FRESHWATER WETLANDS

Sec. 27-1526. Performance Standards with Respect to Activities in or Adjacent to Freshwater Wetlands.

The purpose of these provisions is to maintain the functions and values of the community's freshwater wetlands and to ensure the health and safety of the residents of the City while preserving our economic vitality.

(a) General Standard

All use of land, the construction or enlargement of buildings, structures, or impervious surface, or the grading, alteration, or disturbance of the land must be carried out so that:

(1) The alteration of any freshwater wetlands on the property will be avoided to the extent feasible considering cost, existing technology and logistics based upon the overall purpose of the project;

(2) The area of freshwater wetlands that is altered will be limited to the minimum amount necessary to complete the project;

(3) A twenty-five foot wide naturally vegetated buffer strip will be maintained between the activity and any river, stream or brook (this is in addition to any requirement for an upland buffer in accordance with Sec. 27-1526(e)); and

(4) The project, including any alteration of freshwater wetlands, will not violate any state water quality law, including those governing the classification of the State's waters.

In determining whether the proposal avoids the alteration of wetlands to the extent feasible and if the area of any alteration is the minimum necessary to complete the project, the Planning Board or the Code Enforcement Officer shall be guided by the State of Maine's Natural Resources Protection Act, Wetlands and Waterbodies Protection Rules Chapter 310 as revised December 5, 2006.

(b) Demonstration of Conformance with the General Standard

Projects that meet any of the following criteria must affirmatively demonstrate as part of an application for a permit or Planning Board approval that the project will conform to the general standard:

(1) Any project requiring site plan review and approval by the Planning Board in accordance with Article XIV except:

a) the revision of an approved site plan that does not increase the amount of area of buildings or impervious surface or the general location of buildings, structures, impervious improvements, infrastructure or other site improvements,
b) the creation of an accessory dwelling unit that does not increase the area of the building or impervious surface area, or
c) the establishment of a use permitted as a special exception in an existing building that does not increase the area of the building or impervious surface area.

(2) Any project requiring subdivision approval by the Planning Board in accordance with Chapter 24 of the Code except an application involving the revision of an approved subdivision plan that does not change the number or general location of lots or the general location and design of the streets, infrastructure, or other site improvements.

(3) Any project requiring a building permit for a new or enlarged building or structure or that increases the amount of impervious surface that is located on a parcel that includes a mapped freshwater wetland as shown on the National Wetland Inventory maps or other wetlands maps published by the state or federal government, or that contains hydric soils as shown in the Cumberland County Soil Survey, or that is located in the Shoreland Area Overlay District, Shoreland Resource Protection Overlay

District, Stream Protection Overlay District or Resource Protection District.

(4) Any project requiring a building permit for a new or enlarged building or structure in which the footprint of the new building or structure or the portion being added is more than one thousand two hundred (1,200) square feet or any activity that increases the amount of impervious surface by more than four thousand three hundred (4,300) square feet.

(c) Submission Requirements

Any project that is required to demonstrate compliance with the general standard shall submit the following information:

(1) An application for site plan review and approval in accordance with Article XIV must include the information set forth in Sec. 27-1424.

(2) An application for subdivision review and approval in accordance with Chapter 24 must include the information set forth in Sec. 24-12 of the Code if it is classified as a minor subdivision or Sec. 24-19 of the Code if it is classified as a major subdivision.

(3) An application for a building permit for a project that is subject to the requirements of this section and that is not part of a project that received subdivision approval or site plan approval after April 6, 2008 shall either provide a statement that there are no freshwater wetlands on the property or the information set out below. Wetlands information submitted with the application must be prepared by a professional wetland scientist if the project is located on a parcel that:

a) includes a mapped freshwater wetland as shown on the National Wetlands Inventory map or other published state or federal map of freshwater wetlands,
b) includes hydric soils as shown in the Cumberland County Soil Survey, or
c) is located in the Shoreland Area Overlay District, Shoreland Resource Protection District, the Stream Protection Overlay District, or Resource Protection District.

In all other situations, the wetlands information may be prepared by either a professional wetland scientist or any other professional with knowledge and experience to allow the identification of wetlands. If a person other than a professional wetland scientist prepares the wetlands information, that person must submit written documentation to the Code Enforcement Officer demonstrating knowledge and experience in the delineation of wetlands.

An application for a building permit on a parcel that contains freshwater wetlands must submit the information set forth in either a or b:

a. Projects Requiring a Permit for the Alteration of Wetlands Under the Maine Natural Resources Protection Act. — A project that will involve the alteration of a freshwater wetland that requires a permit other than a "permit-by-rule" from the Maine Department of Environmental Protection (DEP) under the Natural Resources Protection Act must include the materials submitted for such permit or approval including all supporting documentation as part of the application for the building permit. A project subject to a DEP "permit-by-rule" must submit the information set forth in b.

If the parcel includes a Freshwater Wetland of Special Significance and is required to provide an upland buffer in accordance with Sec. 27-1526(e)1), the application shall include a proposal for how the wetland will be buffered and how the buffer will be treated and maintained.

b. Projects That Do Not Require a Permit for the Alteration of Wetlands Under the Maine Natural Resources Protection Act – A project on a parcel that contains a freshwater wetland but that does not require a permit from the Maine Department of Environmental Protection (DEP) under the Natural Resources Protection Act or a project that is subject to a DEP "permit-by-rule" must provide the following information as part of the application for a building permit:

1) A plan and accompanying documentation delineating the location, type, and area of freshwater wetlands on the parcel. The documentation must describe the vegetation, soils, and hydrology of the identified wetlands and identify any freshwater wetlands of

special significance. This plan must also show existing and proposed buildings, structures, roads, and other improvements on the parcel, and any waterbodies on the parcel or within seventy-five (75) feet of the wetlands.

2) A statement that there will be no alteration of freshwater wetlands, or, if alteration is proposed, a plan showing the area of freshwater wetlands proposed to be filled or otherwise altered. This may be a separate plan or be included as part of the plan required in 1.

3) Color photographs showing the characteristics of the wetland vegetation, soils, and hydrology on the parcel.

4) If alteration of freshwater wetlands is proposed, a statement indicating why the freshwater wetland alteration is necessary and how the project has been designed to minimize the alteration of the wetlands.

5) The application must include a formal alternatives analysis report prepared by a professional wetland scientist if: 1) the project is located on a parcel that has mapped wetlands, mapped hydric soils, or is located in a shoreland overlay or resource protection district and will alter more than 1,000 square feet of freshwater wetland, or 2) the project will alter more than 2,000 square feet of freshwater wetland. This report must address whether there is a practical alternative to the proposed wetlands alteration and, if there is no practical alternative, how the extent of wetland alteration has been minimized. The report must assess at least the following:

a) Whether the need for the alteration could be avoided or minimized by reducing the size, scope, configuration, or density of the activity as proposed.
b) Whether the need for the alteration could be avoided or minimized by the location or design of the activity.

6) If the parcel includes a Freshwater Wetland of Special Significance and is required to provide an upland buffer in accordance with Sec. 27-1526(e)1),

the application shall include a proposal for how the wetland will be buffered and how the buffer will be treated and maintained.

(d) Compensation or Mitigation for Freshwater Wetland Alteration

(1) *Payment of Compensation Fee Required*

Any use of land, or the construction or enlargement of buildings, structures, or impervious surface, or the grading, alteration, or disturbance of the land, or other activity that alters a freshwater wetland shall be required to pay a compensation fee to the City unless one of the following conditions will be met:

a) Compensation or mitigation activities will be undertaken to offset the alteration as part of a permit for the alteration of a freshwater wetland under the state's Natural Resources Protection Act (NRPA) or the federal Clean Water Act. If the alteration of freshwater wetlands is allowed in accordance with the NRPA or Clean Water Act but compensation or mitigation is not required by the Maine Department of Environmental Protection or U.S. Army Corps of Engineers, a compensation fee must be paid for the alteration.

b) Compensation or mitigation activities approved by the Planning Board will be undertaken in conjunction with a site plan or subdivision approval in accordance with subsection 2 below.

(2) *Non-Monetary Compensation or Mitigation Activities in Lieu of Payment of the Fee*

Any party that is responsible for paying a compensation fee for the alteration of freshwater wetlands may request to implement non-monetary compensation or mitigation activities in lieu of paying the fee. The request must be approved by the Planning Board in accordance with the following standards:

a) The proposed compensation/mitigation must conform to the requirements of Section 5.C. Compensation, and Section 6. Wetland Compensation Standards, of Chapter 310 Wetlands and Waterbodies Protection Rules of the Maine Department of Environmental Protection.

b) The party requesting to implement compensation/mitigation activities must agree to reimburse the City for the costs of reviewing the compensation proposal and for overseeing the actual implementation of the mitigation activities including appropriate legal, engineering, inspection, and wetland science costs.

(e) Upland Buffer Strip Adjacent to Freshwater Wetlands

(1) *When an Upland Buffer is Required*

A naturally vegetated buffer strip must be maintained or established in the upland adjacent to a freshwater wetland if: 1) the wetland is a freshwater wetland of special significance, or 2) if the wetland is located on a parcel that has development activity that is subject to site plan review and approval and/or subdivision review and approval. The requirement to maintain or establish an upland buffer and to pay a compensation fee if the buffer is not provided shall extend only to the boundary of the property on which the wetland is located and shall not extend onto an abutting parcel.

The Planning Board may reduce or waive the requirement for an upland buffer strip upon written request of the property owner or applicant if the Board finds that the creation of some or all of the required buffers will make the reasonable development or use of the parcel not feasible, and if the property owner or applicant pays a compensation fee in accordance with f). The burden for demonstrating that compliance with the buffer requirement will make reasonable development infeasible rests with the owner/applicant. The Planning Board may reduce the required width of some or all of the upland buffers or may waive the provision of any buffer in some or all required locations.

The Planning Board may also allow the required buffer area to be reconfigured so that the width of the buffer is greater than the required width in some areas and less than the required width in other areas if a Professional Wetland Scientist documents that the proposed configuration will provide similar wetland and habitat protection and benefits as a buffer of the required width. No compensation fee shall be required in this situation unless the total area of buffer provided is less than the area of buffer required in which case a fee must be paid for the buffer area that is not provided.

(2) *Location and Width of the Upland Buffer Strip*

The upland buffer strip shall be located adjacent to the upland edge of a wetland in its post-development configuration. If a wetland is altered as part of the development, the required buffer strip shall be located adjacent to the upland edge of the altered wetland.

a) The buffer strip in a development subject to Planning Board approval under subdivision or site plan review that is adjacent to a freshwater wetland of special significance must be at least fifty (50) feet in width unless the requirement is waived or altered by the Planning Board in accordance with 1).
b) Any other activity that must demonstrate compliance with the freshwater alteration general standard in accordance with Sec. 27-1526(b) shall be designed and constructed to allow for the creation of an upland buffer adjacent to any freshwater wetland of special significance to the extent practical taking into account the reasonable use and development of the property.
c) The buffer strip adjacent to a freshwater wetland on a parcel that is subject to site plan or subdivision review and approval must be at least twenty-five (25) feet in width.

(3) *Treatment of the Upland Buffer Strip*

The upland buffer strip is intended to be a naturally vegetated area designed to protect the wetland from adverse impacts from the development activity and to provide for wildlife habitat and movement. The buffer strip should contain native, non-invasive species and may either be retained natural vegetation or may be planted to achieve its intended purpose. If the existing vegetation within the proposed buffer strip is appropriate for the buffer, the vegetation shall be retained in a substantially undisturbed condition. If the existing vegetation is inappropriate or marginal, the buffer strip may be replanted or the existing vegetation supplemented with appropriate vegetation. If the area of the proposed buffer strip was used for lawns, gardens, or other uses that are not consistent with the buffer function for at least two (2) years prior to the date of application for site plan or subdivision approval or a building permit, these conditions may continue but cannot be expanded.

Within the buffer strip, the performance standards of the Shoreland Area Overlay District shall apply. The upland

buffer strip must be maintained in a substantially natural condition and may not include buildings, parking lots, or similar improvements. The buffer strip may not be used for snow storage. Minor improvements such as stormwater facilities or utilities may be located within the buffer strip provided that the intended buffering of the wetland is not compromised. Driveways, streets, walkways, or access roads may cross the buffer strip to provide access to the project or to portions of the parcel but must be designed to minimize the encroachment on the buffer strip. The use of herbicides and pesticides within the buffer strip is prohibited. Mowing and tilling within the upland buffer are also prohibited except for the maintenance of pre-existing lawns, gardens, or agricultural fields.

(4) *Protection of the Upland Buffer Strip*

Long term management provisions must be established to assure that the buffer strip remains in place and is appropriately managed. These provisions may include physical barriers such as fences or walls to demarcate the buffer area, as well as legal mechanisms such as conservation easements, deed restrictions, and conditions of approval or other legally enforceable mechanisms. The provisions for the long term maintenance of the buffer strip are subject to approval by the Planning Board during project review. The Planning Board may require financial guarantees or the establishment of stewardship accounts to assure that the buffer strip will be created and maintained.

(f) Compensation Fee

The following provisions govern the payment of compensation fees for the alteration of a freshwater wetland or the failure to provide an upland buffer strip adjacent to a freshwater wetland.

1) *Amount of the Compensation Fee*

The Compensation Fee shall be based upon the following cost factors:

- $2 per square foot of freshwater wetland alteration for up to 4,300 square feet of alteration and $4 per square foot of freshwater wetland alteration in excess of 4,300 square feet
- If the alteration or any portion of a wetland alteration involves a freshwater wetland of special

significance, the compensation fee for the area of that alteration shall be $4 per square foot of alteration for up to 4,300 square feet of alteration and $8 per square foot of alteration in excess of 4,300 square feet

- No fee for not providing upland buffer area adjacent to freshwater wetlands of special significance for activities that are not subject to site plan or subdivision approval by the Planning Board.
- $1.50 per square foot of upland buffer that is not provided in a residential zone or in conjunction with a residential use in any other zone
- $4 per square foot of upland buffer that is not provided in conjunction with a nonresidential use in a commercial, industrial, mixed-use, or other non-residential zone.

The amount of the compensation fee for any project shall be determined by calculating the area of freshwater wetland alteration and the area of upland buffer that is not provided and multiplying those areas by the appropriate cost factors for the types of areas and totaling the amount of the required fee. The professional wetland scientist or other professional that prepared the wetland information shall calculate the areas of wetland alteration and upland buffer that is not provided. The calculation is subject to review and approval by the Planning Board or Code Enforcement Officer as appropriate.

2) *Use of the Compensation Fee*

Compensation fees collected by the City under this provision shall be deposited into a Freshwater Wetland Compensation Fund that shall be maintained as a separate designated account. The Water Resources Protection Department in conjunction with the Conservation Commission shall manage the compensation fund and oversee projects undertaken with the funds. The Conservation Commission shall periodically prepare a list of projects for which the compensation funds should be used. In preparing the list, the Commission shall consult with the Planning Board and be guided by any studies or other work done by the City to establish priorities for the protection/restoration of freshwater wetlands or the use of the Compensation Fund. In establishing the list, wetland restoration and enhancement activities are presumed to have a higher priority than wetland creation projects. This list shall be submitted to the City Council for review and

adoption. Once the City Council has adopted a project list, expenditures from the fund shall be used only for activities or projects included on the list. Expenditures shall be managed by the Water Resources Department in accordance with the City's purchasing requirements including City Council approval when necessary.

Funds in the Freshwater Wetland Compensation Fund may be used by the City for the following activities:

a) The restoration of previously degraded wetlands,
b) The enhancement of existing wetlands,
c) The preservation of existing freshwater wetlands or adjacent upland buffers where the site to be preserved provides significant wetland functions and might otherwise be degraded,
d) The creation of freshwater wetland from non-wetland upland area, or
e) Stormwater improvements that relate directly to a freshwater wetland and that protects or improves the function and value of the wetland.

As part of these activities, the funds may be used for the following additional activities:

a) The planning of freshwater wetland alteration compensation/mitigation activities or the creation of upland buffer strips including the delineation of wetlands, the establishment of priorities for protection, the preparation of plans and studies, site evaluations, preliminary engineering, legal services, and the design of compensation/mitigation projects.
b) The acquisition of land or easements to be used for freshwater wetlands compensation/mitigation activities or the creation of upland buffer strips including the cost of appraisals, commissions, legal fees, and similar acquisition costs.
c) The oversight and inspection of municipal compensation/mitigation or upland buffer compensation activities.

Secs. 27-1527 – 27-1535. Reserved.

PERFORMANCE STANDARDS – STORMWATER MANAGEMENT

Sec. 27-1536. Performance standards with respect to stormwater management.

(a) ***Intent.***

Recognizing that development activity increases stormwater runoff by reducing the infiltrative capacity of soils and that stormwater runoff poses dangers of flooding, adds pollution to water resources, and increases erosion and sedimentation, the purpose of this section is to encourage the disposal of stormwater on the land at the site of development and, to the extent practical, to do so through the wise use of the natural features of the site. This policy will preserve the natural drainage system, valuable topsoil, water quality, and wildlife habitat during and after construction through infiltration, detention, or retention of water falling on the site and help assure that the Total Maximum Daily Loads (TMDLs) that have been established by the U.S. Environmental Protection Agency for various waterbodies in the City will be met to the extent practical. The disposal of stormwater shall not constitute a threat to public health, safety and welfare and shall not degrade the quality of South Portland's surface water or groundwater below state or city standards. It shall be the responsibility of the developer to adequately provide for the necessary control of storm water runoff and erosion.

(b) ***Applicable Standards for Stormwater Management.***

The standards for stormwater management vary depending on the type of project and the amount of disturbed area as follows:

(1) Post-Construction Stormwater Management Plan – Major subdivisions and activities subject to site plan review that involve more than fifteen thousand (15,000) square feet of disturbed area must meet the requirements for a Post-Construction Stormwater Management Plan.

(2) Basic Stormwater Management Plan – Minor subdivisions and activities subject to site plan review that are not subject to the requirements for a Post-Construction Stormwater Management Plan must meet the requirements for a Basic Stormwater Management Plan.

(3) Drainage Plan – Activities that are not subject to site plan review that result in the expansion or alteration of an existing building or structure that increases the amount of impervious surface area by more than five thousand (5,000) square feet or the construction of a new principal building or structure must meet the requirements for a Drainage Plan. New principal buildings that are located in a subdivision with an approved Post-Construction or Basic Stormwater Management Plan are not required to comply with the requirement for a Drainage Plan if the approved Stormwater Management Plan contains provisions that adequately address surface drainage related to the construction of the building as determined by the Code Enforcement Officer.

(c) ***Standards for a Post-Construction Stormwater Management Plan.***

(1) Design Standard.

The applicant shall make adequate provision for the management of the quantity and quality of all stormwater generated by the activity through a Post-Construction Stormwater Management Plan. This Post-Construction Stormwater Management Plan shall be designed to meet one of the following:

(a) If the project requires a stormwater permit from the Maine Department of Environmental Protection ("DEP") under its Chapter 500 Stormwater Management Rules, as may be amended from time to time ("DEP Chapter 500 Rules"), the plan must, at a minimum, meet the "basic" and "general" standards of Section 4 of DEP Chapter 500 Rules. The plan shall also meet the "urban impaired stream standard" and "flooding standard" of Section 4 of DEP Chapter 500 Rules and the "other applicable standards" of Section 5, if applicable, as contained in DEP Chapter 500 Rules, and shall comply with the practices described in the manual *Stormwater Management for Maine*, published by the DEP in January 2006, as may be amended from time to time ("*DEP Stormwater Manual*"); or

(b) If the project does not require a stormwater permit from the DEP under its Chapter 500 Rules, the plan may either meet the Chapter 500 standards as set forth in (a) above, or provide for the treatment of 0.5 inches of runoff from ninety percent (90%) of the impervious surfaces on the site, and 0.2 inches of

runoff from all disturbed pervious areas of the site using LID design practices and techniques determined by the Planning Board to be appropriate for the site. In addition, the project must met the "other applicable standards" of Section 5, if applicable, as contained in DEP Chapter 500 Rules. The treatment techniques used may include those set forth in Chapter 10 of the *DEP Stormwater Manual, Volume III-BMPs Technical Design Manual*, and/or any City of South Portland LID Manual adopted by the Planning Board after appropriate notice and public hearing. The Planning Board may approve the use of other treatment techniques on a case-by-case basis based upon the recommendation of the Director of Water Resource Protection that the proposed treatment techniques are appropriate for the site and will provide at least the same level of treatment as the specified techniques. Provisions must be made in the Stormwater Management Plan for all stormwater treatment techniques to be maintained in perpetuity.

(2) Additional Requirements.

(a) The applicant may meet the quantity and quality standards above either on-site or off-site, but where off-site facilities are used, the applicant must submit to the City documentation approved as to legal sufficiency by Corporation Counsel that the applicant has a sufficient property interest in the property where the off-site facilities are located – by perpetual easement or other appropriate legal instrument – to ensure that the facilities will be able to provide post-construction stormwater management for the project and that the property will not be altered in a way that interferes with the off-site facilities.

(b) Where the applicant proposes to retain ownership of the Stormwater Management Facilities shown in its Stormwater Management Plan, the applicant shall submit to the City documentation, approved as to legal sufficiency by Corporation Counsel, that the applicant, his/her/its successors, heirs and assigns, shall have the legal obligation to operate, repair, maintain and replace the Stormwater Management Facilities. Applications requiring Stormwater Management Facilities that will not be dedicated to the City shall enter into a Drainage Maintenance Agreement with the City in a form acceptable to Corporation Counsel.

(c) Whenever elements of the Stormwater Management Facilities are not within the right-of-way of a public street and the facilities will not be offered to the City for acceptance as

public facilities, the Planning Board may require that perpetual easements be provided to the City allowing access for maintenance, repair, replacement and improvement of the Stormwater Management Facilities in accordance with the approved Drainage Maintenance Agreement. If an offer of dedication is proposed, the applicant shall be responsible for the maintenance of these Stormwater Management Facilities until such time (if ever) as they are accepted by the City.

(d) In addition to any other applicable requirements of this ordinance, any activity which also requires a stormwater management permit from the DEP under 38 M.R.S.A. § 420-D shall comply with the rules adopted by DEP under 38 M.R.S.A. § 420-D(1), as the same may be amended, and the applicant shall document such compliance to the Planning Board. Where the standards or other provisions of such stormwater rules conflict with City ordinances, the stricter (more protective) standard shall apply.

(e) At the time of application, the applicant shall notify the Director of Water Resource Protection if its Stormwater Management Plan includes any Stormwater BMP(s) that will discharge to the City's MS4 and shall include in this notification a listing of which Stormwater BMP(s) will so discharge.

(f) Prior to the issuance of a Certificate of Occupancy for the project, the applicant must submit an inspection report to the Code Enforcement Officer documenting that the stormwater facilities have been installed and are functioning as designed and approved and are fully operational. This inspection report must be prepared by a qualified third party inspector as defined in subsection (3)(e).

(3) Requirement for Compliance.

Any person owning, leasing or having control over Stormwater Management Facilities required by a Post-Construction Stormwater Management Plan shall demonstrate compliance with that Plan as follows:

(a) That person shall, at least annually, inspect, clean and maintain the Stormwater Management Facilities, including, but not limited to, any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures, in accordance with all City and State inspections, cleaning and maintenance requirements of the approved Post-Construction Stormwater Management Plan.

(b) That person shall repair any deficiencies found during inspection of the Stormwater Management Facilities.

(c) That person shall, on or by July 15th of each year, provide a completed and signed certification to the Director of Water Resource Protection in a form provided by that Department, certifying that the person has inspected, cleaned and maintained the Stormwater Management Facilities, describing any deficiencies found during inspection of the Stormwater Management Facilities and certifying that the person has repaired any deficiencies in the Stormwater Management Facilities noted during the annual inspection.

(d) The required inspection(s) must be conducted by a qualified third-party inspector employed by the responsible person if the property is subject to a DEP stormwater permit. The third-party inspector shall perform an initial inspection to determine the status of the Stormwater Management Facilities. If the initial inspection identifies any deficiencies with the facilities, the same third-party inspector shall re-inspect the facilities after they have been maintained or repaired to determine if they are performing as intended.

(e) The qualified third party inspector must meet both of the following standards:

1. The inspector must not have any ownership or financial interest in the property being inspected nor be an employee or partner of any entity having an ownership or financial interest in the property; and

2. The inspector must be on the list of approved third-party inspectors maintained by the Water Resource Protection Department. An individual may request to be included on the list by submitting documentation of his/her qualifications to the Director of Water Resource Protection. The Director shall approve third-party inspectors only if they meet the following criteria:

a. Have a college degree in an environmental science or civil engineering, or comparable expertise;

b. Have a practical knowledge of stormwater hydrology and stormwater management techniques, including the maintenance requirements for Stormwater Management Facilities; and

c. Have the ability to determine if stormwater facilities are performing as intended.

(f) In order to determine compliance with this section and with the Post-Construction Stormwater Management Plan, the Director of Water Resource Protection or his/her designee may enter upon a property at reasonable hours and after making a good faith effort to contact the owner, occupant or agent to inspect the Stormwater Management Facilities. Entry into a building shall only be after actual notice to the owner, occupant or agent.

(4) Submission Requirements.

A Post-Construction Stormwater Management Plan shall conform to the applicable submission requirements of Section 8 of DEP Chapter 500 Rules. The submission for a project that does not require a State stormwater permit, shall provide, as a minimum, the information required for submissions under the General Standards of Chapter 500.

The applicant shall provide the City with an electronic version of the Post-Construction Stormwater Management Plan in a format that is compatible with the City's requirements. Following completion of construction, the applicant shall provide the City with an updated version of the plan showing the Stormwater Management Facilities as actually constructed.

(5) Relationship to Other Provisions.

Post-Construction Stormwater Management Plans are subject to the requirements of subsection (f), Standards for Easements or Rights-of-Way; subsection (g), Material Requirements; subsection (h), Modification of the Standards and Requirements; and subsection (i), Discharge of Stormwater.

(d) Standards for a Basic Stormwater Management Plan.

(1) Design Standard.

The applicant shall make adequate provision for the management of the quantity and quality of all stormwater generated by the activity through a Basic Stormwater Management Plan. This Basic Stormwater Management Plan shall be designed to meet one of the following:

(a) The "basic" standard of Section 4 of DEP Chapter 500 Rules and the "other applicable standards" of Section 5 of DEP Chapter

500 Rules and shall comply with the practices described in the DEP Stormwater Manual; or

(b) Provide for the treatment of 0.5 inches of runoff from ninety percent (90%) of the impervious surfaces on the site, and 0.2 inches of runoff from all disturbed pervious areas of the site using LID design practices and techniques determined by the Planning Board to be appropriate to the site. The treatment techniques used may include those set forth in Chapter 10 of the DEP Stormwater Manual, Volume III-BMPs Technical Design Manual, and/or any City of South Portland LID Manual adopted by the Planning Board. The Planning Board may approve the use of other treatment techniques on a case-by-case basis based upon the recommendation of the Director of Water Resource Protection that the proposed treatment techniques are appropriate for the site and will provide at least the same level of treatment as the specified techniques. Provisions must be made in the stormwater management plan for all stormwater treatment techniques to be maintained in perpetuity.

(2) Additional Requirements.

(a) The applicant may meet the quantity and quality standards above either on-site or off-site, but where off-site facilities are used, the applicant must submit to the City documentation approved as to legal sufficiency by Corporation Counsel that the applicant has a sufficient property interest in the property where the off-site facilities are located - by perpetual easement or other appropriate legal instrument - to ensure that the facilities will be able to provide post-construction stormwater management for the project and that the property will not be altered in a way that interferes with the off-site facilities.

(b) Where the applicant proposes to retain ownership of the Stormwater Management Facilities shown in its Stormwater Management Plan, the applicant shall submit to the City documentation, approved as to legal sufficiency by Corporation Counsel that the applicant, his/her/its successors, heirs and assigns, shall have the legal obligation to operate, repair, maintain and replace the Stormwater Management Facilities. Applications requiring Stormwater Management Facilities that will not be dedicated to the City shall enter into a Drainage Maintenance Agreement with the City in a form acceptable to Corporation Counsel.

(c) Whenever elements of the Stormwater Management Facilities are not within the right-of-way of a public street and the facilities will not be offered to the City for acceptance as public facilities, the Planning Board may require that perpetual easements be provided to the City allowing access for maintenance, repair, replacement and improvement of the Stormwater Management Facilities in accordance with the approved Drainage Maintenance Agreement. If an offer of dedication is proposed, the applicant shall be responsible for the maintenance of these Stormwater Management Facilities until such time (if ever) as they are accepted by the City.

(d) In addition to any other applicable requirements of this ordinance, any activity which also requires a stormwater management permit from the DEP under 38 M.R.S.A. § 420-D shall comply with the rules adopted by DEP under 38 M.R.S.A. § 420-D(1), as the same may be amended, and the applicant shall document such compliance to the Planning Board. Where the standards or other provisions of such stormwater rules conflict with City ordinances, the stricter (more protective) standard shall apply.

(e) At the time of application, the applicant shall notify the Director of Water Resource Protection if its Stormwater Management Plan includes any Stormwater BMP(s) that will discharge to the City’s MS4 and shall include in this notification a listing of which Stormwater BMP(s) will so discharge.

(3) Requirement for Compliance.

Any person owning, leasing or having control over Stormwater Management Facilities required by a Basic Stormwater Management Plan shall be responsible for maintaining all Stormwater Management Facilities and BMPs so they function as designed and approved.

(4) Submission Requirements.

A Basic Stormwater Management Plan shall conform to the applicable submission requirements of Section 8-C of DEP Chapter 500 Rules.
The applicant shall provide the City with an electronic version of the Basic Stormwater Management Plan in a format that is compatible with the City’s requirements. Following completion of construction, the applicant shall provide the City with an

updated version of the plan showing the Stormwater Management Facilities as actually constructed.

(5) Relationship to Other Provisions.

Basic Stormwater Management Plans are subject to the requirements of subsection (f), Standards for Easements or Rights-of-Way; subsection (g), Material Requirements; subsection (h), Modification of the Standards and Requirements; and subsection (i), Discharge of Stormwater.

(e) **Standards for a Drainage Plan.**

(1) Design Standard

The plan must demonstrate that the proposed improvements are designed to minimize the amount of stormwater leaving the site. This must include consideration of the design and location of improvements to minimize the total area of impervious surface on the site and stormwater management techniques to minimize both the volume and rate of runoff from the lot. The use of LID practices appropriate for the type of development as set forth in Chapter 10 of the DEP Stormwater Manual, Volume III-BMPs Technical Design Manual, and/or any City of South Portland LID Manual adopted by the Planning Board after appropriate notice and hearing is encouraged but not required. The Drainage Plan must also demonstrate that:

(a) any stormwater draining onto or across the lot in its pre-improvement state will not be impeded or re-directed so as to create ponding on, or flooding of, adjacent lots;

(b) any increase in volume or rate of stormwater draining from the lot onto an adjacent lot following the improvement can be handled on the adjacent lot without creating ponding, flooding or other drainage problems and that the owner of the lot being improved has the legal right to increase the flow of stormwater onto the adjacent lot;

(c) any increase in volume or rate of stormwater draining from the lot onto City property following the improvement can be handled without creating ponding, flooding or other drainage problems and that the owner of the lot being improved has the legal right to increase the flow of stormwater onto the City’s property; and

(d) any increase in volume or rate of stormwater draining from the lot into the City’s separate storm sewer system can be accommodated in the system without creating downstream problems or exceeding the capacity of the storm sewer system.

(2) Submission Requirements

A Drainage Plan must include a written statement demonstrating how the project has been designed to minimize the volume and rate of stormwater leaving the site including provisions for minimizing the area of impervious surface or the use of LID

practices, and a plan and supporting documentation with at least the following information:
(a) The location and characteristics of any streams or drainage courses existing on the parcel and/or abutting parcels.
(b) The existing and proposed grading of the site using one-foot contours.
(c) The location and area of existing and proposed buildings and impervious surfaces on the site.
(d) The existing pattern of stormwater drainage on the site, including points of discharge to the City's storm sewer system or adjacent properties.
(e) The proposed pattern of stormwater drainage after development, including the location and design of any stormwater facilities.
(3) Relationship to Other Provisions.

Drainage Plans are subject to the requirements of subsection (f), Standards for Easements or Rights-of-Way; subsection (g), Material Requirements; subsection (h), Modification of the Standards and Requirements; and subsection (i), Discharge of Stormwater.
(f) **Standards for Easements or Rights-of-Way.**
Drainage easements or rights-of-way containing components of the storm water runoff system lying outside of public street right-of-way lines shall conform to the following standards:

(1) The minimum width of the easement shall be thirty (30) feet, provided that where a watercourse or retention area is wider than thirty (30) feet, the Planning Board may require a drainage right-of-way of adequate width to conform substantially to the lines of such watercourse or retention area, including additional width to provide for access. The Planning Board may reduce the width of the easement upon the positive recommendation of the Director of Water Resource Protection or his/her designee if the narrower easement will allow the stormwater facilities to be maintained or if the unique characteristics of the site make the creation of a wider easement impractical.

(2) Where a drainage easement will contain an open channel, stream or drainageway, the easement shall be designed and landscaped to further the objectives of the Stormwater Management Plan. The natural landscape shall be retained to the extent practical as determined by the Planning Board or Code Enforcement Officer, as applicable.

(3) Where the easement will contain a closed conduit, the facility shall be constructed in accordance with the approved plan.

(g) **Requirements for storm sewers.**

(1) Storm sewers shall be designed and constructed in accordance with the Planning Board's Standards for Storm Sewers. The Standards shall be adopted by the Planning Board by regulation upon the recommendation of the Director of Water Resource Protection and following appropriate notice and public hearing.

(h) **Modification of the Standards and Requirements.**

(1) The Planning Board may modify or waive any of the submission requirements for a Post-Construction Stormwater Management Plan or a Basic Stormwater Management Plan if the Planning Board finds that, due to the unique physical characteristics of the site or the scale of the proposed activity, the information is not required to allow the Planning Board to determine if the applicable stormwater management standards are met.

(2) The Planning Board may approve a Post-Construction Stormwater Management Plan that does not comply with the detailed requirements of subsection (c) or a Basic Stormwater Management Plan that does not comply with the detailed requirements of subsection (d) if the Planning Board finds that the proposed plan will provide the same or higher level of water quality protection than strict conformance with the applicable standard or that due to the unique physical characteristics of the site and/or the receiving waters, full conformance with the standard is not warranted to assure that the quality of the receiving waters will not be degraded.

(3) The Code Enforcement Officer may modify or waive any of the submission requirements for a Drainage Plan if the Code Enforcement Officer determines that the information is not required to determine if the drainage standard is met.

(4) The Code Enforcement Officer may approve a Drainage Plan that does not comply with the detailed requirements of subsection (e) if the Code Enforcement Officer determines that full compliance with the standard is not practical given the unique characteristics of the parcel.

(i) **Discharge of Stormwater.**

(1) The volume of stormwater discharged from any parcel must be minimized through the use of on-site retention to the extent practical. When stormwater must be discharged from a parcel, the preferred method is discharge into the natural drainage system. Discharge of stormwater to the City's MS4 shall be allowed only when on-site retention and/or discharge to the natural system is not practical.

(2) The direct connection of new or expanded Stormwater Management Facilities to a combined sewer is not permitted. In areas served by combined sewers, the preferred method of stormwater management is on-site retention. If on-site retention is not practical, discharge to the natural drainage system is the preferred alternative. If retention and/or discharge to the natural drainage system are not practical, connection to the MS4 is allowed. If connection to the MS4 is not practical, the treatment of one inch of runoff from impervious surfaces and 0.4 inches of runoff from disturbed pervious surfaces through the use of LID BMPs which are disconnected from the combined sewer system may be permitted by the Planning Board or Code Enforcement Officer, as applicable, upon the positive recommendation of the Director of Water Resource Protection. The LID BMPs used may include those set forth in Chapter 10 of the DEP Stormwater Manual, Volume III-BMPs Technical Design Manual, and/or any City of South Portland LID Manual adopted by the Planning Board after appropriate notice and public hearing.

(j) **Additional Requirements in the Long Creek Watershed.**

In addition to the requirements set forth in this section, property that is located within the watershed of Long Creek may be subject to additional stormwater management requirements imposed by the U.S. Environmental Protection Agency and administered by the DEP. These additional requirements apply to certain types of both new and existing development within the watershed.

Secs. 27-1537 – 27-1540. Reserved.

Sec. 27-1541. Performance standards for medical marijuana dispensaries.

Notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this section, when enacted, shall govern any proposed medical marijuana dispensary for which an application has not been submitted and acted on by the Planning Board prior to January 11, 2010.

The following standards apply to all medical marijuana dispensaries:

(a) Location criteria. No medical marijuana dispensary shall be sited within 1,000 feet of the lot lines of any of the following:

(1) a church, synagogue or other house of religious worship;
(2) a public or private school;
(3) a lot zoned residential or used as a residence;
(4) an athletic field, park, playground or recreational facility;
(5) any juvenile or adult halfway house, correctional facility, or substance abuse rehabilitation or treatment center;
(6) a licensed child care facility; or
(7) a lot on which another medical marijuana dispensary is sited.

The distance cited in this subsection shall be measured between the lot line of the proposed site for the medical marijuana dispensary and the lot line of the site of the use listed in (1) through (7) above at their closest points.

(b) Hours of operation. Medical marijuana dispensaries may be open for business only between the hours of 8:00 a.m. and 8:00 p.m., locally prevailing time.

(c) Signage and advertising. All signage and advertising for a medical marijuana dispensary shall comply with all applicable provisions of the Code of Ordinances. In addition, no signage or advertising shall use the word "marijuana" or "cannabis," or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols on the sign. Such signage and advertising must clearly indicate

that the products and services are offered only for medical marijuana patients and primary caregivers.

(d) Security requirements. Security measures at a medical marijuana dispensary and any associated cultivation facility shall include, at a minimum, the following:

(1) security surveillance cameras installed and operating 24 hours a day, 7 days a week to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;

(2) door and window intrusion robbery and burglary alarm systems with audible and Police Department notification components that are professionally monitored and maintained in good working condition;

(3) a locking safe permanently affixed to the premises that is suitable for storage of all prepared marijuana and cash stored overnight on the licensed premises;

(4) exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of the Code of Ordinances; and

(5) deadbolt locks on all exterior doors and locks or bars on any other access points (e.g., windows).

All security recordings shall be preserved for at least seventy-two (72) hours by the medical marijuana dispensary. The medical marijuana dispensary shall provide the Police Chief or his designee with the name and functioning telephone number of a 24-hour on-call staff person to whom the City may provide notice of any operating problems associated with the medical marijuana dispensary.

(e) Cultivation. If there is both the cultivation and dispensation of marijuana occurring on the same site, the cultivation area shall not be greater than 25% of the total floor area of the portion of the building used for dispensation of marijuana.

(f) On-site consumption of medical marijuana. The consumption, ingestion or inhalation of medical marijuana on or within the premises of a medical marijuana dispensary or cultivation facility is prohibited; provided, however, that a medical marijuana dispensary employee who is a registered patient, as that term is defined in 22 M.R.S.A. § 2422(12), as may be amended, may consume medical marijuana within the enclosed building area of the premises if such consumption

occurs via oral consumption (i.e., eating only). For purposes of this subsection, the term "premises" includes the actual building, as well as any accessory structures, parking lot or parking areas, or other surroundings within 200 feet of the medical marijuana dispensary's entrance.

(g) Visibility of activities; control of emissions; disposal plan.

(1) All activities of medical marijuana dispensaries and cultivation facilities, including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors.

(2) No marijuana or paraphernalia shall be displayed or kept in a dispensary or cultivation facility so as to be visible from outside the premises.

(3) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a dispensary or cultivation facility must be provided at all times. Sufficient measures shall be provided for the proper disposal of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

(4) All medical marijuana dispensaries shall have in place an operational plan for proper disposal of marijuana and related byproducts.

(h) Sale of edible products. No food products shall be sold, prepared, produced or assembled by a medical marijuana dispensary except in compliance with all operating and other requirements of state and local law and regulation, including, without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.

(i) Other laws remain applicable. A medical marijuana dispensary shall meet all operating and other requirements of state and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing medical marijuana dispensaries, the stricter law or regulation shall control.

(j) Maximum number. The maximum number of medical marijuana dispensaries in the City shall be capped at one (1).

Secs. 27-1542 – 27-1545. Reserved.

PERFORMANCE STANDARDS – EXTRACTIVE INDUSTRY

Sec. 27-1546. Performance standards; extractive industry.

(A) The removal of sod or loam shall not be permitted in the City of South Portland except as incidental to the authorized construction of buildings, parking lots, ways and other graveled or paved areas. The removal of loam incidental to authorized earth removal operations shall be conditional upon the retention of sufficient topsoil to accomplish the land rehabilitation provisions included herein. The removal of soil (other than topsoil), sand and gravel may be authorized by permit for special exception by the Planning Board upon written application which includes the following information:

(1) The location of the proposed excavation.

(2) The legal name and address of the owner of the property involved.

(3) The legal name and address of the petitioner, which address shall be used by the Planning Board for all correspondence hereunder.

(4) Names and addresses of all abutting property owners, including those across any streets.

(5) A plan of the land involved, prepared by a Maine licensed land surveyor or Maine licensed professional engineer, showing topography by five-foot contours within one hundred (100) feet of the proposed excavation.

(6) A plan of the land showing the final grading by five-foot contours to be established after completion of the excavation.

(7) A proposed form of bond to be used, if requested by said Board.

The Planning Board shall file a copy of such permit, if granted, or the denial thereof, with the Building Inspector and send notice of the decision to all interested parties as determined by said Board.

(B) This regulation shall be deemed not to prohibit the removal of such sod, loam, soil, sand and gravel as may be required to be excavated for the purpose of constructing foundations for buildings and other allowable structures for which building permits have been issued, or for the purpose of constructing ways in accordance with lines and grades approved by the municipal officials and boards designated by ordinance as having jurisdiction or for the purposes of constructing utilities or other engineering works for public services. The regulation shall not be deemed to prohibit the transference of such earth materials from one part of the lot, tract or parcel of land to another part of the same lot, tract or parcel, provided such material is not at a later date removed from the lot.

(C) The Planning Board shall, in granting a special exception for earth removal, impose reasonable conditions as a part of any permit, relative to, but not limited to the items therein. Where specific standards are given below, the Board shall adhere to them when reasonable to the particular circumstances:

(1) *Reuse of land.* The Planning Board shall assume to its satisfaction that the proposed earth removal will not impair the subsequent usability of the area for the purposes permitted by this Chapter, that the grades to be established within the area will permit vehicular access to the area and the continuation of streets from abutting premises, and that the area may ultimately be developed compatibly with the neighboring land.

(2) *Land rehabilitation.* Except in unusual circumstances, earth shall not be excavated to a level that will produce standing water. Every effort shall be made to maintain successful drainage of surface water. Backfilling shall be permitted with non-noxious and noncombustible solids. All banks shall be graded to a slope not steeper than two (2) feet horizontal to one foot vertical. Banks shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding and to a depth of at least four (4) inches or to a depth of that of the topsoil on

land areas immediately surrounding, if less than four (4) inches. Such topsoil shall be planted with legumes, grasses or other vegetation which shall be maintained until well established. These measures shall be taken progressively as the use of such part of an operating pit is discontinued and shall not be postponed until final abandonment of the entire pit. All timbers, structures, and the like shall be removed as the operation is terminated.

(3) *Setback.* Operations authorized herein shall not be conducted closer than two hundred (200) feet to the boundary of an adjoining property without the written consent of the owner of such property. Excavation shall not be closer than two hundred (200) feet of the right-of-way line of any existing street, road or highway or one approved under applicable municipal ordinances but not constructed, except where such excavation is necessary to establish the approved lines and grades of a street.

(4) *Noise.* All equipment used for the processing of sand and gravel shall be such as to eliminate as far as practicable, noises and vibrations which are injurious or substantially annoying to individuals in the vicinity. The Planning Board may specify hours of operation to be applicable except in the case of public or private emergency. These noise limitations shall not apply to any sand and gravel operation in an industrial district unless such operations are closer than two hundred (200) feet to the boundaries of another district.

(5) *Dust and dirt.* All equipment shall be constructed and operated in such a manner to minimize as far an practicable, dust conditions which are injurious or substantially annoying to persons living in the district. Access roads from sand and gravel operations to public highways, roads or streets, or to adjoining property shall be paved and/or treated to minimize dust conditions.

(6) *Safety fencing.* Any sand and gravel operation which results in or produces during operations, collections of water, or slopes steeper than prescribed above shall be subject to the following safety requirements:

(a) Collections of water occupying an area greater than four hundred (400) square feet or deeper than two (2) feet shall be barred by a fence or some similar harrier of at least five (5) feet in height.

(b) Access to slopes steeper than prescribed herein should be barred by a fence at the top of said slope and at the bottom if removal is not actively in progress. Every effort shall be made to avoid dangerous banks by reducing the slope during the operation of the pit.

(c) The Planning Board may require a bond or other security to enforce performance conditions imposed in issuing a special exception.

(7) *Shoreland area.* No extractive industry operation or portion thereof located within the shoreland area, including but not limited to any drainage and runoff control features of such operation, shall be permitted within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland.

(D) In hearing any request for special exception under this Article, the Planning Board shall also be governed by the provisions of Sec. 27-1401 through Sec. 27-1405 not inconsistent herewith. In case of conflict of provisions, the provisions of this Article shall govern such proceedings.

Secs. 27-1547 - 27-1550. Reserved.

STANDARDS FOR TELECOMMUNICATION TOWERS

Sec. 27-1551. Standards for the Location and Installation of Telecommunication Towers

These standards and requirements are intended to regulate the location and installation of telecommunication towers in all zoning districts in order to (1) minimize the adverse visual effects of towers through careful design, siting, and vegetative

screening; (2) avoid potential damage to adjacent properties from tower failure and falling ice through engineering and careful siting of towers; and (3) avoid the risk of creating an attractive nuisance to children.

A. **Design, color.** Except where dictated by federal or state requirements, the Planning Board, at its discretion, may require that a proposed tower be camouflaged or designed to blend with its surroundings. This may include, but is not limited to, having a galvanized finish, being painted gray or in a skytone above the top of surrounding trees and earthtone below treetop level, or being designed to resemble a tree species similar to those in the area.

B. **Landscape buffer.** Unless existing vegetation provides a buffer strip at least the width of the minimum yard setback for the zoning district, all property lines along roadways or visible to existing abutting or nearby buildings shall be landscaped as follows:

1. 6-8' high evergreen shrubs shall be planted in an alternating pattern, averaging 5' on center, within 15' of the property boundary.

2. At least one row of deciduous trees, not less than 2 1/2"-3" caliper DBH, and spaced an average of 20' apart and within 25' of the property boundary.

3. In lieu of the foregoing planting requirements, the Board may determine that the existing vegetation may be supplemented to achieve an equivalent means of minimizing the visual impact.

C. **Requirements of other entities.** Proposals for telecommunication towers submitted after October 22, 2006 shall meet all applicable requirements of federal and state regulations before local approval is given.

D. **Structural requirements.**

1. Telecommunication towers shall be designed and installed in accordance with the standards of the Electronic Industries Association (EIA) *Structural Standards for Steel Antenna Towers and Antenna Supporting Structures*.

2. The applicant's engineer shall provide documentation showing that the proposed telecommunication tower meets

or exceeds the current standards of the American National Standards Institute ANSI/EIA/TIA-222-"E" for Cumberland County relative to wind and 1/2" ice loads.

3. For towers placed on buildings, the applicant shall also provide written certification that the building itself is structurally capable of safely supporting the tower and its accompanying equipment.

E. **Abandonment, Guarantee.**

1. It shall be the responsibility of the owner of a telecommunication tower to notify the Code Enforcement Officer of the date of abandonment or cessation of use of the tower within one month from the date of such abandonment or cessation. If the owner shall fail to give the notice required by this paragraph, the Code Enforcement Officer shall make a determination of such date, which determination shall be conclusive as to such date.

2. In the case of an abandoned tower, it shall be removed within 2 years of its abandonment or cessation of use. Abandoned structures associated with abandoned towers shall also be removed.

3. At the time of approval, the applicant for a new tower shall submit to the City an evergreen bond, to be approved by Corporation Counsel, in the amount of 150% of the estimated demolition cost of the tower, such cost to be determined by an independent contractor and acceptable to the City Engineer or other duly designated person.

   (a) The applicant may apply to the Planning Board for release of the guarantee at such time that it or its assigns remove the tower and associated abandoned structures, and such completed removal is found to be satisfactory by the City Engineer.

   (b) The guarantee will be used by the City to demolish an abandoned tower and associated abandoned structures if the applicant or its assigns have not done so within the required 2-year period.

F. **Co-location.**

1. On existing towers:

(a) Tower applicants must send written notice by pre-paid first class United States mail to all other telecommunication tower owners and licenses telecommunication providers in the City, stating their siting needs and/or co-location capabilities in an effort to encourage tower co-location. An application for a new transmission tower must provide evidence that existing or previously approved towers cannot accommodate the telecommunications equipment (antennas, cables, etc.) planned for the proposed tower. Such evidence would be:

i. Planned equipment would exceed the structural capacity of existing and approved towers, considering the existing and planned use of those towers, and existing and approved towers cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost, as defined below;

ii. Planned equipment will cause radio wave frequency interference with other existing or planned equipment for that tower, and the interference cannot be prevented at a reasonable cost, as defined below;

iii. Existing or approved towers do not have space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment in place or approved; or

iv. Other reasons that make it impracticable to place the equipment planned by the applicant on existing and approved towers.

(b) Shared use shall be conditioned on the applicant's agreement to pay a reasonable fee and costs of adapting existing facilities to the proposed use.

i. Such costs shall be pertinent to the greater Portland market area.

ii. These may include but not be limited to reasonable costs for reinforcing the tower or structure, for preventing radio wave frequency interference, and other changes reasonably required to accommodate shared use.

iii. The fee and costs for shared use are unreasonable, among other reasons, if they exceed the cost of the proposed tower.

(c) Once the Planning Board has determined that telecommunications equipment proposed by the applicant cannot be accommodated on an existing or approved tower, each tower so found is presumed unable to accommodate similar equipment that may be proposed in the future.

2. Construction of new towers:

(a) A proposal to construct a new telecommunication tower taller than 100' must include evidence that it can structurally support a minimum of three (3) antenna arrays.

(b) The Planning Board may require evidence of structural support to accommodate additional arrays for non-monopole towers.

G. **Interest of telecommunication entity.** A proposal to construct a telecommunication tower must include evidence that a telecommunication entity proposes to locate on the tower.

H. **Lighting.** Telecommunication towers shall not be lighted unless so required by a federal or state agency.

I. **Security.** The base of the tower shall be made non-accessible to unauthorized persons by the installation of a fence designed to deter such access.

J. **Application contents.** In addition to the applicable site plan requirements, an application for a telecommunication tower shall include:

1. A report from a professional engineer that describes the tower and the technical reasons for the tower design; describes the capacity of the tower, including the

number and types of antennas that it can accommodate and the basis for the calculations of capacity.

2. Written approval or a statement that no approval is required from the FAA and written approval from any other applicable federal or state agencies.

3. A letter of intent that commits the tower owner and his or her successors in interest to:

   (a) respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;

   (b) negotiate in good faith for shared use by third parties that have received an FCC license or permit;

   (c) allow shared use if an applicant agrees in writing to pay reasonable charges as discussed in section F above;

   (d) make no more than a reasonable charge for shared use, based on generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference, all being pertinent to the greater Portland market area.

4. Evidence that co-location on existing or approved towers is not possible, per Sec. 27-1551(F) above. If the proposed tower cannot be accommodated on each existing or approved tower site, assess whether such tower site could be changed to accommodate the proposed tower, and generally describe the means and projected cost of shared use of the existing or approved tower site.

5. Proof of financial capacity to build, maintain, and remove the proposed tower.

K. **Non-conformance.** Telecommunication towers existing before October 22, 2006 which do not comply with these performance standards or with the use or dimensional requirements of the zoning district in which they are located, may continue to be used subject to the provisions of Sec. 27-112 Conformity of this ordinance. Except for cable television facilities in the Residential District A Zone, which are governed by Sec. 27-532(d), the addition, removal, or relocation of telecommunication antennas on such towers does not constitute the expansion or enlargement of the nonconforming use and does not require review by the Planning Board, provided the total height of the telecommunication tower, including attached devices, is not increased.

L. **Inspection** of communication towers by a licensed structural engineer shall be required to ensure structural integrity. Such inspections shall be required as follows:

1. monopole towers - at least once every 10 years;

2. self-support towers - at least once every five years;

3. guyed towers - at least once every three years.

The inspection report shall provide to the City Engineer or other duly designated person within 30 days of its receipt by the tower owner. Based upon results of the inspection, the City may require the repair of the communication tower.

Secs. 27-1552 – 27-1555. Reserved.

OFF-STREET PARKING AND LOADING STANDARDS

Sec. 27-1556. Off-street parking regulations.

(a) Off-street parking, either by means of open-air spaces, or by garage space, in addition to being a permitted use, shall be considered as an accessory use when required or provided to serve conforming uses located in any district. The size of up to thirty-three (33) percent of the required off-street parking spaces for non-residential uses may be reduced from

9′ X 18′ for 90 degree parking to 8′ X 16′ provided that the smaller spaces will be reserved exclusively for employee parking and will be designated for "compact car" parking by appropriate signage.

The size of a required off-street parking space to serve a single-family detached dwelling or two-family dwelling or for 90 degree parking for other residential uses may be reduced from 9′ X 18′ to 8′ X 16′ provided that the use of the parking space is restricted to a designated dwelling unit. This size reduction does not apply to common parking areas or lots in which each space is not assigned to a specific dwelling unit or to guest parking.

Minimum parking dimensions.

Parking Angle	Stall Width	Stall Depth to Curb	Aisle Width 1 Way	Aisle Width 2 Way
90°	9′	18′	24′	24′
60°	9′	21′	16′	n/a
45°	9′	19.5′	12′	n/a
90° handicap accessible	8′beside 5′aisle	18′	24′	24′
Parallel	8′	22′ Parallel to Curb	n/a	n/a

The required stall depth to curb is the distance from the curb face to the back of the stall assuming that the bumper of a parked car does not extend beyond the curb face. In restricted locations, it can be assumed that the car will move forward until its tire contacts the curb. In these cases, the distance can be reduced by 1.8 feet for 45° parking and 2.2 feet for 60° parking.

(b) The Planning Board may reduce the number of off-street parking spaces required to be provided for any use by up to twenty-five percent (25%) as part of a Post-Construction Stormwater Management Plan if the applicant demonstrates that the parking proposed to be provided is adequate for the use based upon national parking demand studies such as Parking Demand published by the Institute of Traffic

Engineers or by data on actual parking demand for similar uses in similar situations and/or consideration of the availability of transit service or other alternative transportation that reduces the demand for on-site parking. The following minimum off-street parking requirements shall be provided and maintained in case of new construction, alterations and changes of use; except that, in the Main Street Community Commercial zoning district and in the District One/Knightville Design Review District section of the VC zoning district, the minimum number of required off-street parking spaces for office retail, service, and restaurant uses — Sec. 27-1556(b)(4)a., b., and c., Sec. 27-1556(b)(5) and Sec. 27-1556(b)(6) — shall be 50% of the amount otherwise indicated:

(1) For residential structures:

a. Single-family detached: Two (2) parking spaces.

b. Single-family attached: One and one-half (1 1/2) parking spaces.

c. Multifamily (non-elderly): One and one-half (1 1/2) parking spaces per dwelling unit.

d. Multifamily (elderly): one-half parking spaces per dwelling unit.

(2) For tourist homes, motels, and inns, one parking space for each guest or sleeping room or suite, one additional space for the owner or manager and one additional space for each fifty (50) square feet of public assembly.

(3) For hotels, one parking space for each two (2) guests or sleeping rooms, or suites, plus one additional space for each fifty (50) square feet of public assembly. For extended stay hotels, one parking space for each guest room.

(4) For general retail:

a. Personal services: Five (5) spaces per one thousand (1,000) square feet floor area.

b. General retail: Five (5) spaces per one thousand (1,000) square feet floor area (see Note 1).

c. Furniture/appliance/catalogue showrooms: Two and one-half (2 1/2) spaces per one thousand (1,000) square feet floor area.

d. Shopping centers: Five (5) spaces per one thousand (1,000) square feet gross leasable floor area (see Note 1) (which gross leasable floor area shall be defined as excluding seventy-five (75) percent of the mall/concourse area or those portions of the mall concourse area not used for business purposes, whichever is smaller, and also excluding service corridors, utility rooms, mechanical rooms, non-selling mezzanine areas and loading docks); provided, however, in shopping centers which are required to have over one hundred (100) parking spaces, the Planning Board may permit a certain number of them, not to exceed one-third of the total required, to be designated for small or compact cars and to permit the parking stalls for such to be reduced to eight (8) feet by sixteen (16) feet.

Note 1: The Planning Board may reduce the number of parking spaces required to be provided for general retail uses to not less than four (4) spaces per one thousand (1,000) feet of floor area and for shopping centers to not less than four (4) spaces per one thousand (1,000) square feet of gross leasable area if the applicant demonstrates that the parking proposed to be provided is adequate for the use based upon national parking demand studies such as Parking Demand published by the Institute of Traffic Engineers or by data on actual parking demand for similar uses in similar situations and/or consideration of the availability of transit service or other alternative transportation that reduces the demand for on-site parking.

(5) For office, professional or public buildings, having a floor area of over two thousand (2,000) square feet, one off-street parking space for each three hundred and fifty (350) square feet of floor area exclusive of areas used for storage.

(6) For restaurants, tearooms, lunch counters or the like, one parking space for each three (3) employees, plus one additional space for each four (4) patrons accommodated at tables or counters; provided, however, lounges or lounge areas within restaurants must have one additional parking space per one hundred (100) square feet of lounge area.

(7) For industrial uses, parking facilities on the basis of one parking space per four hundred (400) square feet of floor area, exclusive of storage space and other space not used for office, research, development or productive purposes, but in no case less than one space for each two (2) employees. The requirement based upon square footage of floor area may be reduced if it can be clearly shown that the type of use does not justify the requirement. Such reduction may not be below the requirement of one space for each two (2) employees.

(8) For auditoriums, stadiums, sports arenas or similar uses, one parking space for each six (6) seats plus one additional space for each two (2) employees thereof. Where individual seats are not provided, each twenty (20) inches of benches or other similar seating, or eight (8) square feet of seating or standing space shall be considered as one seat for the purpose of determining requirements thereof.

(9) For theaters, one parking space for each six (6) seats plus one space for each two (2) employees.

(10) For schools, one parking space for each two (2) employees including teachers and administrators plus sufficient off-street space for the safe and convenient loading and unloading of students, plus one space for each ten (10) persons seated in public assembly rooms.

(11) For airports, railroad passenger stations, bus depots, or other passenger terminal facilities, parking space adequate for employees, for the loading and unloading of passengers and for spectators, visitors and others.

(12) For hospitals, sanitariums, assisted living facilities, and nursing or convalescent homes, one parking space for each four (4) patient beds (excluding bassinets) plus one space for each staff or

visiting doctor and one space for each three employees including nurses. Loading and unloading space for hospital ambulances and similar vehicles shall not be included in the spaces required herein.

(13) For medical or dental clinics, two (2) parking spaces per doctor engaged at the clinic, plus one additional space for every two (2) employees. For medical marijuana dispensaries, five (5) spaces per one thousand (1,000) square feet total floor area, plus one additional space for every two (2) employees.

(14) For mortuaries or funeral homes, one parking space for each hearse or service vehicle, one space for each family or individual resident on the premises, plus additional spaces equal in number to one space for each one hundred (100) square feet of public area within the building.

(15) For welfare institutions such as asylums, homes for aged, orphanages, etc., one parking space for each staff or visiting doctor, one additional space for each two (2) employees, plus one space for each ten (10) residents.

(16) For community centers, libraries, museums, civic clubs and similar uses, one parking space for every two (2) employees plus one space for each one hundred fifty (150) square feet of public area in the building.

(17) For dance halls, one space for each one hundred (100) square feet of dance floor area plus one space for each two (2) employees.

(18) For bowling alleys, three (3) parking spaces for each alley, plus one space for each two (2) employees.

(19) For convention halls, gymnasiums, parks, racetracks, skating rinks and similar uses, parking spaces equal in number to at least one space for each two (2) employees and one space for each six (6) seats or other unit of capacity.

(20) For any and all uses or structures not specifically provided for in the foregoing enumeration, it shall be the burden of the applicant to demonstrate to the Code Enforcement Officer, or to the Planning Board if

Planning Board approval is otherwise required, that the applicant can provide such parking as shall be necessary to eliminate the necessity for parking on public streets, unless otherwise indicated.

(c) Required off-street parking in all districts shall be located on the same lot as the principal building or use except that the Board of Appeals may authorize residential off-street parking to be located within three hundred (300) feet of principal residential uses, measured along lines of public access, where it cannot reasonably be provided on the same lot. Such parking areas shall be held under the same ownership or lease as the residential uses served and evidence of such control or lease shall be required. In cases in which off-street parking is provided upon leased land, the Building Inspector shall not issue a certificate of use and occupancy for such premises valid for a period longer than the duration of such lease.

(d) Required off-street parking in all business and industrial zones shall be located on the same lot with the principal building or use, or within five hundred (500) feet measured along lines of public access, except that where off-street parking cannot be provided within these limits, the Board of Appeals may permit such off-street parking to be located a reasonable distance from the principal building or use, measured along lines of public access, if the premises to be used for parking are held under the same ownership or lease. Evidence of such control or lease shall be required and such lots shall be located within business or industrial districts.

(e) Required off-street parking in all business and industrial zones may be substituted by municipal parking facilities, including public parking lots and garages and also on-street public parking spaces. Such substitution shall be shown to be representative of the off-street parking turnover or requirements of the particular business or industry in question and shall take into consideration the needs of other businesses with similar demands upon such public space. No such public parking spaces shall be considered as a substitute unless located within five hundred (500) feet of the principal building as measured along lines of public access. (Reserved for older, built-up areas)

(f) Where off-street parking for more than six (6) vehicles is required or provided on a lot in a residence zone and

vehicles are to be or may be parked within the area otherwise required to be kept open and unoccupied for front, side and rear yards in the zone in which such parking is located, the following requirements shall be met:

(1) A continuous guard curb, rectangular in cross section, at least six (6) inches in height and permanently anchored, shall be provided and maintained at least five (5) feet from the street or lot line between such off-street parking and that part of the street or lot line involved; or a continuous bumper guard of adequate strength, the top of which shall be at least twenty (20) inches in height, shall be provided and maintained between such off-street parking and that part of the street or lot line involved so that bumpers of vehicles cannot project beyond its face toward the street or line involved, either above or below the impact surface.

(2) Where such off-street parking shall abut a lot in residential use or an unoccupied lot which is located in a residence zone, a chain link, picket or sapling fence, not less than forty-eight (48) inches in height, shall be provided and maintained between such off-street parking and that part of the lot line involved.

(g) Where off-street parking for more than six (6) vehicles is required or provided on a lot in any business zone, the following requirements shall be met:

(1) Where vehicles are to be or may be parked within ten (10) feet of any street line, a continuous guard curb, rectangular in cross section, at least six (6) inches in height and permanently anchored, shall be provided and maintained at least five (5) feet from the street line between such off-street parking and that part of the street line involved; or a continuous bumper guard of adequate strength, the top of which shall be at least twenty (20) inches in height, shall be provided and maintained between such off-street parking and that part of the street line involved so that the bumpers of vehicles cannot project beyond its face toward the street line involved, either above or below the impact surface.

(2) Where such off-street parking shall abut a lot in a residence zone or a lot in residential use, a chain link picket or sapling fence, not less than forty-eight (48)

inches in height, shall be provided and maintained between such off-street parking and that part of the lot line involved.

(h) Where off-street parking for more than six (6) vehicles is required or provided, the following construction requirements shall apply:

(1) Appropriate driveways from streets or alleys, as well as maneuvering areas, shall be provided. Location and width of approaches over public sidewalks shall be approved by the Municipal Engineer. When access to parking areas is available from more than one street, ingress and egress to and from the lot shall have the approval of the Planning Board.

(2) The surface of driveways, maneuvering areas and parking areas shall be uniformly graded with a subgrade consisting of gravel or equivalent materials at least six (6) inches in depth, well compacted and with a wearing surface equivalent in qualities of compaction and durability to fine gravel.

(3) A system of surface drainage shall be provided in such a way that the water runoff shall not be detrimental to the public health, safety, and welfare.

(4) Where artificial lighting is provided, it shall be shaded or screened so that no light source shall be visible from outside the area and its access driveways.

(i) The Board of Appeals may, in specific cases of hardship, reduce the requirements for off-street parking where it is clearly demonstrated that such reduction will not detract from neighborhood values, inconvenience the public, or increase congestion in the streets.

(j) The Board of Appeals may approve the joint use of a parking facility by two (2) or more principal buildings or uses where it is clearly demonstrated that said parking facility will substantially meet the intent of the requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments.

(k) The following landscaping requirements shall apply:

(1) Where an off-street parking lot is required under the terms of this Chapter to contain more than twenty (20) but fewer than one hundred twenty-five (125) parking spaces, five (5) percent of the total parking area, including maneuvering areas but not including access roads which are not a part of the parking area itself, shall be landscaped and maintained with trees, shrubs, and other natural vegetation, in a manner approved by the Planning Board.

(2) Where an off-street parking lot is required under the terms of this Chapter to contain one hundred twenty-five (125) or more parking spaces, five (5) percent of the total parking area, including maneuvering areas but not including access roads which are not a part of the parking area itself, shall be landscaped and maintained with trees, shrubs, and other natural vegetation, according to a plan prepared by a Maine licensed landscape architect and approved by the Planning Board.

(3) Where an off-street parking lot is required under the terms of this Chapter to contain more than twenty (20) parking spaces, a landscaped strip at least six (6) feet wide shall be provided wherever said parking lot abuts a public way, in addition to any landscaped area required under paragraphs (1) and (2) above.

(4) To insure that landscape materials do not constitute a driving hazard, a "sight triangle" shall be required at all street intersections or intersections of driveways with streets, as follows:

a. At intersections of driveways with streets, the sight triangle shall be formed by the intersection of each side of the driveway and the street's right-of-way line, with two (2) sides of each triangle being ten (10) feet in length from the point of intersection and the third line connecting the ends of the two (2) other sides.

b. At street intersections, the sight triangle shall be formed by the intersection of two (2) or more street rights-of-way, with two (2) sides of the triangle being thirty (30) feet in length along the abutting right-of-way lines, measured from their point of intersection, and the third side being a

line connecting the ends of the other two (2) lines.

Within these sight triangles, no landscape materials, except grass or groundcover, shall be permitted.

(5) The Planning Board may permit a portion of the parking area and maneuvering areas required under the terms of this Chapter, but in no event to exceed fifty (50) percent of said requirement, to be dedicated as "Reserved for Parking" but in fact to remain in its natural state until such time, if ever, as the Planning Board determines that existing traffic problems, congestion or public safety require said reserved area to be developed for parking. For the purposes of complying with the landscaping requirements of paragraphs (1) and (2) above, the five (5) percent landscaping requirement for parking areas shall apply only to such parking area as has been in fact developed pursuant to directions of the Planning Board.

(Ord. No. 2-12/13, 9/17/2012, [Fiscal Note: Less than $1000]; Ord. No. 14-13/14, 5/5/14 [Fiscal Note: Less than $1000])

Sec. 27-1557. Off-street loading requirements.

(a) In those zones where off-street loading is required, the following minimum off-street loading bays or loading berths shall be provided and maintained in the case of new construction, alterations and changes of use:

Office buildings and hotels with a floor area of more than one hundred thousand (100,000) square feet: One bay.

Retail, wholesale and industrial operations with a floor area of more than five thousand (5,000) square feet:

5,001 to 40,000 sq. ft. . . . . 1 bay

40,001 to 100,000 sq. ft. . . . . 2 bays

100,001 to 160,000 sq. ft. . . . . 3 bays

160,001 to 240,000 sq. ft. . . . . 4 bays

240,001 to 320,000 sq. ft. . . . . 5 bays

320,001 to 400,000 sq. ft. . . . . 6 bays

Each 90,000 square feet over 400,000, 1 additional bay.

(b) Each loading bay shall have minimum dimensions of fifty (50) feet by fourteen (14) feet and may be located either within a building or outside and adjoining an opening in the building. Every part of such loading bay shall be located completely off the street. In case trucks, trailers, or other motor vehicles larger than the dimensions of the minimum loading bay habitually serve the building in question, additional space shall be provided so that such vehicle shall park or stand completely off the street.

(c) The provisions of this section for off-street loading shall not be construed as prohibiting incidental curbside business deliveries, dispatches, or services provided that they are in compliance with all applicable state and local traffic regulations.

Secs. 27-1558 - 27-1560. Reserved.

SIGN REGULATIONS

Sec. 27-1561. General restrictions.

(a) All signs shall be regulated by the latest Building Code adopted by the City of South Portland, except as specifically provided to the contrary herein. This regulation shall include, but not be limited to, permanent signs, portable signs and temporary signs as defined in said Building Code.

(b) No sign may be illuminated by flashing lights of any kind or color. No sign may be in excess of twenty-five (25) feet in height. Any sign in excess of ten (10) feet in height shall

provide a minimum distance of three (3) feet between the ground and the bottom of the sign.

(c) Any signs or billboards which are permissible under law shall nevertheless be subject to the condition that such signs or billboards shall be removed within sixty (60) days after the closing of the event for which such signs or billboards were erected.

(d) Seasonal businesses (those businesses which close for two (2) or more months each year) shall be subject to the provisions of subsection (c) of this section only in the event of a permanent termination of business by the owner. The offering for sale of a seasonable business while closed gives rise to the presumption of permanent termination of business by the owner, bringing him within the requirements of said subsection (c).

Sec. 27-1562. Use restrictions.

No sign shall be erected in any residential use district (AA, A, G, RF) provided for under the terms of this Chapter unless specifically permitted by the terms of this Article. In all such districts the following signs shall be considered accessory to the principal use of the premises on which they are located provided that they may be illuminated only by a shielded nonflashing light:

(a) A single sign not over two (2) square feet in area attached to a building or detached and located in the front yard describing an apartment house or a conforming nonresidential building or use.

(b) A maximum of two (2) detached signs located in any front yard describing farm products raised or produced on the premises. The display area of each sign shall not exceed twenty (20) square feet, except that a single double-faced sign may be erected with a display not to exceed twenty (20) square feet on each side.

(c) A single real estate sign not over six (6) feet in area attached to a building or detached and located in the front yard relating to the sale, rental or lease of the premises.

(d) No billboard shall be permitted.

Sec. 27-1563. Portable signs.

(a) All portable signs shall require a permit issued by the City Council except as provided in subsection (c) below. The council shall grant any such permit upon demonstration by the applicant that he is in full compliance with all applicable laws and ordinances in regard to said permit, unless in the opinion of the council granting such permit would endanger the public health, safety or welfare. The application for such permit shall contain the name and address of the applicant, the purpose for which the portable sign is requested and the written consent of the owner or lessee of the premises on which the sign is to be located. No such permit shall be granted for a period in excess of thirty (30) days nor shall more than three (3) such permits be issued for any particular property, business or location in any twelve-month period; provided, however, that there shall be a waiting period of not less than fourteen (14) days between the date of expiration of one such permit and the issuance of the next such permit.

(b) Portable signs in excess of thirty-two (32) square feet in surface area shall not be permitted.

(c) Notwithstanding other provisions of this Chapter to the contrary, no permit shall be required to establish one portable sign not to exceed sixteen (16) square feet in surface area in the Limited Business, Commercial, Industrial Zones, nor shall a permit be required to establish any such sign of such size in a Residential Zone for any use lawfully existing in said zones as of the date of adoption of this ordinance; provided, however, no such portable sign shall obstruct or intrude onto any public right-of-way, the property of others without their written consent, or block the sight vision of any public right-of-way for vehicular or pedestrian traffic.

Sec. 27-1564. Temporary signs.

The outdoor display of temporary signs is prohibited unless permitted by order of the City Council upon a showing that use of a portable sign in lieu thereof in compliance with the provisions

of Sec. 27-1563 above would be impossible or present an unnecessary hardship.

Sec. 27-1565. Reserved.

DESIGN STANDARDS FOR VILLAGE DOWNTOWNS

Sec. 27-1566. Purpose.

The following design standards are related to the exterior of buildings and are intended to enhance and improve the overall appearance of buildings in key sections of our city in order to:

- Stabilize and reinforce property values to protect private and public investment.
- Prevent the decline of neighborhoods and business districts and upgrade building quality.
- Preserve and reinforce the natural, historic, and architectural qualities of neighborhoods and business districts.
- Establish and enhance aesthetic and architectural compatibility within neighborhoods and commercial areas.
- Attract development and redevelopment by establishing neighborhood and commercial conditions that make for an attractive and pleasant living and working environment.

Broadly stated, the intent is to "protect, preserve, develop, and encourage South Portland's historic, cultural, architectural, and visual resources, to cultivate a more meaningful environment for its citizens and the region." *Knightville/Mill Creek Design Study*, Cavendish Partnership, 1984: 18.

Sec. 27-1567. Applicability.

Except as otherwise indicated, the design standards apply to all building construction or remodeling projects requiring Planning Board or site plan approval within the following Design Review District(s). Where such a project is associated with an existing building, such as an addition or partial remodeling, the design standards in this Article apply only to the new construction or the part of the building being remodeled.

A. **District One: Knightville**

1. Location: Lots with frontage on Ocean Street north of Market Street/Hinckley Street and lots with frontage on Cottage Road north of Thomas Street. In addition, lots in the Village Commercial VC zoning district with frontage on Waterman Drive.

Sec. 27-1568. Standards for Review

When performing reviews of projects within the Design Review District(s), the Planning Board will include with its other findings a determination of the adequacy of design based on the following considerations. A positive finding regarding design is necessary for project approval.

A. **Footprint and Orientation**

The visual impact of a building is influenced in part by its placement on a lot and by the position and shape of nearby buildings along the street. Where a consistent pattern exists in terms of the existing buildings and spaces between buildings, applicable construction must be compatible with the pattern. Determination of compatibility will be based on the overall building footprint square footage, the dimensions of each footprint side, placement of the building footprint on the lot, and the pattern of buildings and spaces along the street edge. (See Figure 1.)

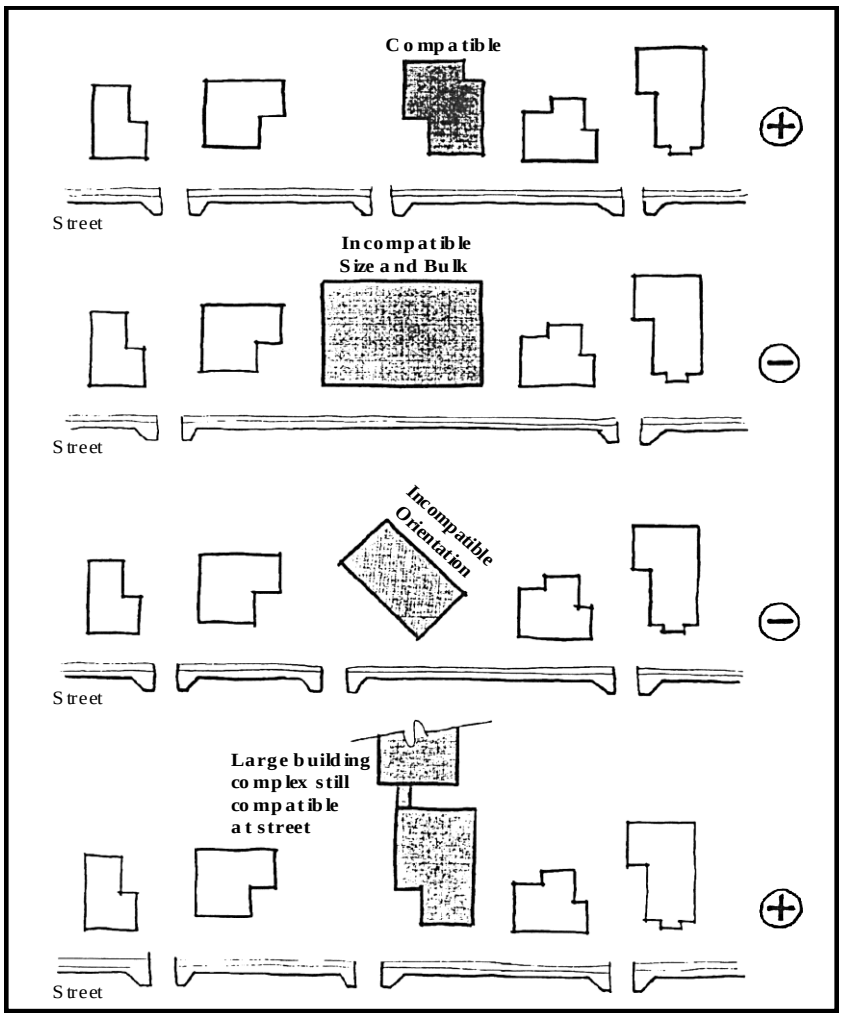


Figure 1—Footprint and Orientation

B. **Scale**

Scale is the apparent size of a structure in relation to its surroundings, including other buildings, open areas, and people. More important than size in the perception of a structure is how the overall size is distributed throughout the building. Where there is an established pattern of building size or scale as viewed from a public street, applicable construction must be compatible in scale with other structures in the district. Long, blank walls are not permitted, and mechanical equipment must be integrated within the structure. Projects with multiple or row type buildings must provide for separations and/or

changes in the building plane (facade and roof) to avoid the long barracks like quality imparted by flat walls and roofs of excessive length. Determination of compatibility will be based on the maximum dimension of the structure, the degree of articulation on building surfaces, the magnitude of unbroken faces of a structure, the visual impact of the building mass, and the integration of mechanical equipment within the structure. (See Figures 2 & 3.)

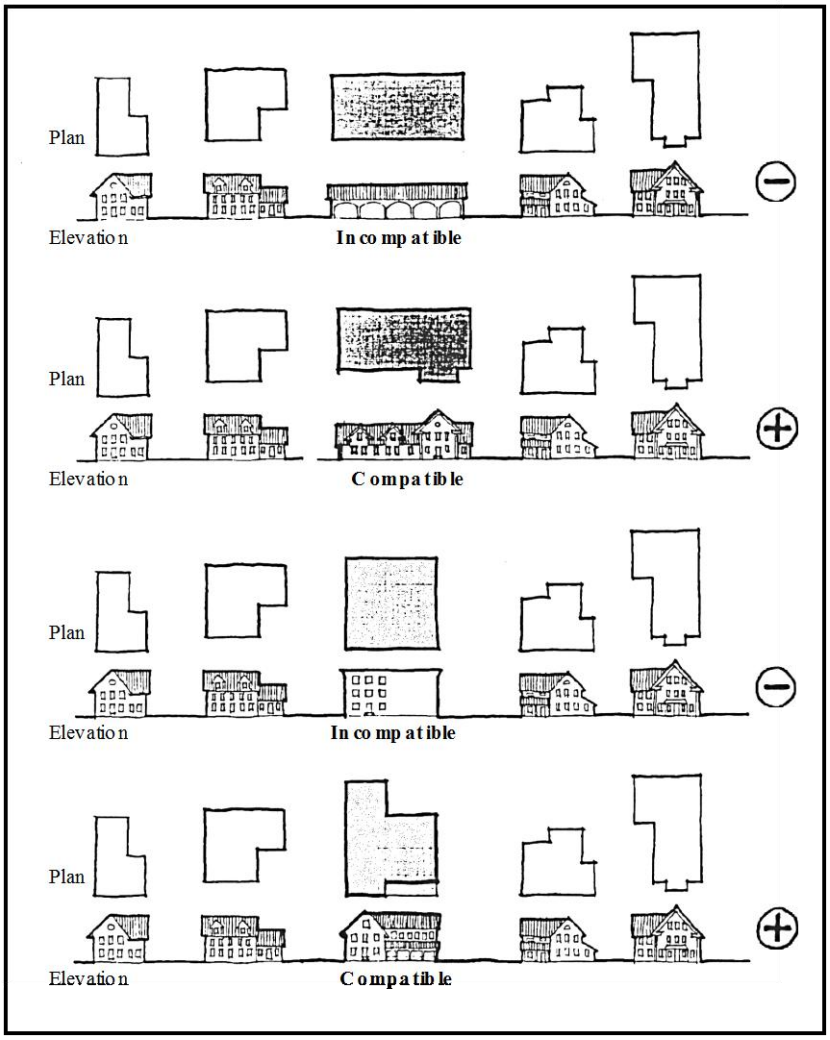


Figure 2—Scale

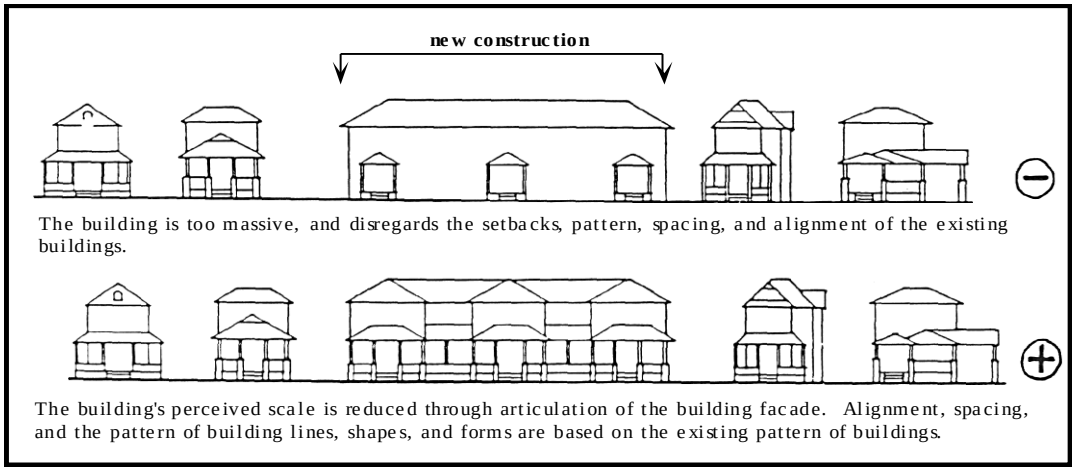


Figure 3—Scale and Articulation

C. **Roof Shape**

The type of roof design, along with the height of the building, can significantly influence the scale of a structure and can affect its attractiveness as viewed from the street. Where a pattern exists, new roof construction must conform to the predominant shape of nearby buildings and to the design of the structure. Flat roofs are allowed if the building is designed with architectural detailing that delineates and reinforces the roof edge. Mansard roofs are not allowed. (See Figure 4.)

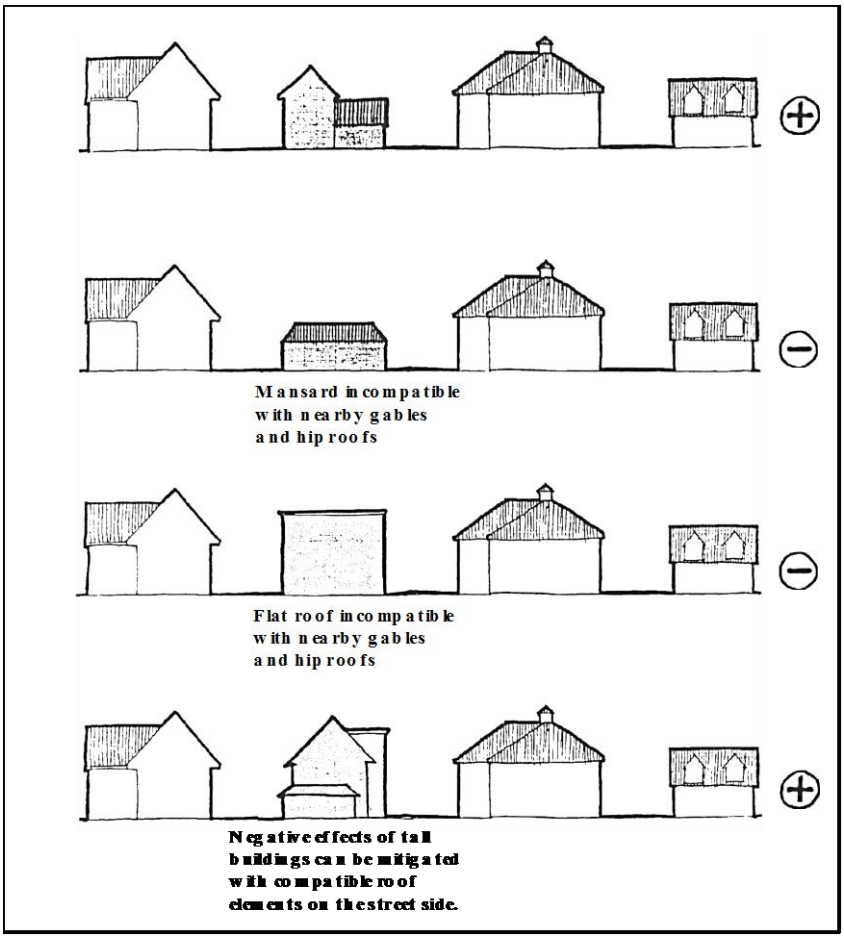


Figure 4—Roof Shape

D. **Openings**

The pattern created by the relationship between doors and windows to the exterior wall space of a building must be compatible to the structure and, where an established pattern of the proportion of windows to

wall exists among a group of buildings or along a block face, must maintain the existing pattern. The "bricking up of windows is not allowed unless the pattern can be maintained in other ways. The first floor front facade must be constructed with an equal or greater proportion of openings to wall space. (See Figure 5.)

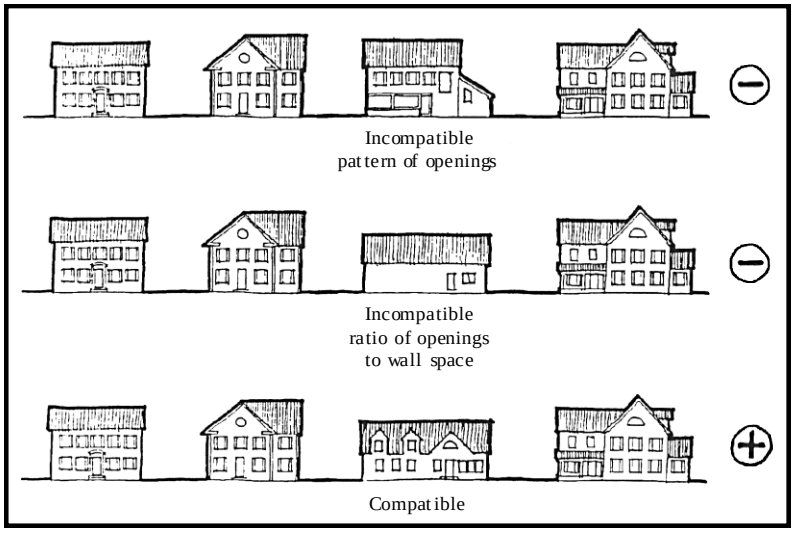


Figure 5—Openings

E. **Relationship of Street Facades**

Interruptions of buildings along the street facade dilute the street character of commercial districts. Therefore, new and in-fill development must, where such a pattern exists, maintain the line of buildings at the sidewalk edge, thus maintaining the integrity of the street facade. The front facade of the structure must incorporate at least one distinctive entrance, although secondary entrances are permitted on the sides and rear. For buildings on corner lots, the setback relationship on both streets must be maintained. The creation of "empty corners" must be avoided through the placement of buildings or other site features. (See Figure 6.)

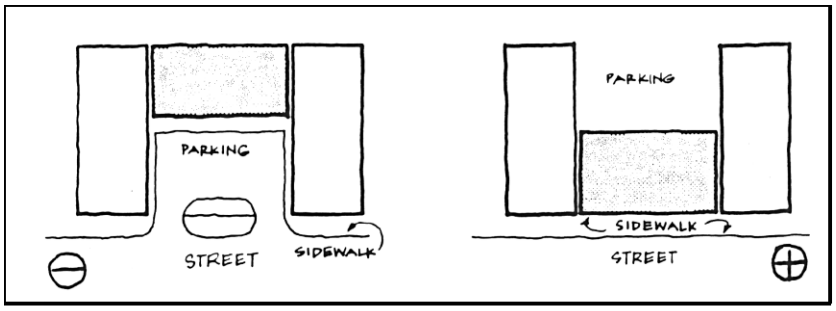


Figure 6—Relationship of Street Facades

F. **Parking Lots and Pedestrian Facilities**

In order to provide the inviting appearance in commercial areas of stores and other buildings set close to the sidewalk, off-street parking must be located in the rear or side yards and may not be located between the front of the building and the street. Other motor vehicle facilities, such as access drives and driveways, may not be located between the front of the building and the street or between the building and the sidewalk where a sidewalk exists. Overhead doors and motor vehicle service areas must be

located on the side or rear of the building and must be screened from view. (See Figures 7 & 8.)

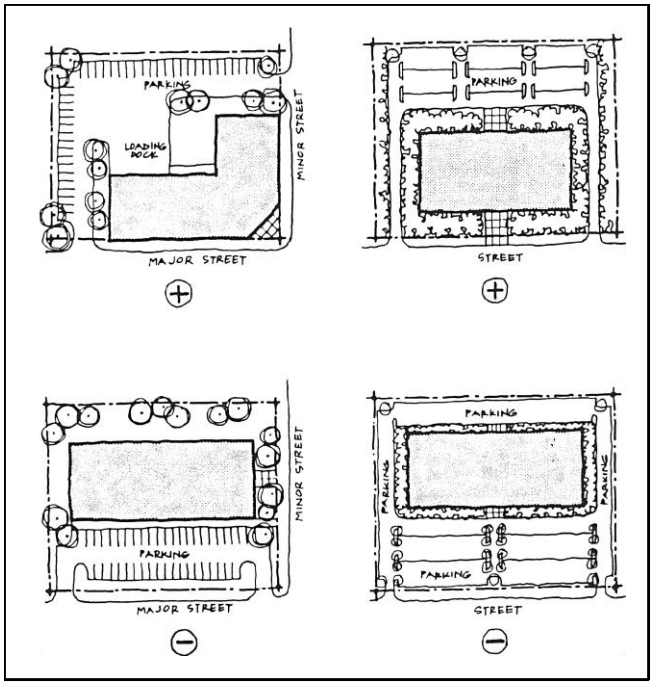


Figure 7—Parking (general)

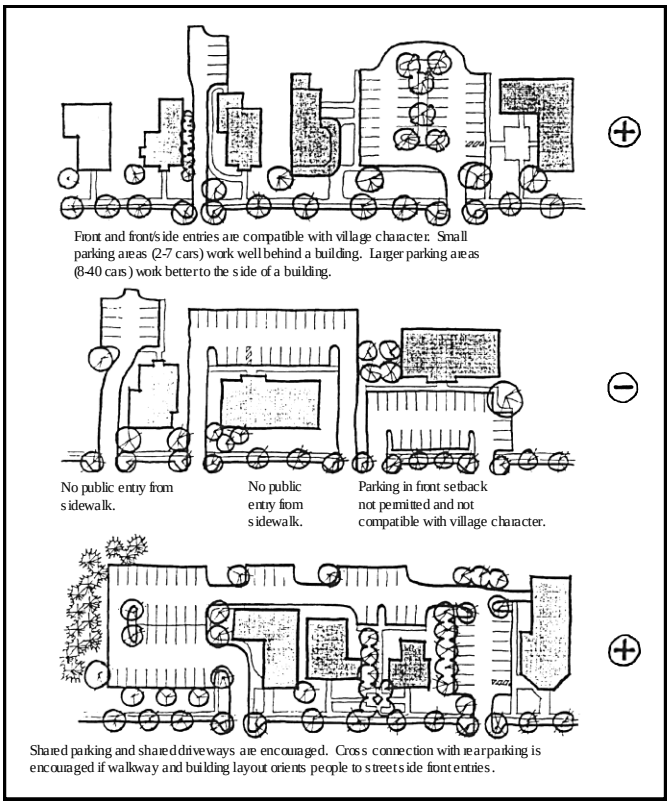


Figure 8—Parking (detailed)

G. **Awnings and Canopies**

Awnings and canopies provide identity for a business, serve as weather protection for pedestrians, and provide shade for display areas. Awnings are temporary and movable; canopies are permanent. In commercial areas awnings/canopies can help to visually integrate a series of buildings through compatible or coordinated placement and design. Awnings and canopies are encouraged and, when used, must be integrated with the building facade, and must have a compatible height-to-width relationship with surrounding awnings/canopies, be in scale with the pedestrian, and maintain a scale and proportion with the building itself. They also should produce a consistent pattern along the street through their placement, size, and shape. (See Figure 9.)

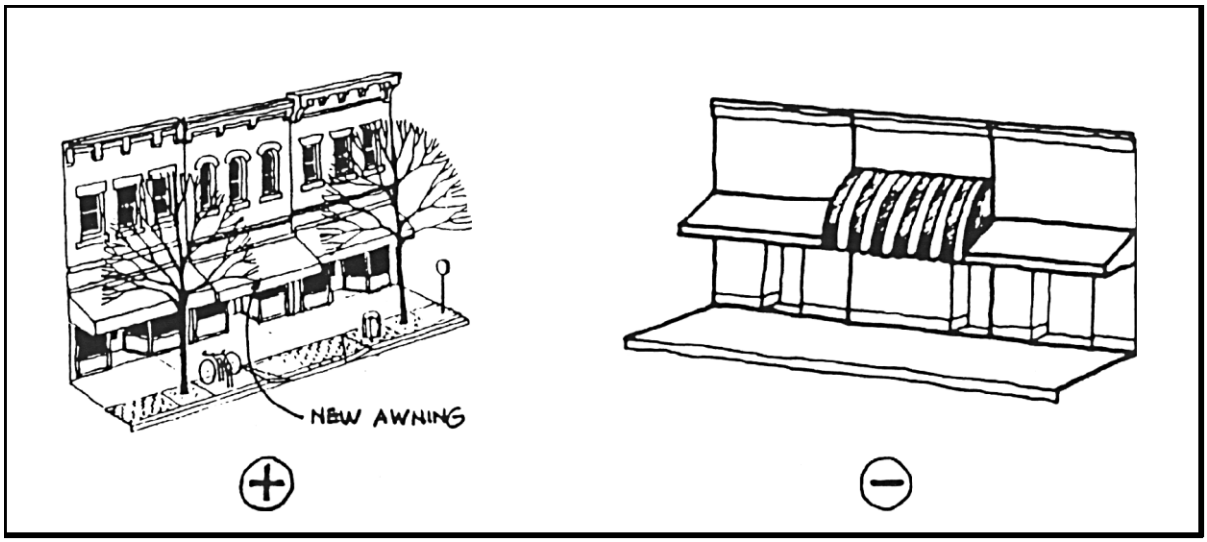


Figure 9—Awnings

H. **Materials and Colors**

The materials, textures, and colors of a single building must be visually harmonious (see definition—not intended to stifle creativity). Modifications to existing buildings should avoid the patchwork application of different materials. New buildings must use materials that are visually compatible with adjacent and nearby buildings where a pattern exists, except where unacceptable materials predominate.

Acceptable predominant exterior materials include:

- Brick (colonial red or brown; no glazed, jumbo, or multi-colored brick).
- Wood (clapboard, shiplap, or shingles).
- Vinyl, or metal, in traditional patterns (clapboard, shiplap, or shingle).
- Natural stone (dressed or cut only).

Unacceptable predominant exterior materials include:

- Smooth, stucco-like finishes.
- Concrete block (except for foundations and fire walls).
- Precast concrete (except foundations and fire walls and lintels and sills in masonry buildings).
- Corrugated metal, fiberglass, or plastic.
- Asphalt shingles

- Reflective materials, such as mirror or metalized reflective glass, plastic panels, and brushed aluminum (except for windows and doorways).

- T-111 and plywood

Acceptable materials for pitched roofs and roof elements, such as pediments and dormers, include asphalt shingles and standing seam metal roofing (except that bright colors are not allowed); unacceptable materials include: wood shingles; metal or plastic imitation shakes; slate; and, corrugated metal, fiberglass, or plastic.

Figure 10—Building Materials (infill/existing)

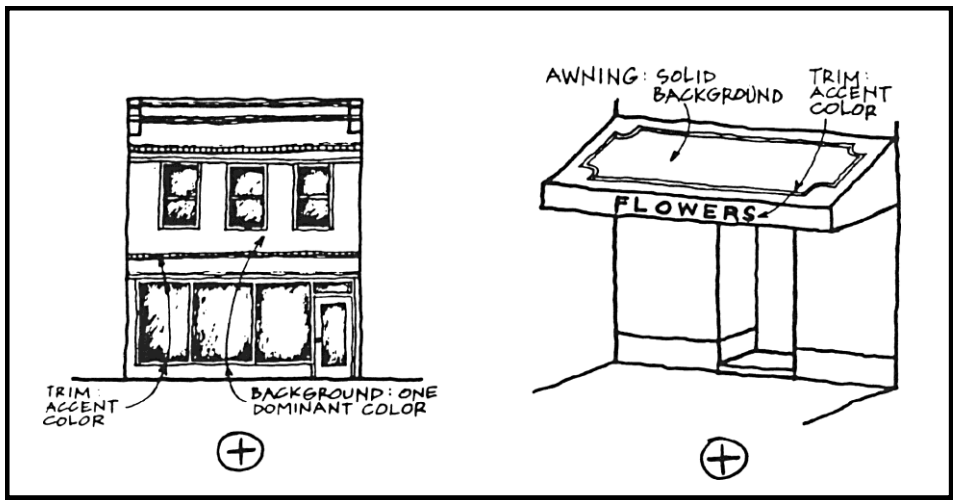


Figure 11—Building Materials (color)

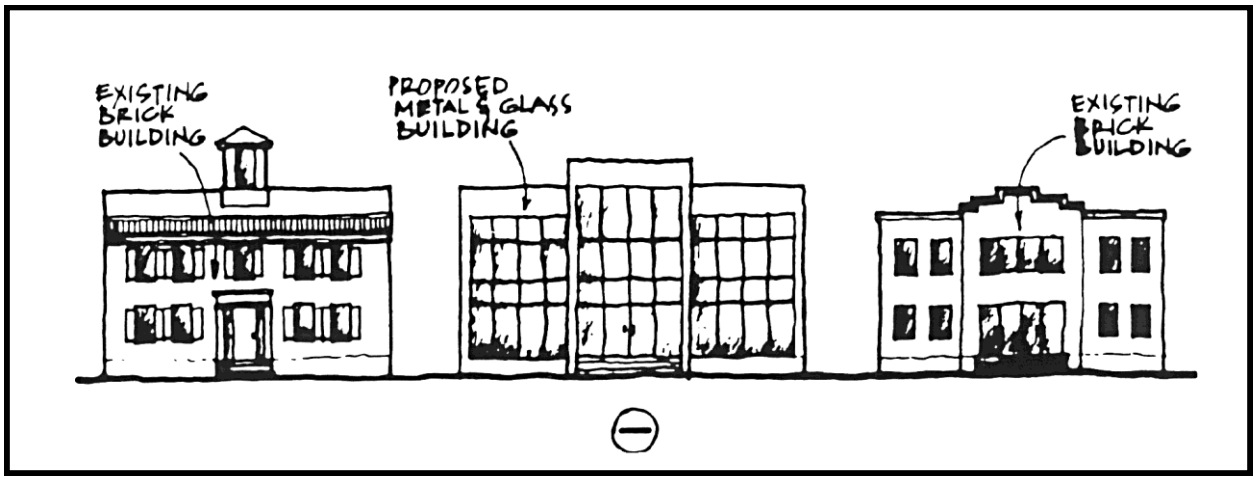


Figure 12—Building Materials (context)

Many new exterior materials will continue to become available in the future, and it is not the intention of the Design Standards to restrict the use of any quality material that simulates traditional features and enhances the value and looks of a building.

In general, the dominant background color of a building should be a muted or natural color and not excessively bright. Where an applicant feels a bright overall color is essential to the design of a structure, a statement of appropriateness from an architect licensed in Maine is required. (See Figures 10, 11, & 12.)

I. **Signs**

In addition to other existing or future sign regulations in the Code, the design standards in this section seek to improve the visual appearance of commercial districts in terms of signage. In general, signage design should clearly and simply convey the message. Ground signs (free-standing signs set into the ground) are not appropriate where buildings are close to the street. Signs attached to the property walls or windows or applied on awnings should establish the identity of the building's use. Therefore, lettering on these signs should suit the distance from which they will be read, contain a short message, and carry a simple design. Signs are not permitted to be applied to

the wall or windows of the building if they will interfere with architectural details or disrupt the pattern of windows and trim. For single-story structures, the area above the window and below the roof should be used for wall signs. In multi-story structures, the area above the window and below the floor line of the next story is generally the most appropriate location for wall signs. Signs are not allowed on roofs. Signs projecting from the street wall are allowed, but no portion of the sign may be higher than the roof line, the sign must fit the scale of the building, and there can only be one such sign per business per facade. (See Figures 13 & 14.)

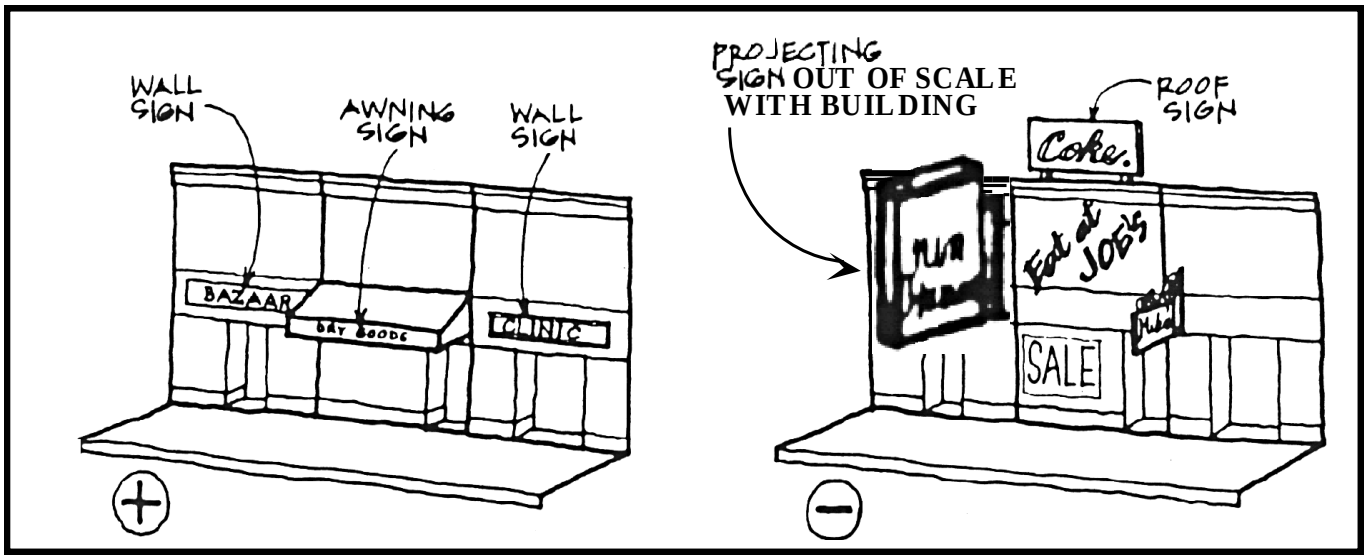


Figure 13—Signs (general)

Figure 14 - Signs (multistory)

Secs. 27-1569 - 27-1571. Reserved.

DESIGN STANDARDS FOR NEIGHBORHOOD ACTIVITY CENTERS

Sec. 27-1572. Purpose.

These design standards are not intended to restrict imagination or variety but rather to assist in focusing on design principles that result in creative solutions that will develop a satisfactory visual appearance within South Portland's neighborhood activity centers. With this in mind, the purpose of these design standards is to:

- Stabilize and reinforce property values to protect private and public investment.
- Prevent the decline of neighborhoods and business districts and upgrade building quality.
- Preserve and reinforce the natural, historic, and architectural qualities of neighborhood activity centers.
- Establish and enhance aesthetic and architectural compatibility and linkages between sites and with the surrounding neighborhoods.
- Require context sensitive site planning and building design.
- Attract development and redevelopment by establishing conditions that make for an attractive and pleasant living and working environment.

Sec. 27-1573. Applicability.

These design standards apply to all building construction or remodeling projects affecting the exterior of buildings within the following zoning districts that require a special exception, site plan, or subdivision approval and/or a non-single family dwelling unit building permit:

- The Village Commercial-Willard VCW Zoning District

- The Main Street Community Commercial MSCC Zoning District

Where such a project is associated with an existing building, such as an addition or partial remodeling, these design standards apply only to the new construction or the part of the building being remodeled.

(Ord. No. 14-13/14, 5/5/14 [Fiscal Note: Less than $1000])

Sec. 27-1574. Process for Review/Application Materials.

(a) No application for a non-single family dwelling unit building permit, special exception, site plan, or subdivision approval within the Village Commercial-Willard VCW zoning district shall be finally approved until the applicant has received a positive finding, to be documented in the form of a Design Standard Certificate, from the Planning Board or Code Enforcement Officer, as applicable, that the project complies with these design standards.

(b) If the construction activity requires Planning Board approval, the Planning Board shall make a determination of the adequacy of project design based on these design standards.

(c) If the construction activity only requires a non-single family dwelling unit building permit, the Code Enforcement Officer shall, after consultation with the Planning Director, make a determination of the adequacy of project design based on these design standards.

(d) Appeals of Planning Board determinations with respect to project compliance with these design standards shall be as set forth in Sec. 27-137. Appeals of Code Enforcement Officer determinations with respect to project compliance with these design standards shall be to the Planning Board.

(e) Application Materials. In addition to other required materials, applications for projects that must comply with neighborhood activity center design standards shall include:

(i) An existing conditions plan prepared by a land surveyor or other qualified professional licensed in the State of Maine and drawn to scale showing the boundaries of the lot of record, any improvements on

the lot including buildings, structures, or paving, the location of buildings and other improvements on the abutting lots, the topography and direction of drainage of the parcel, any existing easements, and the location of all utilities on the lot or in adjacent streets.

(ii) A site plan prepared by a land surveyor or other qualified professional licensed in the State of Maine at the same scale as the existing conditions plan showing the proposed improvements to the lot including buildings, structures, paving, landscaping, easements, and utilities.

(iii) Building plans for the principal building and any accessory buildings including, at a minimum, the first floor plan, and color-rendered elevations for all sides of the building showing the architectural treatment of the property.

(iv) Color-rendered perspective drawings or photo simulations showing how the proposed building will appear when seen from the street and how it will fit into the streetscape.

(v) A written and visual analysis of the existing character of the design district and the immediate neighborhood within five hundred (500) feet of the parcel focusing on the factors identified in Sec. 27-1575. This should include aerial photos and pictures of the existing lots in the neighborhood.

(vi) A written and visual analysis demonstrating how the proposed development of the lot meets the standards of Sec. 27-1575.

(vii) Design district application materials do not have to be prepared by an architect. However, using an architect decreases the potential for staff to make use, at the applicant's expense, of independent consulting peer review architectural services as provided in Sec. 27-138.

(viii) Projects that do not require Planning Board approval and involve modifications to existing buildings only require the submittal of the materials identified in items (iii) and (iv) of this subsection.

(f) Waiver Requests. An applicant may include a written request for a waiver of one or more of the review standards set forth in Sec. 27-1575 as part of an application under this section. The waiver request must set forth the specific modification requested and all supporting reasons and documentation as to why the modification should be granted and why the modification will not detract from the spirit and intent of these design standards. The Code Enforcement Officer or Planning Board, as applicable, may grant the waiver request if, following a positive recommendation on the waiver request from the City's peer review architect, the Code Enforcement Officer or Planning Board, as applicable, finds that the waiver does not lessen the quality of the building's architectural design and/or compatibility with the neighborhood and does not detract from the spirit and intent of these design standards. The design review standards are not dimensional requirements; however, neither the Code Enforcement Officer nor Planning Board may waive the provision set forth in the second sentence of Sec. 27-1575(a)(2) regarding no off-street parking in the front yard.

Sec. 27-1575. Review Standards.

Construction activities in neighborhood activity center design districts shall meet the following design standards:

(a) Relationship of Buildings to Site

(1) The site shall be planned to accomplish a desirable transition with the streetscape and to provide for adequate planting, safe pedestrian movement, and parking areas.

(2) Parking areas shall be treated with decorative elements, building wall extensions, plantings, berms, or other innovative means so as to screen parking areas from public ways. Off-street parking must be located in the rear or side yards and may not be located between the front of the building and the street. Other motor vehicle facilities, such as access drives and driveways, may not be located between the front of the building and the street or between the building and the sidewalk where a sidewalk exists. Overhead doors and motor vehicle service areas must be

located on the side or rear of the building and must be screened from view.

(3) Without restricting the permissible limits of the applicable zoning district, the height and scale of each building shall be compatible with its site and existing (or anticipated) adjoining buildings.

(4) Newly installed utility services and service revisions necessitated by exterior alterations shall be underground.

(b) Relationship of Buildings and Site to Adjoining Area

(1) Adjacent buildings of different architectural styles shall be made compatible by such means as screens, site breaks, and materials.

(2) Attractive landscape transition to adjoining properties shall be provided.

(3) Harmony in texture, lines, and masses is required. Monotony of design shall be avoided.

(4) With respect to building footprint and orientation, where a consistent pattern exists in terms of the existing buildings and spaces between buildings, applicable construction must be compatible with the pattern. Determination of compatibility will be based on the overall building footprint square footage, the dimensions of each footprint side, placement of the building footprint on the lot, and the pattern of buildings and spaces along the street edge.

(5) New and in-fill development must, where such a pattern exists, maintain the line of buildings, thus maintaining the integrity of the street facade. The front facade of the structure must incorporate at least one distinctive entrance, although secondary entrances are permitted on the sides and rear. For buildings on corner lots, the setback relationship on both streets must be maintained. The creation of "empty corners" must be avoided through the placement of buildings or other site features.

(6) Additions to buildings shall reflect, and be consistent with, the style of the existing building,

including such elements as trim, fenestration, roof pitch, and exterior cladding.

(c) Landscape and Site Treatment

(1) Grades of walks, parking spaces, terraces, and other paved areas shall provide an inviting and stable appearance for the pedestrian.

(2) Landscape treatment shall be provided to enhance architectural features, strengthen vistas and important accent points, provide shade and enhance stormwater management.

(3) Unity of landscape design shall be achieved by repetition of certain plant varieties and other materials and by coordination with adjacent development.

(4) Plant material shall be selected for interests in its structure, texture and color, and for its ultimate growth. Plants that are indigenous to the area and others that will be hearty and harmonious to design shall be used.

(5) In locations where plants will be susceptible to injury by pedestrian or motor traffic, they shall be protected by appropriate curbs, tree guards, or other devices.

(6) Screening of service yards and other places that tend to be unsightly shall be accomplished by use of walls, fencing, plantings, or combinations of these. Screening shall be effective in winter and summer.

(7) In areas where general planting will not prosper, other materials such as fences, walls, and pavings of wood, brick, stone gravel, and cobbles shall be used. Carefully selected plants shall be combined with such materials where possible.

(8) Exterior lighting, when used, shall enhance the adjoining landscape. Lighting standards and building fixtures shall be of a design and size compatible with the building and adjacent areas. Lighting, including for signs, shall be restrained in design and excessive brightness avoided.

(9) Public amenities, such as benches and bicycle racks, shall be encouraged and, if provided, designed and located so as to complement other such amenities in the VCW zoning district. Any bicycle rack should be able to accommodate three (3) or more bicycles at a time and shall be of a design that fits with and enhances the building and site architecture.

(d) Building Design

(1) Architectural style is not restricted. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings.

(2) Buildings shall have appropriate scale and be in harmonious conformance with neighboring development. Where there is an established pattern of building size or scale as viewed from a public street, applicable construction must be compatible in scale with other structures in the district. Long, blank walls are not permitted, and mechanical equipment must be integrated within the structure. Projects with multiple or row type buildings must provide for separations and/or changes in the building plane (facade and roof) to avoid the long barracks like quality imparted by flat walls and roofs of excessive length. Determination of compatibility will be based on the maximum dimension of the structure, the degree of articulation on building surfaces, the magnitude of unbroken faces of a structure, the visual impact of the building mass, and the integration of mechanical equipment within the structure.

(3) The materials, textures, and colors of a single building must be visually harmonious as such term is defined in Sec. 27-201. Modifications to existing buildings shall avoid the patchwork application of different materials. New buildings must use materials that are visually compatible with adjacent and nearby buildings where a pattern exists, except where unacceptable materials predominate.

(a) Acceptable predominant exterior materials include:

- Brick (colonial red or brown; no glazed, jumbo, or multi-colored brick).
- Wood (clapboard, shiplap, or shingles).
- Vinyl, or metal, in traditional patterns (clapboard, shiplap, or shingle).
- Natural stone (dressed or cut only).

(b) Unacceptable predominant exterior materials include:

- Smooth, stucco-like finishes.
- Concrete block (except for foundations and fire walls).
- Precast concrete (except foundations and fire walls and lintels and sills in masonry buildings).
- Corrugated metal, fiberglass, or plastic.
- Asphalt shingles.
- Reflective materials, such as mirror or metalized reflective glass, plastic panels, and brushed aluminum (except for windows and doorways).
- T-111 and plywood.

(c) Acceptable materials for pitched roofs and roof elements, such as pediments and dormers, include asphalt shingles and standing seam metal roofing (except that bright colors are not allowed); unacceptable materials include: metal or plastic imitation shakes; and, corrugated metal, fiberglass, or plastic.

(d) Many new exterior materials will continue to become available in the future, and it is not the intention of the design standards to restrict the use of any quality material that simulates traditional features and enhances the value and looks of a building.

(e) In general, the dominant background color of a building should be a muted or natural color and not excessively bright. Where an applicant feels a bright overall color is essential to the design

of a structure, a statement of appropriateness from an architect licensed in Maine is required.

(4) In any design in which the structural frame is exposed to view, the structural materials shall be compatible with themselves and harmonious with their surroundings.

(5) Building components, such as windows, eaves, doors, parapets, etc., shall have logical proportions and relationships to one another. The pattern created by the relationship between doors and windows to the exterior wall space of a building must be compatible to the structure and, where an established pattern of the proportion of windows to wall exists among a group of buildings or along a block face, must maintain the existing pattern. The "bricking up" of windows is not allowed unless the pattern can be maintained in other ways. The first floor front facade must be constructed with an equal or greater proportion of openings to wall space.

(6) Mechanical equipment or other utility hardware on roof, ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be so located as not to be visible from public ways. Solar and wind energy facilities do not need to be screened from view but, to the extent practicable, shall be integrated in the design of the structure.

(7) Exterior lighting shall be part of the architectural concept. Fixtures, standards, and all exposed accessories shall be harmonious with building design.

(8) Refuse and waste removal areas, service yards, storage yards, and exterior work areas shall be screened from view of public ways.

(9) Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest. In multiple building projects, variable siting of individual projects shall be used to prevent a monotonous appearance.

(10) The type of roof design, along with the height of the building, can significantly influence the scale of a structure and can affect its attractiveness as viewed from the street. Where a pattern exists, new roof construction must conform to the predominant shape of nearby buildings and to the design of the structure. Flat roofs are allowed if the building is designed with architectural detailing that delineates and reinforces the roof edge.

(e) Signs.

(1) In addition to other existing sign regulations contained in this ordinance, the design standards contained in this section seek to improve the visual appearance of commercial districts in terms of signage. In general, signage design shall clearly and simply convey the message. Ground signs (free-standing signs set into the ground) are prohibited where buildings are close to the street. Signs attached to the property walls or windows or applied on awnings shall establish the identity of the building's use. Therefore, lettering on these signs shall suit the distance from which it will be read, contain a short message, and carry a simple design.

(2) Signs are not permitted to be applied to the wall or windows of the building if they will interfere with architectural details or disrupt the pattern of windows and trim. For single-story structures, the area above the window and below the roof should be used for any wall signs. In multi-story structures, the area above the window and below the floor line of the next story is generally the most appropriate location for wall signs. Signs are not allowed on roofs. Signs projecting from the street wall are allowed, but no portion of the sign may be higher than the roof line, the sign must fit the scale of the building, and there can only be one such sign per business per facade.

(f) Miscellaneous Structures and Street Hardware

(1) Miscellaneous structures and street hardware (*e.g.*, benches, bike racks) shall be designed to be part of the architectural concept of design and landscape. Materials shall be compatible with buildings, scale

shall be appropriate, colors shall be in harmony with buildings and surroundings, and proportions shall be attractive.

(2) Lighting in connection with miscellaneous structures and street hardware shall adhere to standards set forth for site, landscape, buildings, and signs.

(g) Maintenance - Planning and Design Factors

(1) The choice of materials and their use, together with the types of finishes and other protective measures shall be conducive to easy maintenance and upkeep.

(2) Materials and finishes shall be selected for their durability and wear as well as for their overall appearance. Proper measures and devices shall be incorporated for protection against the elements, neglect, damage, and abuse.

(3) Provisions for washing and cleaning of buildings and structures, and control of dirt and refuse shall be incorporated in the design. Configurations that tend to catch and accumulate debris, leaves, trash, dirt, and rubbish shall be avoided, except for rain barrels.

(Ord. No. 2-11/12, 9/7/11 [Fiscal Note: Less than $1000])

ACCESSORY DWELLING UNITS

Sec. 27-1576. Purpose.

The purpose of this Article is to authorize the creation of legal accessory dwelling units ("ADUs") in a manner that enhances residential neighborhoods and helps residents meet their housing needs and realize the benefits of ADUs. Accessory dwelling units may only be created when the single-family character of the principal building is able to be maintained.

Sec. 27-1577. Application.

Accessory dwelling units require approval by the Planning Board as special exceptions, except that, notwithstanding any other provision of the ordinance to the contrary, the requirement of site plan review and approval as set forth in Sec. 27-1405 does not apply to ADUs. A pre-application meeting with the Planning Director, Site Planner, and Code Enforcement Officer is required. The application must be accompanied by the following documentation:

(i) A mortgage loan inspection plan prepared by a Maine licensed land surveyor and drawn to scale showing the boundaries of the lot; any existing improvements on the lot, including buildings, structures, and paving; and any existing easements benefiting or burdening the lot.

(ii) A separate copy of the mortgage loan inspection plan prepared by a Maine licensed land surveyor that is marked up to scale by either the applicant or the surveyor to include the following additional information: the proposed improvements to the lot, including buildings, structures, paving, landscaping, easements, and utilities; a title block entitled "Special Exception for an Accessory Dwelling Unit"; the name of the record owner of the property; north arrow; date; total square footage of the principal dwelling; total square footage of the ADU; percentage of the ADU total square footage in relation to the principal dwelling total square footage; and the number and location of parking spaces provided.

(iii) For any ADU involving new construction (interior or exterior), a set of building plans, photographs or drawings that show the following: existing and proposed principal and accessory buildings; the floor plan of the principal building and the ADU; elevations for all sides of the existing and proposed buildings; and the architectural treatment of the principal building and the ADU.

(iv) A Drainage Plan meeting the requirements of Sec. 27-1536, as appropriate.

Sec. 27-1578. Standards.

(a) An accessory dwelling unit may only be created in one of

the following ways:

(1) by using space within the interior of an existing dwelling;

(2) by building an addition onto an existing dwelling such that the addition is made part of the principal dwelling structure or is attached to the principal dwelling by a fully enclosed breezeway not exceeding twenty (20) feet in length; or

(3) by incorporating an ADU into the structure of a new dwelling.

(b) In no case shall an ADU be more than forty percent (40%) of the living area of a principal dwelling unit, nor more than 800 square feet, nor less than 300 square feet, nor have more than two (2) bedrooms.

(c) Where the creation of an accessory dwelling unit changes the footprint of the structure in which the ADU is located, the addition to the structure must conform to the setback and lot coverage requirements for the zoning district in which it is located. Where not specified, the maximum building coverage is twenty-five percent (25%). The creation of an ADU within a lawfully nonconforming structure is permitted providing it does not increase the nonconformity of the structure and providing it meets all other relevant requirements of this Chapter.

(d) Only one ADU is permitted per lot.

(e) The single-family dwelling and the ADU must be held in the same ownership. An ADU may not be sold separately from the principal dwelling unit.

(f) The owner of the property must occupy either the principal dwelling unit or the accessory dwelling unit.

(g) Exterior design features associated with accessory dwelling units, such as façade materials, building form, roof pitch and materials, and exterior doors and windows, shall be designed to be compatible with the architectural style of the principal dwelling and must preserve the single-family appearance of the property. If the ADU's primary entrance is not the same as that for the principal dwelling unit, it shall be less visible from the street view of the principal dwelling than the main entrance

of the principal dwelling unit; and, the front entrance for the principal dwelling shall be more dominant in appearance.

(h) The orientation of the proposed ADU shall, to the maximum extent practical, maintain the privacy of residents in adjoining dwellings as determined by the physical characteristics surrounding the ADU, including landscape screening, fencing, and window and door placement.

(i) In addition to parking required for the principal dwelling, two (2) on-site paved parking space must be available. Parking space within a garage may be counted for this purpose; tandem parking is allowed. In addition, the parking area must be sized and situated so as to be compatible with adjacent properties. The Planning Board may require such additional landscaping or buffering as it determines is appropriate to preserve the single-family character of the neighborhood.

(j) An ADU shall not be counted as a unit when calculating units per acre.

Sec. 27-1579. Reserved.

FARMER'S MARKET

Sec. 27-1580. Application.

Farmer's markets require approval by the Planning Board as special exceptions, except as set forth in Sec. 27-532(f) and except that, notwithstanding any other provision of the ordinance to the contrary, the requirement of site plan review and approval as set forth in Sec. 27-1405 does not apply to farmer's markets. A pre-application meeting with the Planning Director, Site Planner, and Code Enforcement Officer is required. The application must be accompanied by the following documentation:

(i) An existing conditions plan drawn to scale showing the boundaries of the lot; and any existing improvements on the lot, including buildings, structures and paving.
(ii) A sketch plan that is marked up to scale to include the following: a title block entitled "Special

Exception for a Farmers' Market"; the name of the record owner of the property; north arrow; date; driveways, access points, fire lanes and the number and location of parking spaces provided.

(iii) A parking and traffic circulation plan for both farmers/vendors and customers.

(iv) A signage plan, detailing locations and dimensions and including renderings of proposed signs.

(v) A waste collection and disposal plan.

(vi) Proposed dates and hours of operation.

(vii) A narrative on the maximum number of farmers and vendors participating in the farmers' market.

Sec. 27-1581. Standards.

In addition to meeting the special exception approval standards, the applicant shall demonstrate compliance with all of the following:

(a) The proposed farmers' market will not cause unreasonable road congestion or unsafe conditions with respect to existing or proposed roads and internal vehicular and pedestrian site circulation.

(b) The proposed farmers' market will provide adequate on- or off-street parking to accommodate farmers, any associated vendors and customers.

(c) The proposed farmers' market will provide for adequate waste collection and disposal.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000])

ARTICLE XVI. Reserved

(Ord. No. 10-13/14, 3/17/14 [Fiscal Note: Less than $1000]; Ord. No. 2-14/15,7/7/14 [Fiscal Note: Less than $1000])