Disclaimer:

The following ordinances are in effect but have not yet been incorporated into Chapter 27:

- Ordinance #3-26/27
- Ordinance #4-26/27
- Ordinance #5-26/27

Table of Contents

ZONING

ARTICLE I. ADMINISTRATIVE PROVISIONS 1
Sec. 27-101. Title. 1
Secs. 27-102 – 27-110. Reserved. 1

GENERAL PROVISIONS 1
Sec. 27-111. Purpose. 1
Sec. 27-112. Conformity. 2
Sec. 27-112-A. Prohibited uses. 2
Sec. 27-113. Conflict with other ordinances. 2
Sec. 27-114. Separability. 3
Sec. 27-115. Changes and amendments. 3
Sec. 27-116. Reserved. 5
Sec. 27-117. Conditional or contract zoning. 5
Sec. 27-118. Applicability date of amendments to implement Part 1 of the recommendations of the Draft Ordinance Committee dated July 1, 2014. 6
Sec. 27-119. Applicability date of amendments evidenced by Ordinance #5-20/21. 6
Secs. 27-120 – 27-130.Reserved. 6

ADMINISTRATION 6
Sec. 27-131. Enforcement officer. 6
Sec. 27-132. Legal action and violation. 7
Sec. 27-133. Fines. 7
Sec. 27-134. Building permit. 7
Sec. 27-135. Application for building permit. 7
Sec. 27-136. Certificate of use and occupancy. 7
Sec. 27-137. Appeals from decisions of the Planning Board. 8
Sec. 27-138. Independent Consulting and Peer Review Fees. 8
Sec. 27-139. Effective date of sections governing fees. 9
Sec. 27-140. Amendments to a previously Approved Project, Plan or Development 9
Sec. 27-141. ***De Minimis*** Changes (DMCs). 9
Sec. 27-142. Minor Amendments. 11
Sec. 27-143. Amendments Requiring a Duly Noticed Planning Board Public Hearing. 13
Secs. 27-144 – 27-150. Reserved. 13

BOARD OF APPEALS 13
Sec. 27-151. Appointment and composition. 13
Sec. 27-152. Powers and duties. 14
Sec. 27-153. Conditions. 17
Sec. 27-154. Appeal procedure. 18
Secs. 27-155 – 27-200. Reserved. 20

ARTICLE II. DEFINITIONS 1

Sec. 27-201. Definitions. 1
Secs. 27-202 – 27-300. Reserved. 39

ARTICLE III. NONCONFORMANCE 1
Sec. 27-301. Nonconformance Generally. 1
Sec. 27-302. Nonconforming Uses. 1
Sec. 27-303. Nonconforming Buildings and Structures. 2
Sec. 27-304. Nonconforming Residential Lots. 12
Secs. 27-305 – 27-400. Reserved. 19

ARTICLE IV. ZONING DISTRICTS 1
Sec. 27-401. Establishment of zoning districts. 1
Sec. 27-402. Zoning maps. 3
Sec. 27-403. Space and Bulk Standards for Zoning Districts. 3
Sec. 27-404. Land Uses for Zoning Districts. 19
Sec. 27-405 – 27-500. Reserved. 40

ARTICLE V. RESIDENTIAL DISTRICTS 1

RURAL RESIDENTIAL DISTRICT RF 1
Sec. 27-501. Purpose (RF). 1
Sec. 27-502. Permitted uses (RF). 1
Sec. 27-503. Special exceptions (RF). 1
Sec. 27-504. Space and bulk regulations (RF). 1
Sec. 27-505. Off-street parking (RF). 1
Sec. 27-506. Signs (RF). 2
Sec. 27-507. Site plan review (RF). 2
Secs. 27-508 – 27-510. Reserved. 2

RESIDENTIAL DISTRICT AA 2
Sec. 27-511. Purpose (AA). 2
Sec. 27-512. Permitted uses (AA). 2
Sec. 27-513. Special exceptions (AA). 3
Sec. 27-514. Space and bulk regulations (AA). 3
Sec. 27-515. Off-street parking (AA). 3
Sec. 27-516. Signs (AA). 3
Sec. 27-517. Farm animals and produce (AA). 3
Sec. 27-518. Site plan review (AA). 3
Secs. 27-519 – 27-530. Reserved. 4

RESIDENTIAL DISTRICT A 4
Sec. 27-531. Purpose (A). 4
Sec. 27-532. Permitted uses (A). 4
Sec. 27-533. Special exceptions (A). 4
Sec. 27-534. Space and bulk regulations (A). 5
Sec. 27-535. Off-street parking (A). 5
Sec. 27-536. Signs (A). 5
Sec. 27-537. Farm animals and produce (A). 5
Sec. 27-538. Site plan review (A). 5
Secs. 27-539 – 27-540. Reserved. 6

RESIDENTIAL CORRIDOR DISTRICT RC 6

Sec. 27-541. Purpose (RC). 6
Sec. 27-542. Permitted uses (RC). 6
Sec. 27-543. Special exceptions (RC). 6
Sec. 27-544. Space and bulk regulations (RC). 6
Sec. 27-545. Off-street parking (RC). 6
Sec. 27-546. Signs (RC). 7
Sec. 27-547. Farm animals and produce (RC). 7
Sec. 27-548. Site plan review (RC). 7
Sec. 27-549. Performance Standards (RC). 8
Secs. 27-550. Reserved. 8

RESIDENTIAL DISTRICT G 9
Sec. 27-551. Purpose (G). 9
Sec. 27-552. Permitted uses (G). 9
Sec. 27-553. Special exceptions (G). 9
Sec. 27-554. Space and bulk regulations (G). 9
Sec. 27-555. Off-street parking (G). 9
Sec. 27-556. Signs (G). 10
Sec. 27-557. Site plan review (G). 10
Sec. 27-558. Farm animals and produce (G). 10
Sec. 27-559. [Reserved]. 11
Secs. 27-560 – 27-570. Reserved. 11

VILLAGE RESIDENTIAL DISTRICT VR 11
Sec. 27-571. Purpose (VR). 11
Sec 27-571-A. Dual-Zone Lots 11
Sec. 27-572. Permitted uses (VR). 11
Sec. 27-573. Special exceptions (VR). 12
Sec. 27-574. Space and bulk regulations (VR). 12
Sec. 27-575. Off-street parking (VR). 12
Sec. 27-576. Signs (VR). 12
Sec. 27-577. Site plan review (VR). 12
Sec. 27-578 Farm animals and produce (VR). 13
Sec. 27-579. [Reserved]). 13
Sec. 27-580. Reserved. 13

TRANSITIONAL RESIDENTIAL DISTRICT RT 14
Sec. 27-581. Purpose (RT). 14
Sec. 27-582. Definitions (RT). 14
Sec. 27-583. Permitted uses (RT). 14
Sec. 27-584. Special exceptions (RT). 14
Sec. 27-585. Site plan review (RT). 14
Sec. 27-586. Space and bulk regulations (RT). 15
Sec. 27-587. Performance Standards (RT). 15
Secs. 27-588 – 27-600. Reserved. 17

ARTICLE VI. RESIDENTIAL DISTRICTS (CONT.) 18

WEST END RESIDENTIAL DISTRICT (WR) 18
Sec. 27-601. Purpose (WR). 18
Sec. 27-602. Permitted uses (WR). 18
Sec. 27-603. Special Exceptions (WR). 18

Sec. 27-604. Space and bulk regulations (WR). 18
Sec. 27-605. Off-street parking (WR). 19
Sec. 27-606. Signs (WR). 19
Sec. 27-607. Site plan review (WR). 19
Sec. 27-608. Design standards (WR). 20
Sec. 27-609. Connectivity standards (WR). 20
Secs. 27-610 – 27-700. Reserved. 20

ARTICLE VII. MIXED USE/COMMERCIAL DISTRICTS 1

LIMITED BUSINESS DISTRICT LB 1
Sec. 27-701. Purpose (LB). 1
Sec. 27-702. Permitted uses (LB). 1
Sec. 27-703. Special exceptions (LB). 1
Sec. 27-704. Space and bulk regulations – Non-Residential Uses (LB). 1
Sec. 27-705. Space and bulk regulations—Residential Uses (LB). 2
Sec. 27-706. Off-street parking (LB). 2
Sec. 27-707. Signs (LB). 2
Sec. 27-708. Site plan review (LB). 2
Sec. 27-709. Reserved. 2

VILLAGE COMMERCIAL DISTRICT VC 3
Sec. 27-710. Purpose (VC). 3
Sec. 27-710-A. Dual-Zone Lots 3
Sec. 27-711. Permitted uses (VC). 3
Sec. 27-712. Special exceptions (VC). 4
Sec. 27-713. Space and bulk regulations – Non-Residential Uses (VC). 4
Sec. 27-714. Off-street parking (VC). 4
Sec. 27-715. Signs (VC). 5
Sec. 27-716. Site plan review (VC). 5
Sec. 27-717 and 718. Reserved. 5

VILLAGE COMMERCIAL – WILLARD DISTRICT VCW 5
Sec. 27-719. Purpose (VCW). 5
Sec. 27-720. Permitted Uses (VCW). 5
Sec. 27-721. Special Exceptions (VCW). 6
Sec. 27-722. Space and Bulk Regulations – Non-Residential Uses (VCW). 6
Sec. 27-723. Space and Bulk Regulations—Residential Uses (VCW). 6
Sec. 27-724. Off-Street Parking (VCW). 6
Sec. 27-725. Buffering (VCW). 7
Sec. 27-726 Signs (VCW). 7
Sec. 27-727. Site plan review (VCW). 7
Sec. 27-728. Design Review (VCW). 8

SPRING POINT DISTRICT SP 8
Sec. 27-729. Purpose (SP). 8
Sec. 27-730. Permitted uses (SP). 8
Sec. 27-731. Special exceptions (SP). 8
Sec. 27-732. Nonresidential space and bulk regulations (SP). 8
Sec. 27-733. Residential space and bulk regulations (SP). 9
Sec. 27-734. Off-street parking (SP). 9
Sec. 27-735. Signs (SP). 9

Sec. 27-736. Site plan review (SP). 9
Sec. 27-737. Reserved. 9

SUBURBAN COMMERCIAL DISTRICT CS 10
Sec. 27-738. Purpose (CS). 10
Sec. 27-739. Permitted uses (CS). 10
Sec. 27-740. Special permitted uses (CS). 10
Sec. 27-741. Special exceptions (CS). 10
Sec. 27-742. Space and bulk regulations (CS). 11
Sec. 27-743. Off-street parking (CS). 11
Sec. 27-744. Signs (CS). 11
Sec. 27-745. Site plan review (CS). 11
Sec. 27-746. Performance standards (CS). 12
Sec. 27-747. Special performance standards: master planning (CS). 13
Sec. 27-748. Reserved. 15

GENERAL COMMERCIAL DISTRICT CG 15
Sec. 27-749. Purpose (CG). 15
Sec. 27-750. Permitted uses (CG). 15
Sec. 27-751. Special exceptions (CG). 15
Sec. 27-752. Space and bulk regulations (CG). 15
Sec. 27-753. Off-street parking (CG). 16
Sec. 27-754. Signs (CG). 16
Sec. 27-755. Site plan review (CG). 16
Sec. 27-756. Reserved. 16

PROFESSIONAL OFFICE DISTRICT (PO) 16
Sec. 27-757. Purpose (PO). 16
Sec. 27-758. Permitted uses (PO). 17
Sec. 27-759. Special exceptions (PO). 17
Sec. 27-760. Space and bulk regulations (PO). 17
Sec. 27-761. Performance standards (PO). 17
Sec. 27-762. Reserved. 19

TRANSITIONAL CENTRAL AND REGIONAL COMMERCIAL DISTRICT CCRT 20
Sec. 27-763. Purpose (CCRT). 20
Sec. 27-764. Permitted uses (CCRT). 20
Sec. 27-765. Special exceptions (CCRT). 20
Sec. 27-766. Space and bulk regulations (CCRT). 20
Sec. 27-767. Off-street parking (CCRT). 21
Sec. 27-768. Signs (CCRT). 21
Sec. 27-769. Performance standards (CCRT). 21
Sec. 27-770. Reserved. 23

CENTRAL AND REGIONAL COMMERCIAL DISTRICT CCR 23
Sec. 27-771. Purpose (CCR). 23
Sec. 27-772. Permitted uses (CCR). 24
Sec. 27-773. Special exceptions (CCR). 24
Sec. 27-774. Space and bulk regulations (CCR). 24
Sec. 27-775. Off-street parking (CCR). 24
Sec. 27-776. Signs (CCR). 24
Sec. 27-777. Site plan review (CCR). 24

Sec. 27-778. Reserved. 25

COMMERCIAL DISTRICT C 25
Sec. 27-779. Purpose (C). 25
Sec. 27-780. Permitted uses (C). 25
Sec. 27-781. Special exceptions (C). 25
Sec. 27-782. Space and bulk regulations (C). 25
Sec. 27-783. Off-street parking (C). 26
Sec. 27-784. Signs (C). 26
Sec. 27-785. Site plan review (C). 26
Sec. 27-786. Prohibition related to implementation of Part 1 of the recommendations of the Draft Ordinance Committee dated July 1, 2014. 26
Secs. 27-787 – 27-799. Reserved. 26

ARTICLE VIII. MIXED USE/COMMERCIAL DISTRICTS 1

MAIN STREET COMMUNITY COMMERCIAL MSCC 1
Sec. 27-800. Purpose (MSCC). 1
Sec. 27-801. Permitted Uses (MSCC). 1
Sec. 27-802. Special Exceptions (MSCC) 1
Sec. 27-803. Space and bulk regulations (MSCC). 1
Sec. 27-804. Off-street parking (MSCC) 2
Sec. 27-805. Buffering (MSCC) 2
Sec. 27-806. Signs (MSCC) 2
Sec. 27-807. Site plan review (MSCC) 3
Sec. 27-808. Design standards (MSCC). 3
Sec. 27-809. Applicability date (MSCC) 3
Sec. 27-810. Reserved 3

VILLAGE EXTENSION DISTRICT VE 4
Sec. 27-811. Purpose (VE) 4
Sec. 27-812. Permitted uses (VE). 4
Sec. 27-813. Special exceptions (VE). 4
Sec. 27-814. Space and bulk regulations (VE). 4
Sec. 27-815. Design Standards (VE). 4
Sec. 27-816. Off-street parking (VE). 5
Sec. 27-817. Signs (VE). 5
Sec. 27-818. Site plan review (VE). 5
Sec. 27-819. – 27-820. Reserved 5

BROADWAY CORRIDOR DISTRICT BC 6
Sec. 27-821. Purpose (BC). 6
Sec. 27-822. Permitted uses (BC). 6
Sec. 27-823. Special exceptions (BC). 6
Sec. 27-824. Space and bulk regulations (BC). 6
Sec. 27-825. Design standards (BC). 6
Sec. 27-826. Additional development standards (BC). 7
Sec. 27-827. Off-street parking (BC). 7
Sec. 27-828. Signs (BC). 7
Sec. 27-829. Site plan review (BC) 7
Sec. 27-830. Reserved 8

MILL CREEK CORE DISTRICT MCC 8
Sec. 27-831. Purpose (MCC). 8
Sec. 27-832. Permitted uses (MCC). 8
Sec. 27-833. Special exceptions (MCC). 8
Sec. 27-834. Space and bulk regulations (MCC). 9
Sec. 27-835. Design Standards (MCC). 11
Sec. 27-836. Additional development standards (MCC). 11
Sec. 27-837. Off-street parking (MCC). 12
Sec. 27-838. Signs (MCC) 12
Sec. 27-839. Site plan review (MCC) 12
Secs. 27-840. Reserved. 13

WEST END NEIGHBORHOOD CENTER DISTRICT (WNC) 13
Sec. 27-841. Purpose (WNC). 13
Sec. 27-842. Permitted uses (WNC). 13
Sec. 27-843. Special exception uses (WNC). 13
Sec. 27-844. Space and bulk regulations (WNC). 14
Sec. 27-845. Off-street parking (WNC). 14
Sec. 27-846. Signs (WNC). 15
Sec. 27-847. Site plan review (WNC). 15
Sec. 27-848. Design standards (WNC). 16
Sec. 27-849. Connectivity standards (WNC). 16
Sec. 27-850. Reserved. 16

WESTERN AVENUE COMMERCIAL CORRIDOR DISTRICT (WACC) 16
Sec. 27-851. Purpose (WACC). 16
Sec. 27-852. Permitted uses (WACC). 16
Sec. 27-853. Special exception uses (WACC). 17
Sec. 27-854. Space and bulk regulations (WACC). 17
Sec. 27-855. Off-street parking (WACC) 17
Sec. 27-856. Signs (WACC). 17
Sec. 27-857. Site plan review (WACC) 17
Sec. 27-858. Design standards (WACC) 18
Sec. 27-859. Connectivity standards (WACC). 18
Sec. 27-860 – 27-900. Reserved. 18

MEETINGHOUSE HILL COMMUNITY COMMERCIAL MHCC 18
Sec. 27-861. Purpose (MHCC). 18
Sec. 27-862. Permitted Uses (MHCC). 19
Sec. 27-863. Special exception uses (MHCC). 19
Sec. 27-864. Space and bulk regulations (MHCC). 19
Sec. 27-865. Off-street parking (MHCC) 19
Sec. 27-866. Buffering (MHCC). 20
Sec. 27-867. Signs (MHCC). 20
Sec. 27-868. Site plan review (MHCC) 20
Sec. 27-869. Design standards (MHCC). 21
Sec. 27-870 – 27-900. Reserved. 21

ARTICLE IX. INDUSTRIAL DISTRICTS 1

LIGHT INDUSTRIAL DISTRICT IL 1
Sec. 27-901. Purpose (IL). 1

Sec. 27-902. Permitted uses (IL). 1
Sec. 27-903. Special exceptions (IL). 1
Sec. 27-904. Space and bulk regulations (IL). 1
Sec. 27-905. Off-street parking (IL). 1
Sec. 27-906. Signs (IL). 2
Sec. 27-907 Site plan review (IL). 2
Sec. 27-908. Performance standards (IL). 2
Secs. 27-909 - 27-920. Reserved. 3

SHIPYARD DISTRICT S 4
Sec. 27-921. Purpose (S). 4
Sec. 27-922. Permitted uses (S). 4
Sec. 27-923. Special exceptions (S). 4
Sec. 27-924. Reserved. 4
Sec. 27-925. Performance standards (S). 4
Sec. 27-926. Space and bulk regulations (S). 6
Sec. 27-927. Off-street parking (S). 6
Sec. 27-928. Signs (S). 6
Sec. 27-929. Site plan review (S). 6
Sec. 27-930. Prohibition related to implementation of Part 1 of the recommendations of the Draft Ordinance Committee dated July 1, 2014. 7
Sec. 27-931 – 27-940. Reserved. 7

INDUSTRIAL DISTRICT I 7
Sec. 27-941. Purpose (I). 7
Sec. 27-942. Permitted uses (I). 7
Sec. 27-943. Special exceptions (I). 7
Sec. 27-944. Prohibited uses (I). 7
Sec. 27-945. Space and bulk regulations (I). 9
Sec. 27-946. Residential space and bulk regulations (I). 9
Sec. 27-947. Off-street parking (I). 10
Sec. 27-948. Signs (I). 10
Sec. 27-949. Site plan review (I). 10
Secs. 27-950 – 27-960. Reserved. 10

NON-RESIDENTIAL INDUSTRIAL DISTRICT INR 10
Sec. 27-961. Purpose (INR). 10
Sec. 27-962. Permitted uses (INR). 11
Sec. 27-963. Special exceptions (INR). 11
Sec. 27-964. Prohibited uses (INR). 11
Sec. 27-965. Space and bulk regulations (INR). 13
Sec. 27-966. Off-street parking (INR). 13
Sec. 27-967. Signs (INR). 13
Sec. 27-968. Site plan review (INR). 13
Sec. 27-969. Submission requirements for applications for special exception approval of an automobile graveyard, automobile recycling business or junkyard (INR). 13
Sec. 27-970. Standards for automobile graveyards, automobile recycling businesses and junkyards (INR). 14
Secs. 27-971 – 27-1000. Reserved 17

ARTICLE X. RESIDENTIAL CONDITIONAL/CONTRACT DISTRICTS 1

CONDITIONAL RESIDENTIAL USE DISTRICT A-1 1
Sec. 27-1001. Purpose (A-1). 1
Sec. 27-1002. Permitted uses (A-1). 1
Sec. 27-1003. Special exceptions (A-1). 1
Sec. 27-1004. Space and bulk regulations (A-1). 1
Sec. 27-1005. Off-street parking (A-1). 2
Sec. 27-1006. Signs (A-1). 2
Sec. 27-1007. Farm animals and produce (A-1). 2
Sec. 27-1008. Site plan review (A-1). 2
Sec. 27-1009. Driveways from the A-1 to INR Zones. 3
Secs. 27-1010. Reserved. 3

CONDITIONAL SHIPYARD DISTRICT S-1 3
Sec. 27-1011. Purpose (S-1). 3
Sec. 27-1012. Zone Changed from Industrial I to Conditional Shipyard District S-1 With Conditions. 3
Sec. 27-1013. Conditions to Zone Change to S-1. 3
Sec. 27-1014. Permitted Uses (S-1). 5
Sec. 27-1014.5. Special exceptions (S-1). 5
Sec. 27-1015. Space and Bulk Regulations (S-1). 5
Sec. 27-1016. Performance Standards (S-1). 5
Sec. 27-1017. Off-Street Parking (S-1). 6
Secs. 27-1018 – 27-1030. Reserved. 6

CONDITIONAL RESIDENTIAL USE DISTRICT G-1 6
Sec. 27-1031. Purpose (G-1). 6
Sec. 27-1032. Conditions to Zone Change to Conditional Residential Use District G-1. 7
Sec. 27-1033. Permitted Uses (G-1). 7
Sec. 27-1034. Special Exceptions (G-1). 8
Sec. 27-1035. Space and Bulk Regulations (G-1). 8
Sec. 27-1036. Off-Street Parking (G-1). 8
Sec. 27-1037. Signs (G-1). 8
Sec. 27-1038. Farm Animals (G-1). 9
Sec. 27-1039. Site Plan Review (G-1). 9
Sec. 27-1040. Reserved. 9

CONTRACT RESIDENTIAL DISTRICT G-2 10
Sec. 27-1041. Purpose (G-2). 10
Sec. 27-1042. Permitted uses (G-2). 10
Sec. 27-1043. Special exceptions (G-2). 10
Sec. 27-1044. Space and bulk regulations (G-2). 10
Sec. 27-1045. Off-street parking (G-2). 10
Sec. 27-1046. Signs (G-2). 11
Sec. 27-1047. Site plan review (G-2). 11
Sec. 27-1048. Farm animals and produce (G-2). 11
Sec. 27-1049. Contract Zone Agreement (G-2). 11
Sec. 27-1050. Reserved. 11

CONDITIONAL RESIDENTIAL AND LIMITED COMMERCIAL USE DISTRICT G-3 11
Sec. 27-1051. Purpose (G-3). 11
Sec. 27-1052. Conditions to Zone Change to Conditional Residential and Limited Commercial Use District G-3. 12

Sec. 27-1053. Permitted Uses (G-3). 13
Sec. 27-1053.5. Special exceptions (G-3). 13
Sec. 27-1054. Space and Bulk Regulations (G-3). 14
Sec. 27-1055. Off-Street Parking (G-3). 14
Sec. 27-1056. Street Standards (G-3). 15
Sec. 27-1057. Signs (G-3). 15

CONDITIONAL RESIDENTIAL USE DISTRICT G-4 16
Sec. 27-1058. Purpose (G-4). 16
Sec. 27-1059. Conditions to Zone Change (G-4). 16
Sec. 27-1060. Permitted Uses (G-4). 17
Sec. 27-1061. Special Exception Uses (G-4). 17
Sec. 27-1062. Space and Bulk Regulations (G-4). 17
Sec. 27-1063. Off-Street Parking (G-4). 17
Sec. 27-1064. Landscape Standards (G-4). 17
Sec. 27-1065. Signs (G-4). 17
Sec. 27-1066. Farm animals and produce (G-4). 18
Sec. 27-1067. Site plan review (G-4). 18
Secs. 27-1068 – 1070. Reserved. 18

CONDITIONAL RESIDENTIAL USE DISTRICT G-5 19
Sec. 27-1071. Purpose (G-5). 19
Sec. 27-1072. Conditions to Zone Change to Conditional Residential & Limited Commercial Use District G-5. 19
Sec. 27-1073. Permitted Uses (G-5) 20
Sec. 27-1074. Special Exceptions (G-5). 20
Sec. 27-1075. Prohibited Uses (G-5). 20
Sec. 27-1076. Space and Bulk Regulations (G-5). 20
Sec. 27-1077. Signs (G-5). 20
Sec. 27-1078. Off-Street Parking (G-5). 21
Sec. 27-1079. Buffering (G-5). 21
Sec. 27-1080. Site plan review (G-5) 22

CONDITIONAL RESIDENTIAL USE DISTRICT G-6 22
Sec. 27-1081. Purpose (G-6). 22
Sec. 27-1082. Conditions to Zone Change to Conditional Residential Use District (G-6). 22
Sec. 27-1083. Permitted Uses (G-6). 23
Sec. 27-1084. Special Exceptions. (G-6). 23
Sec. 27-1085. Space and Bulk Regulations (G-6). 23
Sec. 27-1086. Off street parking (G-6). 24
Sec. 27-1087. Street Standards (G-6). 24
Sec. 27-1088. Signs (G-6). 24
Sec. 27-1089. Stormwater Management (G-6). 24
Sec. 27-1090. Site plan review (G-6). 24
Sec. 27-1091. Subdivision Review (G-6). 25

CONDITIONAL RESIDENTIAL USE DISTRICT G-7 25
Sec. 27-1092A. Purpose (G-7). 25
Sec. 27-1092B. Conditions to Zone Change to Conditional Residential Use District G-7 (G-7). 25
Sec. 27-1092C. Permitted uses (G-7). 25
Sec. 27-1092D. Special exceptions (G-7). 25
Sec. 27-1092E. Space and bulk regulations (G-7). 25

Sec. 27-1092F. Off-street parking (G-7). 26
Sec. 27-1092G. Signs (G-7). 26
Sec. 27-1092H. Site plan review (G-7). 26
Sec. 27-1093 – 27-1097. Reserved. 26

O'NEIL STREET PARK CONTRACT ZONE DISTRICT (O'NEIL) 26
Sec. 27-1098. O'Neil Street Park Contract Zone Agreement (O'NEIL). 26
Secs. 27-1099 – 27-1100. Reserved. 1

ARTICLE XI. CONDITIONAL AND OTHER SPECIAL USE DISTRICTS 1

CONDITIONAL SCHOOL DISTRICT 1 (SCH-1) 1
Sec. 27-1101. Purpose (SCH-1). 1
Sec. 27-1102. Conditions to Zone Change (SCH-1). 1
Sec. 27-1103. Permitted Uses (SCH-1). 1
Sec. 27-1104. Special Exception Uses (SCH-1). 1
Sec. 27-1105. Space and Bulk Regulations (SCH-1). 2
Sec. 27-1106. Off-Street Parking (SCH-1). 2
Sec. 27-1107. Signs (SCH-1). 2
Sec. 27-1108. Farm animals and produce (SCH-1). 3
Sec. 27-1109. Site plan review (SCH-1). 4
Secs. 27-1110 – 27-1119. Reserved. 4

PARK DISTRICT (P) 4
Sec. 27-1120. Purpose (P). 4
Sec. 27-1121. Permitted uses (P). 4
Sec. 27-1122. Special exceptions (P). 5
Sec. 27-1123. Space and bulk regulations (P). 5
Sec. 27-1124. Off-street parking (P). 5
Sec. 27-1125. Signs (P). 5
Sec. 27-1126. Site plan review (P). 5
Secs. 27-1127 – 27-1129. Reserved. 5

OPEN SPACE DISTRICT (OS) 7
Sec. 27-1130. Purpose (OS). 7
Sec. 27-1131. Permitted uses (OS). 7
Sec. 27-1132. Special exceptions (OS). 7
Sec.27-1133. Space and bulk regulations (OS). 7
Sec. 27-1134. Off-street parking (OS). 7
Sec. 27-1135. Signs (OS). 7
Sec. 27-1136. Site plan review (OS). 8

ARTICLE XII. MIXED-USE, COMMERCIAL, INDUSTRIAL CONDITIONAL/CONTRACT DISTRICTS 1

CONDITIONAL ARMORY ZONE CAZ 1
Sec. 27-1201. Purpose (CAZ). 1
Sec. 27-1202. Conditions (CAZ). 1
Sec. 27-1203. Permitted uses (CAZ). 2
Sec. 27-1203.5 Special Exceptions (CAZ). 2
Sec. 27-1204. Space and bulk regulations (CAZ). 2
Sec. 27-1205. Off-street parking (CAZ). 2
Sec. 27-1206. Signs (CAZ). 2

Sec. 27-1207. Site plan review (CAZ). 3
Secs. 27-1208 – 27-1220. Reserved. 4
Secs. 27-1221 – 27-1222 – 27-1223. Repealed. 4
Sec. 27-1224 - 27-1240. Reserved. 4

CONDITIONAL NON-RESIDENTIAL INDUSTRIAL MUNICIPAL SOLID WASTE TRANSFER DISTRICT INR-MSW-1 4
Sec. 27-1241. Purpose (INR-MSW-1). 4
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. 4
Sec. 27-1243. Conditions to Zone Change to INR-MSW-1 4
Sec. 27-1244. Definitions (INR-MSW-1). 5
Sec. 27-1245. Uses; review; space and bulk (INR-MSW-1). 6
Sec. 27-1246. Performance Standards (INR-MSW-1). 6
Sec. 27-1247 – 27- 1250. Reserved. 7

CONDITIONAL NON-RESIDENTIAL INDUSTRIAL ECOMAINE 7

DISPOSAL FACILITY DISTRICT 1 (INR-EDF-1) 7
Sec 27-1251. Purpose (INR-eDF-1). 7
Sec. 27-1252. Zone changed from Rural Residential (RF) to Conditional Non-Residential Industrial ecomaine Disposal Facility District 1 (INR-EDF-1) with conditions. 8
Sec. 27-1253. Conditions to zone change to INR-EDF-1. 8
Sec. 27-1254. Definitions (INR-EDF-1). 9
Sec. 27-1255. Uses; review; space and bulk (INR-EDF-1). 11
Secs. 27-1256 – 27-1260. Reserved. 11

COMMERCIAL KENNEL ZONE (CKZ) 12
Sec. 27-1261. Purpose (CKZ). 12
Sec. 27-1262. Conditions (CKZ). 12
Sec. 27-1263. Permitted uses (CKZ). 12
Sec. 27-1264. Special Exceptions (CKZ). 13
Sec. 27-1265. Space and bulk regulations (CKZ). 13
Sec. 27-1266. Off-street parking (CKZ). 13
Sec. 27-1267. Signs (CKZ). 13
Sec. 27-1268. Site plan review (CKZ). 13

CONDITIONAL MAIN STREET COMMERCIAL RESIDENTIAL DISTRICT MSCR 14
Sec. 27-1269. Purpose (MSCR). 14
Sec. 27-1270. Conditions (MSCR). 14
Sec. 27-1271. Permitted uses (MSCR). 14
Sec. 27-1272. Special exceptions (MSCR). 15
Sec. 27-1273. Space and bulk regulations (MSCR). 16
Sec. 27-1274. Off-street parking (MSCR). 16
Sec. 27-1275. Signs (MSCR). 16
Sec. 27-1276. Site plan review (MSCR). 16
Sec. 27-1277 – 27-1300 Reserved. 16

ARTICLE XIII. SHORELAND OVERLAY DISTRICTS 1

SHORELAND AREA 1

DIVISION 1. GENERALLY 1
Sec. 27-1301. Purpose. 1
Sec. 27-1302. Authority. 1
Sec. 27-1303. Applicability and Conflicts. 1
Sec. 27-1304. Availability. 1
Sec. 27-1305. Definitions. 2
Secs. 27-1306 – 27-1310. Reserved. 2

DIVISION 2. ESTABLISHMENT OF DISTRICTS. 2
Sec. 27-1311. Shoreland Area Overlay District. 2
Sec. 27-1312. Shoreland Resource Protection Overlay Subdistrict. 2
Sec. 27-1313. Stream Protection Overlay Subdistricts. 3
Sec. 27-1314. Interpretation of District Boundaries. 4
Secs. 27-1315 – 27-1320. Reserved. 4

DIVISION 3. PERFORMANCE STANDARDS AND DISTRICT REQUIREMENTS. 4
Sec. 27-1321. Land Uses in the Shoreland Area. 4
Sec. 27-1322. Performance Standards. 6
Sec. 27-1323 – 27-1330. Reserved. 28

DIVISION 4. ADMINISTRATION AND ENFORCEMENT 28
Sec. 27-1331. Shoreland Zoning Approval. 28
Sec. 27-1332. Enforcement. 30
Sec. 27-1333. Effective date. 30
Sec. 27-1334. Amendments. 31
Secs. 27-1335 – 27-1400. Reserved. 31

ARTICLE XIV. PLANNING BOARD REVIEW 1

SPECIAL EXCEPTIONS 1
Sec. 27-1401. Requirement. 1
Sec. 27-1402. Authorization; powers and duties of Planning Board. 1
Sec. 27-1403. Application. 1
Sec. 27-1404. Hearing procedure. 1
Sec. 27-1405. Standards. 2
Sec. 27-1406. Conditions. 2
Sec. 27-1407. Time limitations. 3
Secs. 27-1408 - 27-1420. Reserved. 3

SITE PLAN REVIEW 3
Sec. 27-1421. Purpose. 3
Sec. 27-1422. Requirement; applicability. 4
Sec. 27-1423. Authorization; powers and duties of Planning Board. 5
Sec. 27-1424. Application. 5
Sec. 27-1425. Hearing procedure. 11
Sec. 27-1426. Standards. 12
Sec. 27-1427. Conditions; off-site public improvements. 15
Sec. 27-1428. Time limitations. 16
Sec. 27-1429. Performance Guarantee — Public Improvements. 16
Sec. 27-1430. Performance Guarantee — Erosion control. 18
Sec. 27-1431. Performance Guarantee — Landscaping. 19
Sec. 27-1432. Alteration of Freshwater Wetlands. 19

Secs. 27-1433 – 27-1500 Reserved. 20

ARTICLE XV. STANDARDS 1

CLUSTER DEVELOPMENT 1
Sec. 27-1501. Special provisions. 1
Sec. 27-1502. Performance standards. 1
Secs. 27-1503 – 27-1510. Reserved. 3

BUFFER AREAS 3
Sec. 27-1511. Buffer areas – nonresidential uses abutting a residential use. 3
Sec. 27-1512. Buffer area – tobacco retailer separation from sensitive uses. 4
27-1513 – 27-1515. Reserved 6

PERFORMANCE STANDARDS – GENERAL 7
Sec. 27-1516. Performance standards; general. 7
Sec. 27-1517. Standards for Above Ground Storage Tanks. 8
Sec. 27-1518. Standards for the Modification of Existing Residential Property to Accommodate People with Disabilities. 9
Sec. 27-1519. Corner clearances. 9
Sec. 27-1520. Manufactured Housing and Mobile Home Parks.. 10
Sec. 27-1521. Accessory wind energy generation facilities. 12
Sec. 27-1522 Performance Standards for Mobile and Stationary Vending Units 12
Sec. 27-1523. Prohibition of Coal Storage. 14
Secs. 27-1524--27-1525. Reserved. 14

PERFORMANCE STANDARDS – FRESHWATER WETLANDS 14
Sec. 27-1526. Performance Standards with Respect to Activities in or Adjacent to Freshwater Wetlands. 14
Secs. 27-1527 – 27-1535. Reserved. 22

PERFORMANCE STANDARDS – STORMWATER MANAGEMENT 22
Sec. 27-1536. Performance standards with respect to stormwater management. 22
Secs. 27-1537 – 27-1540. Reserved. 32
Sec. 27-1541. Reserved. 32

PERFORMANCE STANDARDS – SHELTERS 32
Sec. 27-1542. Performance standards for small-scale shelters. 32
Sec. 27-1543. Performance standards for medium-scale and large-scale shelters. 33
Secs. 27-1544 – 27-1545. Reserved. 35

PERFORMANCE STANDARDS – EXTRACTIVE INDUSTRY 35
Sec. 27-1546. Performance standards; extractive industry. 35
Secs. 27-1547 - 27-1550. Reserved. 37

STANDARDS FOR TELECOMMUNICATION TOWERS 37
Sec. 27-1551. Standards for the Location and Installation of Telecommunication Towers 37
Secs. 27-1552 – 27-1555. Reserved. 42

OFF-STREET PARKING AND LOADING STANDARDS 42
Sec. 27-1556. Off-street parking regulations. 42
Sec. 27-1557 (Reserved) 49

Sec. 27-1558. Electric vehicle charging infrastructure requirements. 50
Secs. 27-1559 – 27-1560. Reserved. 52

SIGN REGULATIONS 52
Sec. 27-1561. General restrictions. 52
Sec. 27-1562. Use restrictions. 53
Sec. 27-1563. Portable signs. 53
Sec. 27-1564. Temporary signs. 54
Sec. 27-1565. Signs in the Shoreland Overlay District. 54

DESIGN STANDARDS FOR VILLAGE DOWNTOWNS 55
Sec. 27-1566. Purpose. 55
Sec. 27-1567. Applicability. 55
Sec. 27-1568. Standards for Review 55
Secs. 27-1569 - 27-1571. Reserved. 64

DESIGN STANDARDS FOR COMMERCIAL AND NEIGHBORHOOD ACTIVITY CENTERS 65
Sec. 27-1572. Purpose. 65
Sec. 27-1573. Applicability. 65
Sec. 27-1574. Process for Review/Application Materials. 66
Sec. 27-1575. Review Standards. 68
Sec. 27-1575-A. Review Standards for Midrise Buildings. 73

ACCESSORY DWELLING UNITS 74
Sec. 27-1576. Purpose. 74
Sec. 27-1577. Applicability and Application Requirements for ADUs. 74
Sec. 27-1578. Standards for ADUs. 76
Sec. 27-1579. Reserved. 79

FARMER'S MARKET 79
Sec. 27-1580. Application. 79
Sec. 27-1581. Standards. 80
Sec. 27-1582-1589. Reserved 80

EXTERIOR LIGHTING 80
Sec. 27-1590. General Standards for Exterior Lighting 80

ADAPTIVE REUSE 83
Sec. 27-1591. Purpose. 83
Sec. 27-1592. Uses 83
Sec. 27-1593. Application. 83
Sec. 27-1594. Standards. 84
Secs. 27-1595 – 27-1600. Reserved. 85

ARTICLE XVI RESERVED. 1

ARTICLE XVII. RESERVED 1
Secs. 27-1701 – 27-1800. Reserved. 1

ARTICLE XVIII. SOLAR ENERGY SYSTEMS 1
Sec. 27-1801. Purpose. 1
Sec. 27-1802. Definitions. 1

Sec. 27-1803. Applicability. 2
Sec. 27-1804. Permitting. 3
Sec. 27-1805. Dimensional Standards. 3
Sec. 27-1806. Standards for Roof-Mounted and Small-Scale Ground-Mounted Solar Energy Systems. 4
Sec. 27-1807. Additional Standards for Medium- and Large-Scale Ground-Mounted Solar Energy Systems. 5
Secs. 27-1808 – 27-1900. Reserved. 7

ARTICLE XIX. MEDICAL AND ADULT USE MARIJUANA PERFORMANCE STANDARDS 1
Sec. 27-1901. Performance standards for home cultivation of marijuana for personal adult use. 1
Sec. 27-1902. Performance standards for marijuana establishments and medical marijuana establishments. 1

ARTICLE XX. IMPACT FEES 1
Sec. 27-2001. Purpose. 1
Sec. 27-2002. Authority. 1
Sec. 27-2003. Payment of impact fees. 1
Sec. 27-2004. Impact fee accounts. 1
Sec. 27-2005. Use of impact fees. 2
Sec. 27-2006. Refund of impact fees. 2
Sec. 27-2007. Waiver of impact fees. 2
Sec. 27-2008. Review and revision. 3

ARTICLE XXI. TREE PROTECTION 1
Sec. 27-2101. Purpose. 1
Sec. 27-2102. Definitions. 1
Sec. 27-2103. Applicability 5
Sec. 27-2104. Review Process and Standards for Tree Protection Approval Applications. 7
Sec. 27-2105. Tree Protection Approval Application Requirements. 8
Sec. 27-2106. Effective Date; Applicability Date. 9

ARTICLE XXII AFFORDABLE HOUSING INCENTIVE PROGRAM 1
Sec. 27-2201. Purpose. 1
Sec. 27-2202. Density Bonus Program. 1

ARTICLE XXIII. [RESERVED] 1
Sec. 27-2301. – 27-2399. [RESERVED] 1

APPENDIX A TO CHAPTER 27 (ZONING ORDINANCE) 1

APPENDIX B TO CHAPTER 27 1

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) Except as provided in Secs. 27-571-A and 27-710-A, 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.

Ord. No. 9-18/19, 2/5/19 [Fiscal Note: Less than $1000]

Sec. 27-112-A. Prohibited uses.

Subject to the provisions herein governing lawfully existing nonconforming uses, any use not expressly enumerated herein as either a permitted use or a special exception use shall be considered prohibited in that zoning district.

(Ord. No. 26-22/23, 4/18/2023 [Fiscal Note: Less than $1000])

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 and the second notice at least seven (7) days prior to the hearing. The notice must be written in plain English, understandable by the average citizen. To the extent practical as determined by Planning Division staff, public notices issued for zoning map amendments shall depict the boundary adjustments for the zoning districts. 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.

(d) All proposals for a zoning map amendments shall include, if applicable:

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) [RESERVED]

(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.

(Ord. No. 26-22/23, 4/18/2023 [Fiscal Note: Less that $1000]; Ord. No. 15-24/25, 1/21/25 [Fiscal Note: Less than $1000]; Ord. No. 15-25/26, 1/20/2026 [Fiscal Note: Less than $1000])

Sec. 27-116. Reserved.

(Ord. No. 26-22/23, 4/18/2023 [Fiscal Note: Less than $1000])

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 via first-class mail to property owners within 500' of the property to be rezoned at their last-known address. 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. 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.

(Ord. No. 26-22/23, 4/18/2023 [Fiscal Note: Less than $1000])

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])

Sec. 27-119. Applicability date of amendments evidenced by Ordinance #5-20/21.

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 #5-20/21, when enacted, shall govern any application for which the Planning and Development Department has not, prior to September 22, 2020, issued a completeness review letter indicating that the application is complete and that the project has been tentatively scheduled for a Planning Board public hearing agenda.

(Ord. No. 5-20/21, 10/6/2020 [Fiscal Note: Less than $1000])

Secs. 27-120 – 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. Fines for violations of Article XXI (Tree Protection) shall, at a minimum, be no less than double the amount of the in-lieu payment to the Tree Mitigation Fund set forth in Sec. 27-2104(c)(2) below. 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.

(Ord. No. 1-23/24, 10/15/2023, [Fiscal Note: Less than $1000])

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. Any permit application involving a building or structure built on or before December 31, 1940 or for a property listed on the South Portland Inventory of Archaeological and Historic Resources shall be subject to the requirements of Secs. 5-67 and 5-68 of the Code of Ordinances.

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 or professional services cost fee to cover 100% of the City's costs related to independent geotechnical, hydrologic, wetland scientist, engineering, traffic, architectural, planning, legal, noticing and legal publication, and similar professional, technical, administrative, or consulting services expenses 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.

(Ord. No. 15-24/25, 1/21/25 [Fiscal Note: Less than $1000])

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.

Sec. 27-140. Amendments to a previously Approved Project, Plan or Development

(a) Except as provided for in this section, no project, plan, or development previously approved by the Planning Board may be altered or modified without securing prior approval of the Planning Board in the form of an amended approval.

(b) Amendments to plans previously approved by the Planning Board shall be subject to one of the following levels of review:

(i) *De minimis* changes (DMCs), pursuant to the provisions outlined in Sec. 27-141 below;

(ii) Minor amendments, pursuant to the provisions outlined in Sec. 27-142 below; or

(iii) All other amendments, pursuant to the provisions outlined in Sec. 27-143 below.

Sec. 27-141. *De Minimis* Changes (DMCs).

(a) *De minimis* changes are those that may be reviewed by the Planning Director with input from additional City staff, which, at a minimum, is to include the Code Enforcement Office and the Fire Department.

(b) The following changes to Planning Board approvals are eligible for DMC—level (Planning Director) review:

(i) Expansions of structures by 50% or less than 1,000 sq. ft. in any 12-month period, whichever is less. Within a 10-year period, the total expansion processed as DMCs cannot exceed 5,000 sq. ft.

(ii) Modifications to utilities, including redesign of utility networks or connections and the addition of new utilities (*e.g.*, adding natural gas lines to a project that did not initially propose a gas line connection). Modifications to utilities eligible for DMC-level review may include a) new easements provided that the easement owner is not the City and the new easement is not a condition of a prior site plan or subdivision approval by the Planning Board or b) modifications to existing easements provided that the holder of the existing easement is not the City and the existing

easement is a condition of a prior site plan or subdivision approval by the Planning Board. Modifications to existing easements, must maintain equivalent service capacity, and cannot negatively impact open space and natural resources (*e.g.*, a new utility trench location that results in new tree removal shall be evaluated by the Planning Board). Installation of mechanical equipment for residential structures shall be reviewed and approved by the Code Enforcement Office and shall not constitute a change to an approved Planning Board project.

(iii) Adding or modifying signage such that no sight distance impacts are generated.

(iv) Modifications to landscaping, including fencing, that do not result in more than a 1,000 sq. ft. loss of landscaped area or the removal of a Protected Tree.

(v) Exterior materials and façade modifications (except for those sites that are located within the City's designated Design Districts).

(vi) Installing roof or building-mounted solar installations that are within the building coverage area of the associated building or that extend building coverage no more than 1,000 sq. ft.

(vii) Applicant, property owner, and agent contact information updates.

(viii) Increases to maximum occupancy up to 25% (employees or patrons) with no associated impacts to standards of review (*e.g.*, sewer capacity, traffic volume capacity). Within any 10-year period, the cumulative total expansion in occupancy/capacity that is processed through DMCs cannot exceed 50%.

(ix) Amendments to stormwater design so long as there is no loss of stormwater management capacity on site, no more than a 15% increase in municipal MS4 discharge, no new easements or modifications to existing easements, and no negative impacts to open space and natural resources (*e.g.*, a new utility trench location that results in new tree removal shall be evaluated by the Planning Board).

(x) Modifications to impervious area resulting in no more than 1,000 sq. ft. of new impervious area. Increases in impervious area may be offset by a corresponding decrease in impervious area elsewhere on the same parcel.

(xi) Redesigning parking areas with no loss of parking spaces or modifications to site access, unless the parking reduction maintains parking on site that continues to meet or exceed the parking requirements of the Code of Ordinances (*e.g.*, no new curb cuts or relocated curb cuts).

(xii) Extension of Time Limitations as set by the Planning Board in accordance with Sec. 27-1428, except if the approval has already expired.

(xiii) Removing Planning Board Conditions of Approval when the condition has become inconsistent with State law or the Code of Ordinances due to updates to the laws since the approval of the Condition by the Planning Board.

(xiv) Amendments to allow one Stationary Vending Unit on the property unless Stationary Vending Units are a Special Exception land use in the Zoning District and the use has not been previously approved. The amendments may include any landscaping reductions or impervious expansion that is necessary for the placement of the unit, including in excess of the limits of DMC-level review, if the landscaping reduction or impervious expansion is within the limits permitted under Minor Amendment review Sec. 27-142.

Applicants who are requesting *de minimis* changes shall submit an application to the Planning Director. Within fourteen (14) business days of receiving a complete application, the Planning Director shall approve the application, approve the application with conditions, deny the application, or decline review and forward the application to the Planning Board for either a Planning Board Consent Calendar review as a minor amendment, or a Duly Noticed Planning Board Public Hearing review. A decision of the Planning Director to refer an application to the Planning Board is not appealable.

(c) A report of the Planning Director's decision on *de minimis* changes shall be included on the next Planning Board agenda following the decision for information sharing purposes. The Planning Board shall receive the report but may not overturn the decision unless acting in response to an appeal of the Planning Director's decision on the merits of a *de minimis* change application.

(Ord. No. 7-23/24, 11/14/2023 [Fiscal Note: Less than $1000]; Ord. No. 15-24/25, 1/21/25 [Fiscal Note: Less than $1000]; Ord. No. 3-25/26, 7/9/2025 [Fiscal Note: Less than $1000]; Ord. No. 5-25/26, 7/15/2025 [Fiscal Note: Less than $1000]; Ord. No. 15-25/26, 1/20/2026 [Fiscal Note: Less than $1000])

Sec. 27-142. Minor Amendments.

(a) The following project amendments are eligible for Planning Board Consent Calendar review:

(i) Amendments to lot lines for projects that are not part of a subdivision where all lots remain conforming and no new lots are created.

(ii) Expansions of structures less than 1,000 sq. ft. that do not qualify for *de minimis* change review, as outlined in Sec. 27-141 above due to the number of expansions within a 12-month period or cumulative expansions within a 10-year period.

(iii) Modifications to landscaping that do not result in more than a 1,000 sq. ft. loss of landscaped area.

(iv) Modifications to landscaping to relocate or amend trees that were provided as mitigation trees for tree loss, where the number and quality of trees provided as mitigation is not reduced, and modifications to Protected Trees in site plans approved prior to August 15, 2023.

(v) Exterior materials and façade modifications within the City's designated Design Districts.

(vi) Amendments to hours of operation.

(vii) Adding ground-mounted solar arrays up to 5,000 sq. ft. when the arrays are a permitted use and the arrays do not create offsite stormwater management or drainage impacts.

(viii) Relocation and/or redesign waste management facilities on the site.

(ix) Re-approval of lapsed Planning Board approvals, where no ordinance or other laws have changed that affect the project.

(x) Amendments that otherwise do not qualify as a *de minimis* change or require a duly noticed Planning Board public hearing pursuant to this Article.

(xi) Amendments to allow two Stationary Vending Units on the property unless Stationary Vending Units are a Special Exception land use in the Zoning District and the use has not been previously approved.

(b) The Planning Board may take action on the minor amendment request without specific discussion as part of a slate of Consent Calendar items, take the item off the Consent Calendar for specific discussion, postpone the item to enable the provision of public notice, determine that the proposed change or set of changes are

not *minor in nature* and do not qualify for the *minor amendment* change review procedure as outlined above, or take such other action as it deems appropriate.

(Ord. No. 26-22/23, 4/18/2023 [Fiscal Note: Less than $1000]; Ord. No. 7-23/24, 11/14/2023 [Fiscal Note: Less than $1000]; Ord. No. 3-25/26, 7/9/2025 [Fiscal Note: Less than $1000]; Ord. No. 5-25/26, 7/15/2025 [Fiscal Note: Less than $1000]; Ord. No. 15-25/26, 1/20/26 [Fiscal Note: Less than $1000])

Sec. 27-143. Amendments Requiring a Duly Noticed Planning Board Public Hearing.

(a) Amendments or modifications to a previously approved plan that meet any of the criteria listed below shall be subject to a Planning Board public hearing, duly noticed in accordance with the requirements of Sec. 27-1425.

(i) Modifications that would amount to a waiver or substantial alteration of any condition or requirement previously set by the Planning Board unless the condition or requirement is no longer in compliance with State law or the Code of Ordinances or other applicable laws, in which case the Planning Director may approve the removal of the condition as provided in Section 27-141(b)(xiii);

(ii) Modifications that would affect an approval standard or modify the basis for finding conformance with the standard;

(iii) Modifications that otherwise do not meet applicable ordinances and laws; and

(iv) Modifications that may otherwise meet the criteria for either *de minimis* change review or minor amendment review as outlined above, but which are, in the sole discretion of the Planning Director, appropriate for more enhanced review and therefore require a duly-noticed public hearing.

(Ord. No. 12/19-20, 11/7/19 [Fiscal Note: Less than $1000]; Ord. No. 1-22/23, 7/19/22 [Fiscal Note: Less than $1000]; Ord. No. 3-25/26, 7/9/2025 [Fiscal Note: Less than $1000])

Secs. 27-144 – 27-150. Reserved.

BOARD OF APPEALS

Sec. 27-151. Appointment and composition.

There shall be a Board of Appeals of seven (7) members, one nominated by each Councilor 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 their 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]; Ord. No. 26-22/23, 4/18/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-24/25, 2/4/2025 [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.

(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] Ord. No. 19-19/20, 5/12/20 [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 their 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, their 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.

(Ord. No. 26-22/23, 4/18/2023 [Fiscal Note: Less than $1000])

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."

Accessible parking space. A parking space designed with Americans with Disabilities Act (ADA) Standards for Accessible Design, as may be amended from time to time.

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 unit or a primary dwelling unit that is part of a multi-unit structure with up to three dwelling units, 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. Accessory uses shall include, but are not limited to, roof-mounted solar energy systems, small-scale ground-mounted solar energy systems, home occupations, and telecommunication antennas, except that such antennas may not be placed on exempt towers.

Adaptive Reuse. The use of a building or structure for something other than it was originally intended. This term only applies to historic resources that are contained in the South Portland Inventory of Archaeological and Historic Resources.

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

Adult use marijuana. "Adult use marijuana" as that term is defined in 28-B M.R.S.A. § 102(1), as may be amended.

Adult use marijuana product. "Adult use marijuana product" as that term is defined in 28-B M.R.S.A. § 102(2), as may be amended.

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, timber harvesting activities, or the growing or cultivation of marijuana.

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 recognized by the City Council and contained in the South Portland Inventory of Archaeological and Historic Resources.

Architectural Detailing. Architectural style and façade 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, electronic, and machinery repair services. Establishments engaged in motor vehicle repair and service, including the installation of components, electronic equipment repair and maintenance, and commercial and industrial machinery repair and maintenance, as listed in Industry Groups 8111, 811212, 811213, 811219, and 8113 of the 2017 North American Industry Classification System, as amended.

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.

Banquet and Event Facility. Any facility smaller than 10,000 square feet with a principal function of hosting events at which food and beverages may be

served to groups of people. Banquet and Event facilities may also be an accessory component of other uses such as, but not limited to: Restaurants, Hotels, Food manufacturing and similar uses. Adult entertainment shall not be permitted at a Banquet and Event Facility.

Basal area. The area of cross-section of a tree stem at 4½ feet above ground level and inclusive of bark.

Base density. The maximum number of units allowed on a lot based on dimensional requirements in each zoning district and not including a density bonus.

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

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.

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 height.

(a) Outside of the shoreland area: The vertical measurement from grade to the highest point of the building/structure, except that utility structures such as chimneys, TV antennae and HVAC systems, shall not be included in this measurement, nor shall any construction whose sole function is to house or conceal such structures.

(b) Within the shoreland area:

(i) With respect to existing principal or accessory structures, including legally existing nonconforming structures, located

within an area of special flood hazard that have been or are proposed to be relocated, reconstructed, replaced or elevated to be consistent with the minimum elevation required by the City's Floodplain Management Ordinance, the vertical distance between the bottom of the sill of the structure to the highest point of the structure, excluding chimneys, steeples, antennas and similar appurtenances that have no floor area; and

(ii) With respect to new principal or accessory structures and to existing principal or accessory structures other than those described in subparagraph (b)(i), including legally existing nonconforming structures, the vertical distance between the mean original grade at the downhill side of the structure, excluding chimneys, steeples, antennas and similar appurtenances that have no floor area.

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 Sector 54 of the North American Industry Classification System.

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 listed as in Industry 811192 of the North American Industry Classification System.

Cemetery. A place where the remains of deceased people or animals are buried or otherwise interred.

Centrally managed water system. A water system that provides water for human consumption through pipes or other constructed conveyances to at least 15 service connections or serve an average of at least 25 people for at least 60 days a year as regulated by 10-144 C.M.R. Ch. 231, Rules Relating to Drinking Water, as may be amended. This water system may be privately owned.

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.

Charging levels. The standardized indicators of electrical voltage at which an electric vehicle's battery is recharged. Charging levels are:

(a) *Level 1*. Provides charging through a 120 volt (V), alternating current (AC) plug, at rates of at least 1.4 kW.

(b) *Level 2*. Provides charging through a 208-240V, AC plug, at rates between 1.66 kW and 19.2 kW.

(c) *Level 3*. Provides charging through a direct-current (DC) plug capable of minimum charging rates of at least 27 kW.*Charitable and*

philanthropic organizations. A nonprofit entity registered as a 501(c)(3) organization and qualified as such by the Internal Revenue Service, whose mission is to provide monetary, technical, or other assistance for charitable purposes.

Charitable and philanthropic organizations. A nonprofit entity registered as a 501(c)(3) organization and qualified as such by the Internal Revenue Service, whose mission is to provide monetary, technical, or other assistance for charitable purposes.

Child day care services. Establishments engaged in the care of infants or children as listed in Industry Group 6244 of the North American Industry Classification System.

Clubs. An establishment in which the primary function is live entertainment, such as music and dancing, and in which alcohol and food may also be served to patrons.

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.

Commercial greenhouse. A building or structure where fruits, vegetables, flowers, tree, shrubs or plants are grown by controlled temperature and/or humidity for the purpose of selling such products. This definition shall not include marijuana grow facilities or marijuana cultivation facilities.

Commercial indoor recreation. A commercial enterprise which receives a fee in return for the provision of some recreational activity taking place in a building or other indoor place, including, but not limited to, a bowling alley, fitness club, gymnasium, skating rink, racquet court, swimming pool, and other similar types of indoor recreational uses, and can include a refreshment facility for the patrons of the facility as an accessory use.

Commercial outdoor recreation, large-scale. A commercial enterprise which receives a fee in return for the provision of some recreational activity taking place outdoors, including, but not limited to, ball fields, tennis courts, swimming pools, miniature golf, disc golf, and golf courses, where the outdoor recreation use occupies an area of four (4) acres or more.

Commercial outdoor recreation, small-scale. A commercial enterprise which receives a fee in return for the provision of some recreational activity taking place outdoors, including, but not limited to, ball fields, tennis courts, swimming pools, miniature golf, disc golf, and golf courses, where the outdoor recreation use occupies an area of less than four (4) acres.

Community garden. A parcel of land collectively gardened by a group of people utilizing either individual or shared plots on public or private plots of land.

Community home. A housing facility for 8 or fewer persons with disabilities who live as a single housekeeping unit and that is approved, authorized, certified, or licensed by the State; or a small-scale shelter licensed by the City. 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.

Conditioned floor area. The horizontal projection of the floors associated with the conditioned space.

Conditioned space. This term shall have the same meaning as set forth in the then-current building code applicable to one and two-family dwellings.

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.

Controlled Environment Agriculture. Commercial food production, wholly contained within a greenhouse or building, using computer managed control technologies to optimize growing systems. For purposes of the South Portland Code of Ordinances, controlled environment agriculture (CEA) includes aquaculture as well as such other techniques as hydroponics. CEA does not include marijuana cultivation, but a CEA facility can also include marijuana cultivation if the zoning district in which the facility is located allows marijuana cultivation and all relevant standards and requirements are met.

Convention center. Banquet and Event Facilities larger than 10,000 square feet.

Corner or double frontage lots. Unless otherwise provided in the space and bulk regulations of the applicable zoning district, 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.

Cottage industry. A manufacturing activity carried wholly within a person's home. Some common examples include but are not limited to: candle making, woodworking, food manufacturing, and furniture making. Cottage industry is considered a home occupation as defined in this chapter.

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.

Crematory. A building or portion of a building within which the remains of deceased persons are or are intended to be incinerated.

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.

Cultural facilities. An organization, building, or complex with the primary purpose of enlightening and entertaining the public through the production, presentation, exhibition, advancement, or preservation of visual arts, performing arts, or cultural history. This definition may include, but is not limited to, museums, art galleries, auditoriums, historical societies, or opera houses, but not including movie theatres.

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.

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.

Developed area. For the purposes of stormwater management, "Developed area" means an impervious area, landscaped area, or unrevegetated area. Developed area includes all disturbed areas except an area that is returned to a condition that existed prior to the disturbance and is revegetated within one calendar year of being disturbed, provided the area is not mowed more than twice per year.

Development. Any construction, reconstruction, renovation, relocation, alteration, or enlargement of any structure; any mining, extraction, dredging, filling, grading, paving, excavation drilling activity or other

alteration of land, water, or vegetation; or any use or extension of the use of land.

Diameter at breast height (DBH). The diameter of a standing tree measured 4.5 feet from ground level.

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.

Driveway. A vehicular access-way less than five hundred (500) feet in length serving five dwelling units or less.

Dwelling. A building designed or used as the living quarters for one or more families. The term shall not be deemed to include a lodging establishment, 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 Sectors 6114, 6115, 6116, and 6117 of the North American Industry Classification System.

Elderly housing. A project or development that provides dwellings for households in which a head of household is at least 55 years old.

Electric vehicle (EV). Any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board for motive purposes. Types of electric vehicles include a battery electric vehicle and a plug-in hybrid electric vehicle.

Electrical capacity. The capacity of the electrical service, electrical panel, branch circuit and conduit to install and supply ample electrical power associated with the specific charging level.

Employee parking. A parking structure, lot, or space, the primary use (i.e., more than 50%) of which is parking by employees of the tenant or owner of the property.

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.

EV charging infrastructure. Conduit/wiring, structures, machinery, and equipment necessary for EVCS to operate.

EV charging plug. A plug that is plugged into an electric vehicle charging port in order to charge it.

EV charging port. A port on a plug-in electric vehicle that provides connection to an electric vehicle charging plug to allow the transfer of electric energy.

EV charging station (EVCS). Equipment installed for the purpose of transferring electric energy (by conductive or inductive means) to a battery or other energy storage device in a plug-in electric vehicle.

EV-installed parking space. An EV-ready parking space that is connected to a fully-operational EV charging station with the capacity of Level 2 charging or greater.

EV-ready parking space. A parking space that has a dedicated branch circuit from the breaker panel to a junction box with a 240-volt/50-amp charging outlet or cover plate in the garage or on the exterior near the parking space.

Existing parking structures or lots. Structures or surfaces that are designed for parking and paved. Unpaved or gravel areas that may be considered parking for the purposes of satisfying the parking space requirements for a site and development are not considered existing parking structures or lots for the purposes of determining whether EVCSs are required.

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

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. See Article XV for performance standards.

Façade. 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 Sector 52 of the North American Industry Classification System.

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. The floor area within the inside perimeter of the outside walls of the building under construction with no deductions for hallways, stairs, closets, thickness of interior walls, or columns.

Food manufacturing. Activities involving the production, packaging, and distribution of prepared or semi-prepared food products primarily for off-premises consumption, including by way of example: wholesale bakeries, bottling, distilling, and fermentation operations. A food manufacturing facility may include, as an accessory use, a restaurant or drinking establishment with on-site consumption and Banquet and Event Facilities, however, the business revenue associated with on-site consumption cannot exceed 34% of the total revenue generated by the facility. Food manufacturing shall be considered an accessory use to a local or general retail

establishment if the food manufacturing products produced on-site do not account for more than 34% of the retail products available at the local or general retail establishment. Accessory food manufacturing shall be subject to the standards for special exception review, and the review authority, whether the Planning Board or Code Enforcement Office, shall find conformance with the standards prior to permitting accessory food manufacturing.

Footprint. The geometric form described by the intersection of a structure's base with the ground plane, including, but not limited to, buildings, cantilevered or similar overhanging extensions of buildings, as well as unenclosed structures, such as patios or decks.

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.

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.

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.

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.

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, , finfish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

Funeral home. A building or structure designed for the purpose of furnishing funeral supplies and services to the public and includes facilities for the preparation of human remains for interment or cremation.

Garage. A portion of the building under consideration in which one or more vehicles are kept for parking, repair and/or storage purposes.

Governmental offices. A building or portion of a building where employees of federal, state, or municipal government entities work. This definition does not include jails or detention centers, fire stations, police stations, military bases, or training centers.

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.

Great pond. Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

Great pond classified GPA. Any great pond classified GPA, pursuant to 38 M.R.S. § 465-A, as may be amended. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

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.

Habitable story. A building story, as herein defined, intended for use on day-to-day basis by people for residential purposes, or for purposes of

conducting a commercial or industrial business, or for similar purposes. A habitable story does not include a story used for vehicular parking.

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

Harvested marijuana. "Harvested marijuana" as that term is defined in 22 M.R.S.A. § 2422(3-C), as may be amended.

Hazard tree. As determined by a Qualified Tree Professional, a tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes, hurricane-force winds, tornados, microbursts, or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and other developed areas where people frequently gather and linger.

Health Officer shall mean the person appointed as the City's Health Officer pursuant to 22 M.R.S. § 451, as may be amended from time to time.

Historic resource. A building, structure, site, or object with established historic significance as recognized by the City Council and contained in the South Portland Inventory of Archaeological and Historic Resources.

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.
(8) Cottage industry.
(9) Beauty parlors and beauty shops utilizing no more than 2 chairs serving no more than 2 customers at any given time.

(g) The following uses are specifically prohibited:

(1) Lodging establishments.
(2) Restaurants or other public eating places.
(3) Shelters.

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

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.

Immature marijuana plant. An "immature marijuana plant" as that term is defined in 28-B M.R.S.A. § 102(19), as may be amended.

Impervious area. The total area of a parcel that consists of structures 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. Pervious pavement, pervious pavers, pervious concrete and underdrained artificial turf fields are all considered impervious unless the applicable review authority for the project determines that such facilities provide alternative treatment, as described in DEP Chapter 500 Section 4(C)(3)(e).

Independent living facility. An adult retirement development that emphasizes social and recreational activities but may also provide personal services, limited health facilities, and transportation.

Indirect compensation shall mean nonmonetary consideration provided to a consumer, customer or patron.

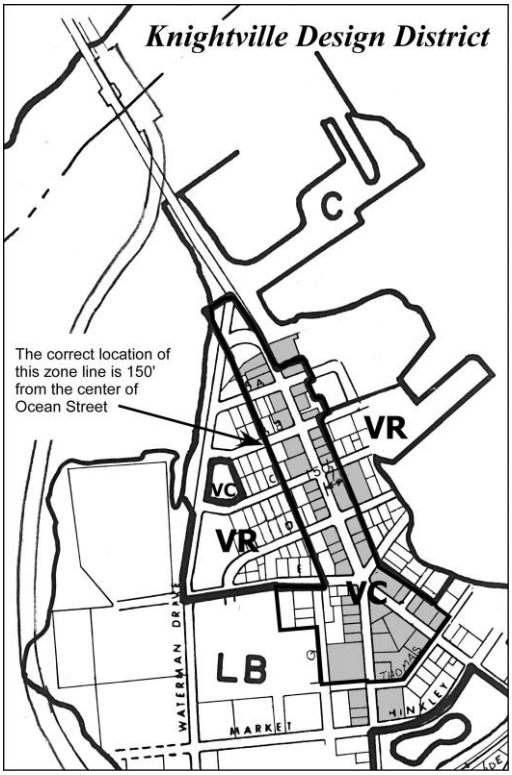
Inherently hazardous substance. "Inherently hazardous substance" means a liquid chemical; a compressed gas; carbon dioxide; or a commercial product that has a flash point at or lower than 100 degrees Fahrenheit, including, but not limited to, butane, propane and diethyl ether. "Inherently hazardous substance" does not include any form of alcohol or ethanol.

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.

Kennel. A commercial establishment in which pets are housed, groomed, bred, boarded, trained, or sold for a fee or compensation; or as an animal rescue or sanctuary operation.

Knightville Design Review 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.



Landscaped area. Also known as landscaped open space, an area within a lot consisting of landscaping (as defined), buffers composed of plantings or land formations, planted yard setbacks, planted islands in parking lots, or similar land surfaces. Landscaped area also includes areas that provide alternative treatments that are determined by the applicable review authority

to be consistent with DEP Chapter 500 Section 4(C)(3)(e). Landscaped area may include a detention basin if a landscape and maintenance plan for the base and sides thereof has been approved by the Planning Board.

Landscaping. Altered or reconfigured terrain, lawns, vegetation, or other natural features of a site in accordance with a plan or design, not to include impervious areas or buildings.

Lapse. To end because of neglect or failure to act.

Light industrial uses. Light industrial activity involving the manufacturing, fabricating, packaging, processing, or assembly of finished products from previously prepared material, including by way of example: 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, and tool and die shops. Light industrial uses shall include research and development facilities, as well as testing laboratories. Light industrial uses shall not include salvaging or raw-materials manufacturing and processing operations.

Live/Work Unit. A structure or component of a structure consisting of both a residential dwelling unit component and a non-residential component, with internal access between the residential and non-residential spaces. The residential and non-residential space must be occupied by the same person or entity and shall be the primary residence of the person or entity. Additionally, no portion of the live/work unit may be rented or sold separately. The non-residential activity 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 that are incompatible with an adjoining residential use.

Lodging establishment shall mean a fixed structure, or any part of a structure, used, maintained or advertised as a place where sleeping accommodations are furnished that offers stays that are temporary in nature and with or without meals. "Lodging establishment" includes accommodations in the entertainment, hospitality, recreation and tourism industries, including, but not limited to, hotel, motels, bed and breakfasts, inns, and properties under common management at the same location where sleeping accommodations are available for compensation, directly or indirectly. "Lodging establishment" does not include shelters; short-term rental of property to short-term rental guests as defined in Article XVII of this Chapter; youth camps; dormitories of charitable, educational or philanthropic institutions; fraternity or sorority houses affiliated with educational institutions; permanent residences; rental properties with tenant and landlord relationships as described under Chapters 709 to 710-D of Title 14 of the Maine Revised Statues, as may be amended; nursing facilities as defined in 22 M.R.S. § 1812-A, as may be amended; assisted living programs as defined in 22 M.R.S. § 7852(4), as may be amended; or residential care facilities as defined in 22 M.R.S. § 7852(14), as may be amended.

Lodging establishment, large-scale shall mean a lodging establishment in which there are sleeping accommodations for more than 16 persons.

Lodging establishment, small-scale shall mean a lodging establishment

in which there are sleeping accommodations for 16 or fewer persons.

Lot. A measured parcel having fixed boundaries.

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.

Lot coverage. The portion of a lot that is impervious areas.

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 Stormwater Manual adopted by the Planning Board.

Maintenance. For purposes of stormwater management, "Maintenance" means an activity undertaken to maintain operating condition, original line and grade, hydraulic capacity, and original purpose of the project. Paving an impervious gravel surface at original line, grade and hydraulic capacity is considered maintenance. Replacement of a structure is not considered maintenance of the structure.

Manufacture or manufacturing of marijuana. "Manufacture" or "manufacturing" of marijuana means the production, blending, infusing, compounding or other preparation of marijuana concentrate and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis.

Manufactured Home/Manufactured Housing. "Manufactured Home" or "Manufactured Housing" as that term is defined in 30-A M.R.S. § 4358(1)(A), as may be amended. For the purposes of determining whether this use is permitted in a zoning district, Manufactured Home/Housing shall be considered equivalent to the like form of residential land use. For example, if a zoning district allows single- and two-family residential dwellings, then Manufactured Home/Housing in the form of a single-family or two-family building are permitted; if a multi-family residential dwelling is permitted in the zoning district, a Manufactured Housing building containing three (3) or more dwelling units shall be permitted.

Marijuana. "Marijuana" as that term is defined in 28-B M.R.S.A. § 102(27), as may be amended.

Marijuana concentrate. "Marijuana concentrate" means the resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish.

Marijuana cultivation facility. A "cultivation facility" as that term is defined in 28-B M.R.S.A. § 102(13), as may be amended. A marijuana cultivation facility is an entity licensed to cultivate, prepare and package adult use marijuana and to sell adult use marijuana to marijuana establishments. A marijuana cultivation facility is only authorized as a

principal use, and not as an accessory use, and only where expressly allowed as a permitted or special exception use.

Marijuana establishment. A "cannabis establishment" as that term is defined in 28-B M.R.S.A. § 102-A(10), as may be amended. A marijuana establishment is a marijuana store, a marijuana cultivation facility, a marijuana products manufacturing facility or a marijuana testing facility.

Marijuana extraction. "Marijuana extraction" means the process of extracting marijuana concentrate from harvested marijuana using water, lipids, gases, solvents or other chemicals or chemical processes.

Marijuana plant. "Marijuana plant" means a plant of the genus Cannabis, including, but not limited to, Cannabis sativa, Cannabis indica and Cannabis ruderalis or their hybrids and the seeds of those plants.

Marijuana products manufacturing facility. A "products manufacturing facility" as that term is defined in 28-B M.R.S.A. § 102(43), as may be amended. A marijuana products manufacturing facility is an entity licensed to purchase adult use marijuana; to manufacture, label and package adult use marijuana products; and to sell adult use marijuana products from a marijuana cultivation facility only to other marijuana products manufacturing facilities, marijuana stores and marijuana social clubs. A marijuana products manufacturing facility is only authorized as a principal use, and not as an accessory use, and only where expressly allowed as a permitted or special exception use.

Marijuana social club. An entity licensed to sell adult use marijuana and adult use marijuana products to consumers for consumption on the licensed premises. Marijuana social clubs are prohibited in all zoning districts.

Marijuana store. A "cannabis store" as that term is defined in 28-B M.R.S.A. § 102-A(16), as may be amended. A marijuana store is an entity licensed to purchase adult use marijuana from a marijuana cultivation facility and to purchase adult use marijuana products from a marijuana products manufacturing facility and to sell adult use marijuana and adult use marijuana products to consumers. A marijuana store is only authorized as a principal use, and not as an accessory use.

Marijuana testing facility. A "testing facility" as that term is defined in 28-B M.R.S.A. § 102(54), as may be amended. A marijuana testing facility is facility licensed to develop, research and test marijuana, adult use marijuana products and other substances. A marijuana testing facility is only authorized as a principal use, and not as an accessory use, and only where expressly allowed as a permitted or special exception use.

Marina. An establishment having frontage on navigable water and, as its principal use, providing offshore moorings or docking and landing 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; marinas, including facilities for water storage, servicing, holding tank pump-outs, fueling, berthing, securing and launching, and outdoor sales and display of marine craft; and piers and wharves. 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.

Mature marijuana plant. A "mature marijuana plant" as that term is defined in 28-B M.R.S.A. § 102(36), as may be amended.

Medical Office. A building, or a configuration of buildings planned as a unit, where patients are examined and treated by one or more health care providers, such as, but not limited to, physicians, optometrists, ophthalmologists, dentists, psychologists, veterinarians, or social workers. Medical Offices may include laboratory services, facilities for ambulatory or outpatient surgical procedures, and facilities for the performance of administrative, managerial, or clerical functions.

Medical marijuana. The medical use of marijuana, with the term "medical use" as defined in 22 M.R.S.A. § 2422(5), as may be amended.

Medical marijuana assistant. An "assistant" as that term is defined in 22 M.R.S.A. § 2422(1-D), as may be amended.

Medical marijuana caregiver. A "caregiver" as that term is defined in 22 M.R.S.A. § 2422(8-A), as may be amended.

Medical marijuana cultivation area. A "cultivation area" as that term is defined in 22 M.R.S.A. § 2422(3), as may be amended.

Medical marijuana cultivation facility. A medical marijuana cultivation area used or occupied by one or more medical marijuana registered caregivers. A medical marijuana cultivation facility is only authorized as a principal use, and not as an accessory use, and only where expressly allowed as a permitted or special exception use. A medical marijuana cultivation facility is prohibited from selling medical marijuana to medical marijuana qualifying patients, medical marijuana caregivers or medical marijuana registered caregivers on premise. A medical marijuana cultivation facility shall not be used or occupied by a "collective" as that term is defined in 22 M.R.S.A. § 2422(1-A), as may be amended.

Medical marijuana dispensary. A "registered dispensary" as that term is defined in 22 M.R.S.A. § 2421-A(41), 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.

Medical marijuana establishment. A medical marijuana establishment is a medical marijuana dispensary, a medical marijuana cultivation facility, a medical marijuana retail store, a medical marijuana products manufacturing facility, or a medical marijuana testing facility.

Medical marijuana product. "Marijuana product" as that term is defined in 22 M.R.S.A. § 2422(4-L), as may be amended.

Medical marijuana products manufacturing facility. A "manufacturing facility" as that term is defined in 22 M.R.S.A. § 2422(4-H), as may be amended. A medical marijuana products manufacturing facility is only authorized as a principle use, and not as an accessory use, and only where expressly allowed as a permitted or special exception use.

Medical marijuana qualifying patient. A "qualifying patient" as that term is defined in 22 M.R.S.A. § 2422(9), as may be amended.

Medical marijuana registered caregiver. A "registered caregiver" as that term is defined in 22 M.R.S.A. § 2422(11), as may be amended.

Medical marijuana registered patient. A "registered patient" as that term is defined in 22 M.R.S.A. § 2422(12), as may be amended.

Medical marijuana store. A medical marijuana store is a retail establishment operated by a single medical marijuana registered caregiver where harvested marijuana is sold by that medical marijuana registered caregiver to medical marijuana qualifying patients for patients' medical use and may include an area for consultation with patients. Two or more medical marijuana registered caregivers are prohibited from forming, owning or operating a medical marijuana retail store as a single medical marijuana retail store. A medical marijuana retail store is only authorized as a principal use, and not as an accessory use.

Medical marijuana testing facility. A "marijuana testing facility" as that term is defined in 22 M.R.S.A. § 2422(5-C), as may be amended. A medical marijuana testing facility is only authorized as a principal use, and not as an accessory use, and only where expressly allowed as a permitted or special exception use.

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.

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.

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. "Mobile Home Park" as that term is defined in 30-A M.R.S. § 4358(1)(B), as may be amended, and includes a parcel of land under unified ownership approved by the City for the placement of 3 or more detached Manufactured Homes.

Mobile Home Park Lot. "Mobile Home Park Lot" as that term is defined in 30-A M.R.S. § 4358(1)(B-1), as may be amended, and includes the area of land on which an individual home is situated within a Mobile Home Park and which is reserved for use by the occupants of that home. Each lot within a Mobile Home Park shall be designated on a Mobile Home Park Plan.

Mobile Home Subdivision or Development. A parcel of land approved by the Planning Board for the placement of Mobile Homes on individual independently-owned lots, in accordance with Chapter 24, Subdivisions, of the Code of Ordinances and 30-A M.R.S., Chapter 187, Subchapter IV.

Mobile 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 and other goods are sold, or personal and other services are provided to clients. Farmers' market stalls shall not be considered Mobile Vending Units.

Modified floor area. The gross floor area with deductions for (a) those areas in the building that are *not* conditioned floor area, and (b) attics and garages without regard to whether the attic and/or garage is conditioned floor area so long as the attic space is not classified as a story as defined in the then-current building code.

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.

Motor vehicle sales. A facility which involves the sale of vehicles, whether new or pre-owned, and may also include space for automotive repair services and associated on-site storage of vehicles.

Movie theater. An establishment where the public can view movie releases as entertainment, and for which admission is charged, in an indoor environment that includes areas such as single or multiple screen auditoriums, a lobby, and a refreshment stand.

Multi-family dwelling(s). A building or portion of a building containing three or more dwelling units. Multi-family dwellings may be Manufactured Housing.

Multi-family dwelling unit. A unit within a building containing three (3) or more dwelling units. Multi-family dwelling units may be Manufactured Housing.

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. Multiple/mixed uses are permitted in all districts so long as the uses involved are permitted, and there is no prohibition to their colocation.

Municipal indoor recreation. An indoor area or building owned or maintained by the City of South Portland, open to the public, designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities.

Municipal outdoor recreation. An outdoor area owned or maintained by the City of South Portland, open to the public, designed for recreational activities, including, but not limited to, parks with playground and other equipment, ball fields, swimming pools, skate parks, tennis and basketball courts, and golf courses.

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.

Native species. A species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being native to Maine ecosystems.

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.

Neighborhood convenience store. 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.

Net residential acreage. The gross acreage available prior to development less the area required for streets. The acreage of the following areas prior to development or alteration may also be included as net residential acreage:

(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.

New parking structures or lots. Parking spaces added to a site.

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.

Non-native invasive species of vegetation. A species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

Normal high-water line. 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.

North American Industry Classification System. The publication entitled "North American Industry Classification System", 2017 edition, as amended, prepared by the Office of Management and Budget of the United States Government.

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.

Passive recreation facilities. Uses of land that generally require no structures with a lot coverage greater than 100 square feet, and typically involve passive public enjoyment of naturalized or undeveloped areas. Passive

recreation facilities includes improvements such as trails, benches, interpretive and informational signage for the appreciation of cultural, historic, or natural features, and similar accommodations. Passive recreation facilities may include larger infrastructure that supports pedestrian or bicycle travel, such as bridges, shore stabilization, and parking 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.

Permanent Foundation, Newer Mobile Homes or Modular Homes. "Permanent Foundation" when used in the context of *Mobile or Manufactured Home or Manufactured Housing* is as that term is defined in 30-A M.R.S. § 4358(1)(D), as may be amended.

Permanent residence shall mean a person's primary place of residence, as defined by whether the person carries on basic living activities at the location and whether such location is the person's usual place of return. Reasonable documentation, such as Maine homestead exemption qualification, voter registration, government ID with address, motor vehicle registration, motor vehicle excise tax payment receipt, or other documents demonstrating that the location is the person's legal residence and that it is such for 183 or more days in a year in the aggregate, shall be indicia of permanent residence.

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

Personal and household goods repair. Establishments engaged in the repair and maintenance of personal goods and electronics, as listed in Industry Group 8114 and 811211 of the North American Industry Classification System.

Persons Experiencing Homelessness shall mean "Persons Experiencing Homelessness" as that term is defined in the Maine State Housing Authority Homeless Solutions Rule, Chapter 19, Section 1(Z), as may be amended from time to time.

Pet. Domesticated animal, such as a dog, cat, bird, rodent, fish, or other animal that is kept for pleasure rather than for commercial purposes.

Personal services. Establishments primarily engaged in providing services to individuals, as listed in sub sector 812 of the North American Industry Classification System, not including Subsector 812930, Parking Lots and Garages and in-home beauty parlors.

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:

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Places of assembly and worship. Any facility where individuals gather for social purposes, such as, churches, clubs, lodges, and other similar meeting places.

Plant canopy. "Plant canopy" as that term is defined in 28-B M.R.S.A. § 102(41), as may be amended.

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.

(a) 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.

(b) 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. This use includes telephone answering service establishments.

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 boat landings. A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Public park. An area within a lot consisting of natural vegetation or plant growth, buffers composed of plantings or land formations, planted yard setbacks, or similar land surfaces set aside for human enjoyment and passive recreation, and / or for the protection of wildlife or natural habitats.

Public transportation shelters. Structures managed and operated by a government transportation agency or entity for the purposes of identifying or providing shelter at a designated transit stop, station, or terminal.

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 the provision of public utilities, including water towers, pumping stations, compressor stations, substations, sewerage treatment facilities. This definition shall not include telecommunication towers, and does not include the professional offices of utility companies.

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.

Qualified Tree Professional (QTP). An individual with relevant education and training in arboriculture or urban forestry who has at least one of the following credentials: (1) International Society of Arboriculture (ISA) Certified Arborist; (2) Tree Risk Assessor Qualification (TRAW); (3) American Society of Consulting Arborists (ASCA) registered Consulting Arborist; (4) Society of American Foresters (SAF) Certified Forester for Forest Management Plans; (5) Arborist License in the State of Maine; or (6) a botany degree from an accredited university, with a specialty in dendrology.

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.

Raw materials manufacturing and processing. Land use involving basic processes such as smelting, refining, foraging, or similar processes involving the conversion of raw, unprocessed materials into finished or semi-finished product. Raw-materials manufacturing and processing does not include food manufacturing operations.

Recent floodplain soils. The following soil series, described and identified by the National Cooperative Soil Survey, are considered recent floodplain soils:

Alluvial	Cornish	Charles
Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

Redevelopment. For purposes of stormwater management, "Redevelopment" means an activity, not including maintenance, undertaken to redevelop or otherwise improve property in which the newly developed area is located within the same footprint as the existing developed area.

Reconstructed parking structures or lots. Complete repaving of an existing parking structure or lot with full depth reclamation or full depth reconstruction of the existing parking structure or lot. Full depth reclamation or reconstruction means that the extent of pavement work removes the wearing course, or top course of asphalt, as well as the binder course, or base coat of asphalt; and affects the base or subgrade layers of the pavement profile through grading, leveling, or removal.

Research and development laboratories and offices. A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

Restaurant. An 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 Sectors 44-45 of the North American Industry Classification System, 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.

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

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

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

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.

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.

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

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

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

Schools, private. Educational establishments maintained by private individuals or corporations funded, at least in part, by fees or tuition, and which are primarily engaged in providing academic instruction as listed in Sectors 6111, 6112, and 6113 of the North American Industry Classification System.

Schools, public. Educational establishments which are publicly supported and primarily engaged in providing academic instruction as listed in Sectors 6111, 6112, and 6113 of the North American Industry Classification System.

Schools, religious. Educational establishments maintained by religious organizations and which are primarily engaged in providing academic instruction as listed in Sectors 6111, 6112, and 6113 of the North American Industry Classification System.

Seedling. In the context of marijuana, seedling shall mean "seedling" as that term is defined in 28-B M.R.S.A. § 102(51), as may be amended. In the context of shoreland zoning, a young tree species that is less than four and one half (4.5) feet in height above ground level.

Self-service storage facility. A building, group of buildings, or stand-alone containers consisting of individual, self-contained units leased

to individuals, organizations, or businesses for storage of personal property with no commercial transactions permitted other than the rental of the storage units.

Setback. The minimum distance by which any building or structure must be separated from a street right-of-way or lot line. Setbacks do not apply to fences; retaining walls; signs that identify parking spaces; bollards; and structures no larger than 100 square feet that contain electrical utility equipment, backup generators, or EV chargers.

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.

Shelter shall mean a facility all or a part of which is used or designed to be used to provide temporary or transitional housing for Persons Experiencing Homelessness or for specific populations of Persons Experiencing Homelessness without regard to the person seeking shelter's ability to pay or their eligibility for reimbursement or actual reimbursement from any third party source, including local, municipal, state or federal funding sources. "Shelter" does not include temporary shelter facilities associated with disaster relief or emergency response. "Shelter" does not include a lodging establishment.

Shelter, large-scale shall mean a shelter that is licensed by the City for sleeping accommodations for 40-100 persons.

Shelter, medium-scale shall mean a shelter that is licensed by the City for sleeping accommodations for 9-39 persons.

Shelter, small-scale shall mean a shelter that is licensed by the City for sleeping accommodations for 8 or fewer persons.

Shopping center. A group of retail, office, personal service, and/or recreation facilities forming a retail or a retail and service center.

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.

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.

Single-family dwelling unit. A building containing one (1) dwelling unit. A single-family dwelling unit may be Manufactured Housing, and includes modular homes that meet construction standards for state-certified Manufactured Homes adopted pursuant to M.R.S Title 10, section 9042, as may be amended.

Solar Energy System. A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation, or water heating.

Solar Energy System, Active. A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

Solar Energy System, Ground-Mounted. An Active Solar Energy System that is structurally mounted to the ground and is not roof-mounted; may be of any size (small-, medium- or large-scale).

Solar Energy System, Large-Scale. An Active Solar Energy System whose physical size based on total airspace projected over the ground is equal to or greater than 17,000 square feet.

Solar Energy System, Medium-Scale. An Active Solar Energy System whose physical size based on total airspace projected over the ground is equal to or greater than 1,500 square feet but less than 16,999 square feet.

Solar Energy System, Roof-Mounted. An Active Solar Energy System that is mounted on the roof of a building or structure; may be of any size (small-, medium- or large-scale).

Solar Energy System, Small-Scale. An Active Solar Energy System whose physical size based on total airspace projected over the ground is less than 1,500 square feet.

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 Code Enforcement Officer.

(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 Code Enforcement Officer; 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 Mobile Vending Unit when such a unit operates on private property . Stationary Vending Units shall be considered primary uses, not accessory uses, for the purposes of Zoning District setback requirements.

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

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, highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

Street. A public 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.

Street Line. The dividing line between a lot and a street.

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

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. § 414, as may be amended, any surface wastewater disposal system licensed under 38 M.R.S. § 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. Chapter 13, subchapter 1, as may be amended.

Subdivision. A subdivision as defined by 30-A M.R.S. § 4401(4).

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

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 highest annual tide.

Tobacco product. "Tobacco product" as that term is defined in 22 M.R.S.A. § 1551(3), as may be amended.

Tobacco retailer. A "tobacco retailer as that term is defined in 22 M.R.S.A. § 1551(3-A), as may be amended.

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 Subsector No. 484 of the North American Industry Classification System, but not including warehousing other than short-term storage.

Tree. A woody perennial plant with a well-defined trunk(s) of at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.

Tree, dead. A tree that contains no foliage during the growing season.

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.

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.

Two-family dwelling(s). A building containing two (2) dwelling units. Two-family dwellings may be Manufactured Housing.

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.

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

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.

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

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.

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

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. An establishment intended for the shipping and receiving of goods and articles, which may include associated finishing and packaging, including chain store warehousing, but excluding oil and gasoline storage caverns, petroleum and chemical bulk stations and terminals, warehousing and distribution of marijuana products, and excluding junkyards and salvage operations.

Water body. Any Great Pond, river, stream or tidal area.

Water crossing. Any project extending from one bank to the opposite bank of a river or stream, whether under, through, or over the water 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.

Wetland. A freshwater, coastal or shoreland freshwater wetland.

Wholesale trade. Establishments or places of business primarily engaged in selling merchandise to other businesses, including retailers, industrial, commercial, institutional, or professional business users, other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. This definition excludes businesses engaged in the trade of chemicals and allied products, marijuana products, and petroleum bulk stations and terminals.

Woody Vegetation. Live trees and non-herbaceous shrubs.

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. Primary Front. On corner of double frontage lots in applicable zoning districts, one property boundary with frontage on a way may be designated as a Primary Front Yard, and all other property boundaries with frontage on a way shall be classified as Secondary Front Yards for the purposes of determining compliance with the Space and Bulk Standards of the District.

Yard. Secondary Front. On corner or double frontage lots in applicable zoning districts, when a Primary Front Yard is designated, all other property boundaries with frontage on a way shall be classified as Secondary Front Yards for the purposes of determining compliance with the Space and Bulk Standards of the District.

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.

Youth camp means a combination of program and facilities established for the primary purpose of providing an outdoor group living experience for children with social, recreational, spiritual and educational objectives and operated and used for 5 or more consecutive days during one or more seasons of the year. "Youth camp" includes day camps, residential camps and trip and travel camps. "Youth camp" does not include programs overseen by employees or volunteers of a municipality and educational institutions when the activities generally take place at municipal or institutional properties and buildings.

(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]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No.14-16/17, 3/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 9-18/19, 2/5/19 [Fiscal Note: Less than $1000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; (Ord. No. 12/19-20, 11/7/19 [Fiscal Note: Less than $1000], Ord. No. 5-20/21, 10/6/2020 [Fiscal Note: Less than $1000]; Ord. No. 9-20/21, 11/17/2020 [Fiscal Note: Less than $1000]; (Ord. No. 14-21/22, 11/30/2021 [Fiscal Note: Less than $1000]; Ord. No. 23-21/22, 6/7/22 [Fiscal Note: Less than $1000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 3-22/23, 10/6/2022 [Fiscal Note: Less than $1000]; Ord. No. 18-22/23, 2/21/2023 [Fiscal Note: Less than $1000], Ord. No. 21, 3/21/2023 [Fiscal Note: Less than $1000]; Ord. No. 27-22/23, 4/18/2023 [Fiscal Note: Less than $1000]; Ord. No. 26-22/23, 4/18/2023 [Fiscal Note: Less than $1000]; Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 7-23/24, 11/14/2023 [Fiscal Note: Less than $1000]; Ord. No. 22, 5/7/2024 [Fiscal Note: Less than $1000]; Ord. No. 23-23/24, 3/7/2024 [Fiscal Note: Less than $1000]; Ord. No. 15-24/25, 1/21/25 [Fiscal Note: Less than $1000]; Ord. No. 3-25/26, 7/9/2025 [Fiscal Note: Less than $1000]; Ord. No. 5-25/26, 7/15/2025 [Fiscal Note: Less than $1000]; Ord. No. 9-25/26, 10/21/2025 [Fiscal Note: Less than $1000];

Ord. No. 13-25/26, 12/4/2025 [Fiscal Note: Less than $1000]; Ord. No. 15-25/26, 1/20/2026 [Fiscal Note: Less than $1000]; Ord. No. 25-25/26, 6/2/2026 [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 of 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:

i. the nonconforming use is terminated in accordance with (b); or
ii. the nonconforming use is converted to a conforming use.

(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) *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 approval 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.

(Ord. No. 19-19/20, 5/12/20 [Fiscal Note: Less than $1000; Ord. No. 21-22/23, 3/21/2023 [Fiscal Note: Less than $1000])

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), or improvements as outlined in Section 27-303(a)(3) and Section 37-303(a)(4).

(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 conditions 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.

Improvements to elevate a structure pursuant to Subsection 27-303(a)(4) shall not be considered new construction as that term is used in the above listed conditions on allowances for horizontal enlargements within the required setback.

(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, except under the following conditions:

(a) Dormers may be added to residential buildings 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) **Flood Risk Mitigation**: Primary and accessory structures, or portions thereof, may be elevated within the setback area if all of the following conditions are met:

1. The property is located in the Residential A or AA zoning district;

2. Any portion of the subject property is within an Area of Special Flood Hazard for the City of South Portland, Cumberland County, Maine, Zones A, AE, and VE, as identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study: Cumberland County, Maine (All Jurisdictions)", (FIS), dated June 20, 2024 with accompanying "Flood Insurance Rate Map" (FIRM) of the city dated June 20, 2024, as amended by subsequent Letter of Map Change actions (LOMCs), both of which are adopted by reference and declared to be a part of this Code;

3. The structure was in existence as of January 1, 2025;

4. The vertical enlargement conforms to the maximum height allowance of the zoning district;

5. The elevation of the structure does not increase the square footage of the structure within the setback area by more than what would be compliant with the limitations on horizontal expansions to structures under Subsection 27-303(a)(3);

6. If applicable, the project shall apply for and receive a flood hazard development permit approval pursuant to Chapter 5, Buildings, Article IV, as may be amended; and

7. If applicable, the project shall apply for and receive shoreland zoning approval pursuant to Chapter 27, Article XIII, as may be amended.

Applications to elevate a structure, including those subject to the standards of Chapter 5, Buildings, Article IV; or this Chapter, Article XIII, Shoreland Overlay Districts; shall be submitted to the Code Enforcement Officer on a form approved by said Officer, and shall not require Planning Board review and approval unless otherwise required by this Chapter, Chapter 24, or Chapter 5 of the Code of Ordinances.

(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 only be modified or enlarged consistent with the following requirements:

(i) Expansion of any portion of a structure to add additional square footage to the structure within twenty-five (25) feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase the nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not

increase the nonconformity with the water body, tributary stream, or wetland setback requirement.

(ii) Notwithstanding subparagraph (i) above, if a legally existing nonconforming principal structure is entirely located less than twenty-five (25) feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded to add additional square footage to the structure as follows, as long as all other applicable standards within this Chapter are met, and the expansion is not otherwise prohibited by Sec. 27-303(a)(1) above:

(A) The maximum total footprint for the principal structure may not be expanded to a size greater than eight hundred (800) square feet or thirty (30) percent larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than fifteen (15) feet or the height of the existing structure, whichever is greater.

(iii) All other legally existing principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as all other applicable sections of this Chapter are met and the expansion is not prohibited by Sec. 27-303(a)(1) or Sec. 27-303(b)(1)(i) above:

(A) For structures located less than forty (40) feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined footprint for all structures may not be expanded to a size greater than one thousand (1,000) square feet or thirty (30) percent larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than twenty (20) feet or the height of the existing structure, whichever is greater.

(B) For structures less than seventy five (75) feet but forty (40) or more feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than one thousand five hundred (1,500) square feet or thirty (30) percent larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than twenty-five (25) feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than forty (40) feet from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland must meet the footprint and height limits found in Sec. 27-303(b)(1)(ii)(A) and Sec. 27-303(b)(1)(iii)(A) above.

(C) In addition to the limitations in subparagraphs (A) and (B) of Sec. 27-303(b)(1)(iii), for structures that are legally nonconforming due to their location within the Shoreland Resource Protection Overlay Subdistrict when located less than two hundred fifty (250) feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than one thousand five hundred (1,500) square feet or thirty (30) percent larger than the footprint that existed at the time the Shoreland Resource Protection Overlay Subdistrict was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than twenty-five (25) feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than forty (40) feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Sec. 27-303(b)(1)(ii)(A) and Sec. 27-303(b)(1)(iii)(A) above.

(iv) An approved plan to expand the square footage of a nonconforming structure must be recorded by the applicant in the Cumberland County Registry of Deeds within ninety (90) days of approval. The recorded plan must show the existing and proposed footprint of the nonconforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the Shoreland Overlay District boundary and evidence of approval by the Planning Board.

(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 Planning Board, basing its decision on the criteria specified in subsection (3) below. However, projects that involve elevating a nonconforming structure as provided in Section 27-303(a)(4), the foundation or supports required for the elevated structure shall not require Planning Board approval unless otherwise specified in this Chapter; Chapter 24, Subdivisions; or Chapter 5, Buildings, Article IV.

(3) In determining whether the construction or enlargement of a foundation beneath the existing building meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the location of natural features on the lot, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location and size of existing and proposed utilities, the location of existing easements and rights-of-way, the management of the quality and quantity of all stormwater generated by the activity on the lot consistent with Sec. 27-1536, the location of the septic system and other on-site soils suitable for septic systems (if

applicable), and the type and amount of vegetation to be removed to accomplish the relocation.

(4) Any Tree Removal, as defined in Article XXI (Tree Protection), within the Shoreland Area Overlay District shall comply with the requirements of Article XXI, unless such standards are less-restrictive than the applicable regulations governing the Shoreland Area Overlay District, in which case the more-restrictive standards shall apply.

(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 following modifications shall not be considered a modification that makes the property more nonconforming with respect to residential density requirements:

a) Construction or establishment of an accessory dwelling unit (ADU).

b) Construction or establishment of up to four (4) additional dwelling units located entirely within an existing structure if an equivalent number of affordable dwelling units are designated on the subject property through an affordability covenant of at least thirty (30) years that meets the requirements of section 27-2202(a)(6)(a)(i) or 27-2202(a)(6)(a)(ii) of this Ordinance.

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*

(1) 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.

(2) 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.

(3) 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:

(1) The reconstruction or restored building or structure is not more nonconforming than the damaged or destroyed building or structure, except that at the time of reconstruction or restoration, an applicant may incorporate the allowances for vertical and horizontal modifications outlined in Section 27-303(a)(3) and 27-303(a)(4); and

(2) The reconstructed or restored building or structure is substantially completed within eighteen (18) months of the date of the damage/destruction of the property. The Code Enforcement Officer or, for projects approved by the Planning Board, the Planning Director, pursuant to Sec. 27-141, may extend the deadline for reconstruction/restoration for good cause, such as evidence of delayed insurance processing despite demonstrated timely claims submission.

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

If a nonconforming building is voluntarily removed and replaced, the replacement building shall conform to the following criteria; however projects involving vertical elevation consistent with Section 27-303(a)(4)(b) shall not constitute a voluntary removal or replacement for the purposes of this section:

(1) [Reserved].

(2) No portion of a replacement building or structure shall encroach on any required setback more than the pre-existing building nor increase any other non-conformity, except as provided in Section 37-303(a)(4)(b). 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 or structure located within any required setback shall not be greater than the height of the pre-existing nonconforming building within that yard.

(4) The replacement building or structure meets all other space and bulk requirements in the applicable zoning district.

(5) The replacement building or structure is substantially completed within eighteen (18) months of the start of demolition of the existing building or structure. The Code Enforcement Officer or, for projects approved by the Planning Board, the Planning Director, pursuant to Sec. 27-141, may extend the deadline for replacement by up to one (1) year for good cause.

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

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

(A) A nonconforming building located within the Shoreland Area Overlay District, Shoreland Resource Protection Overlay District, or Stream Protection Overlay Districts may be replaced, reconstructed, or relocated within the boundaries of the parcel on which the building is located provided that all of the following conditions are met. However, projects involving vertical elevation consistent with Section 27-303(a)(4)(b) shall not constitute a voluntary removal or replacement for the purposes of this section.

(1) The site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board;

(2) If the building is not served by a public sewer system, 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;

(3) In no case shall a building be relocated in a manner that causes the building to be more nonconforming; and

(4) 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 Planning Board 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) and 27-303(a)(4) above, as determined by the nonconforming footprint and height, as that term is defined in Sec. 27-201 herein, of the reconstructed or replaced structure at its new location. If the total footprint 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 the standards 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.

(B) In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the location of natural features on the lot, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location and size of existing and proposed utilities, the location

of existing easements and rights-of-way, the management of the quality and quantity of all stormwater generated by the activity on the lot consistent with Sec. 27-1536 the location of the septic system and other on-site soils suitable for septic systems (if applicable), 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 a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed or removed vegetation in accordance with Section 27-1322(M) of this Chapter. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

(1) Any Tree Removal, as defined in Article XXI (Tree Protection), within the Shoreland Area Overlay District shall comply with the requirements of Article XXI, unless such standards are less-restrictive than the applicable regulations governing the Shoreland Area Overlay District, in which case the more-restrictive standards shall apply. 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 and may exceed the density of vegetation removed or destroyed.
(3) Where feasible, as determined by the Planning Board based on the slope of the land, the location of natural features on the lot, the potential for soil erosion, the location of other structures on the property, the location and size of existing and proposed utilities, the location of existing easements and rights-of-way, and the stormwater management plan, the original location of the relocated structure must be replanted with vegetation.

(Ord. No. 21-22/23, 3/21/2023 [Fiscal Note: Less than $1000]; Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 1-23/24, 8/15/2023 [Fiscal Note: Less than $1000]; Ord. No. 31-24/25, 6/17/2025 [Fiscal Note: Less than $1000]; Ord. No. 13-25/26, 12/4/2025 [Fiscal Note: Less than $1000]; Ord. No. 25-25/26, 6/2/2026 [Fiscal Note: Less than $1000])

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 of record as of that date to be treated as separate lots under certain conditions and to be sold or developed. The provisions allow the development of unimproved nonconforming lots of record in accordance with the provisions of subsections (f) and (g).

The division of the lots shall conform to the original lot boundaries as described in a recorded deed or subdivision plan, except that property abutting any lot of record that is in common ownership may be aggregated to form a larger lot that does not conform to the original lot boundaries.

(a) *Separate unimproved nonconforming lot 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 subsections (f) and (g) without a variance from the Board of Appeals.

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, minimum street frontage, maximum net residential density and minimum area per family requirements unless otherwise specifically provided for in subsections (f) or (g) or a variance is granted by the Board of Appeals.

(b) *Separate developed nonconforming lot 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, minimum street frontage, maximum net residential density and minimum area per family 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. 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 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 subsections (f) and (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, minimum street frontage, maximum net residential density and minimum area per family requirements unless otherwise specifically provided for in subsections (d), (f) or (g).

There shall be a minimum of thirty five (35) feet of frontage on a City accepted street unless the Planning Board finds that:

(i) the average street frontage of neighboring developed residential lots in single ownership is less than thirty five (35) feet; or

(ii) the owner does not have abutting land available to increase the street frontage to at least thirty five (35) feet and said unavailability of abutting land is not the result of action taken by the owner since May 23, 2016.

The division of the lots shall conform to the original lot boundaries as described in a recorded deed or subdivision plan. Two or more abutting unimproved nonconforming lots of record in common ownership may be aggregated to either:

(1) Forms one of more larger lots that each meet the space and bulk regulations for the applicable zoning district and therefore no longer require Planning Board review of development on a nonconforming lot(s); or

(2) Forms one or more larger lots that remain nonconforming but each respects the original lot boundaries except for the removal of the boundary or boundaries that separated the nonconforming lots that are being aggregated. No lot that is created through aggregation may be more nonconforming than it was prior to the aggregation.

The Board of Appeals may not otherwise grant variances from the space and bulk requirements.

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

Unimproved nonconforming lots of record that abut and are in common ownership with a developed lot of record, and that has frontage, may be developed and/or sold as separate lots without a variance from the Board of Appeals subject to subsections (f) and (g). If there are two or more unimproved abutting nonconforming lots of record in common ownership with a developed lot of record, the requirements of subsection (d) shall also apply. Development of an unimproved lot abutting a developed lot must conform to the space and bulk regulations for the zoning district in which it is located except for the minimum lot area, minimum street frontage, maximum net residential density and minimum area per family requirements unless otherwise specifically provided for in subsections (f) or (g).

There shall be a minimum of twelve (12) feet of separation between the proposed building on the lot to be developed and any existing principal or accessory building on an abutting lot, whichever produces the greater side or rear yard setback on the lot to be developed. There shall be no vehicular access, driveway, parking or building location easements allowed for either lot to be developed or the abutting developed lot.

The division of the lots shall conform to the original lot boundaries as described in a recorded deed or subdivision plan. If an existing structure on the developed lot is rendered nonconforming to the bulk and space standards of the applicable zoning district due to the development on the abutting, unimproved nonconforming lots, said structure shall be entitled to the protections afforded by this ordinance to preexisting nonconforming structures.

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 that does not meet the minimum lot area, minimum street frontage, maximum net residential density or minimum area per family requirements must comply with all of the following unless otherwise specifically provided for in this section:

(1) The principal building must be a single-family detached dwelling. An Accessory Dwelling Unit may be added as part of, addition to, or detached from the principal single-family structure pursuant to the standards for Accessory Dwelling Units in Article XV.

(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) At least twenty-five percent (25%) of the area of the lot must be vegetated and permeable, or naturally impermeable (*e.g.*, naturally occurring ledge), open space.

(5) Each building on the lot shall comply with the side and rear setback requirements of the district in which the lot is located, except that there shall be a minimum of twelve (12) feet separation between the new building and any existing principal or accessory building on an abutting lot, whichever produces the greater side and rear yard setbacks on the lot.

(6) 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.

(7) Any building located in a combined sewer area shall not have a basement, unless the Planning Board finds that one of the following conditions is met:

(i) The finished floor elevation of the basement slab is a minimum of 12" above the seasonal high groundwater elevation, hydraulically restrictive horizon or bedrock as defined by the State of Maine Subsurface Wastewater Disposal Rules. The determination of the limiting factors shall be based on a soil profile description, prepared by a Maine-licensed site evaluator, for a minimum of two (2) test pits excavated within the footprint of the proposed building. The soil profile shall be documented on a standardized application form issued by the Maine Department of Health and Human Services (*i.e.*, HHE-200 form, as may be amended from time to time). Submitted documentation to support the basement request shall include an elevation reference mark for verification. The soil profile and condition used for the determination of the limiting factor elevation shall be representative of the most limiting conditions beneath the foundation of the building.

or

(ii) The applicant demonstrates sufficient right, title or interest, reviewed and approved as to legal sufficiency by the Corporation Counsel, to discharge runoff from building foundation drain(s) or sump pump(s) onto or across downgradient properties. Such rights shall include any required downgradient areas along the flow path of the discharge from the project site to a natural stream or the City's public separated storm drainage system.

(8) 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. Applications requiring Stormwater Management Facilities that will not be dedicated to the City shall enter into a Drainage Maintenance Agreement with the City, approved as to form by the Corporation Counsel, providing 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.

(9) Notwithstanding any other provision of this ordinance to the contrary, there shall be no vehicular access, driveway or parking easements allowed to benefit or burden the lot to be developed.

(10) The proposed design and development of the lot and the buildings and structures on the lot shall be 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) [RESERVED]

(iii) [RESERVED]

(iv) [RESERVED]

(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

(vi) [RESERVED]

(11) 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.

(12) 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.

(13) Any garage must be set back from the front elevation of the residential structure by at least 5 feet. Notwithstanding Sec. 27-1556(b) or any other provision of this ordinance to the contrary, the size of required off-street parking spaces for nonconforming lots of record may be reduced to 8’ in width by 16’ in depth.

(14) A stabilized and clearly delineated construction entrance is required for the purpose of meeting the City’s erosion and sedimentation control standards.

(15) The area between any street utility excavations must be milled, so that pavement restoration is unified.

(16) Any Tree Removal, as defined in Article XXI (Tree Protection), within the Shoreland Area Overlay District shall comply with the requirements of Article XXI, unless such standards are less-restrictive than the applicable regulations governing the Shoreland Area Overlay District, in which case the more-restrictive standards shall apply. Any trees greater than 30” in diameter that are not

located in the proposed building excavation area or parking area must be retained and protected during the course of construction.

(17) Small-scale roof-mounted solar energy systems that meet applicable building and fire codes shall be exempt from review under Sec. 27-304(f)(10) above and may be permitted either as part of the Planning Board approval or as a *de minimis* change reviewed and approved by the Planning Director.

(18) Notwithstanding any provision to the contrary herein, beginning April 1, 2019, the Planning Department shall not accept, nor shall the Planning Board approve, any application for the development of an unimproved nonconforming lot of record if the nonconforming lot of record has already been separated from an abutting lot that was in common ownership as of March 31, 2019. This provision does not preclude a property owner from seeking and obtaining Planning Board approval for the development of a nonconforming lot of record while the lot is in common ownership with an abutting lot and then separately conveying the lot once it is approved for development by the Planning Board. For any such lot in common ownership application, the Planning Board shall consider the existence of, and may impose conditions related to, the abutting lot that is in common ownership and the potential for the subsequent separate ownership of the lots.

(g) *Planning Board review requirements*

(1) 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 nonconforming lot of record that does not meet the minimum lot area, minimum street frontage, maximum net residential density or minimum area per family requirements. 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 subsection (f)(10). 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 subsection (f)(10).

(vii) The total square footage with identification of garages or partially-finished basements.

(viii) The existing and proposed impervious areas associated with proposed structures and improvements on the property, expressed in square feet and as a percentage of lot area.

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

(x) A Drainage Maintenance Agreement with the City, approved as to form by the Corporation Counsel, providing 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.

(xi) A plan, consistent with the requirements of Sec. 27-2105, documenting all Tree Removal and associated Tree Replacement or mitigation requirements as outlined in Article XXI (Tree Protection).

(2) Review Process – The review of an application 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 the case of a nonconforming lot of record abutting a developed lot in the same ownership as of October 21, 2007, the Planning Board shall consider the existence of the previously developed lot or lots in reviewing the application.

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

(vii) 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.

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

(4) Time Limitation – Non-conforming lot of record approval shall be valid for a period no longer than two(2) years from the date of approval or such other time as may be fixed by the Planning Board, unless Start of Construction on the proposed development is actually begun within that period; provided, however, that the Planning Board may grant a single, one (1) year extension of said time for good cause shown if the facts constituting the basis of the decision have not materially changed.

If the approval is deemed to have lapsed, any building permits issued in reliance thereon shall become null and void, and the Code Enforcement Officer shall make the determination as to whether Start of Construction has commenced on the Planning Board approval.

(Ord. No. 11-16/17 1/18/17 [Fiscal Note: Less than $1,000], Ord. No. 10-18/19, 3/12/19 [Fiscal Note: Less than $1000]; Ord. No. 26-22/23, 4/18/2023 [Fiscal Note: Less than $1000]; Ord. No. 1-23/24, 8/15/2023 [Fiscal Note: Less than $1000];Ord. No. 7-23/24, 11/14/2023 [Fiscal Note: Less than $1000]; Ord. No. 15-24/25, 1/21/25 [Fiscal Note: Less than $1000]; Ord. No. 15-25/26, 1/20/2026 [Fiscal Note: Less than $1000]; Ord. No. 25-25/26, 6/2/2026 [Fiscal Note: Less than $1000])

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.

West End Residential District WR.

Residential Corridor District RC

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.

Main Street Community Commercial District MSCC.

Village Extension District VE.

Broadway Corridor District BC.

Mill Creek Core District MCC.

West End Neighborhood Center WNC.

Western Avenue Commercial Corridor WACC.

Meetinghouse Hill Community Commercial District MHCC.

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.

Conditional Residential Use District G-4.

Conditional Residential and Limited Commercial Use District G-5.

Conditional Residential Use District G-6.

Conditional Residential Use District G-7.

O'Neil Street Park Contract Zone District (O'NEIL).

Conditional and Other Special Use Districts:

Conditional School District 1 SCH-1.

Park District P.

Open Space District OS.

Mixed Use, Commercial and Industrial Conditional/Contract Zones:

- Conditional Armory Zone CAZ.
- Conditional Non-Residential Industrial Municipal Solid Waste Transfer District INR-MSW-1.
- Conditional Non-Residential Industrial ecomaine Disposal Facility District 1 INR-EDF-1.
- Conditional Main Street Commercial Residential District MSCR.

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.

(Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]; Ord. No. 15-19/20, 2/18/20 [Fiscal Note: Less than $1000]; (Ord. No. 11-21/22, 11/9/2021 [Fiscal Note: Less than $1000]; Ord. No.

13-23/24, 2/6/2024 [Fiscal Note: Less than $1000]; Ord. No. 3-25/26, 7/9/2025 [Fiscal Note: Less than $1000])

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.

Sec. 27-403. Space and Bulk Standards for Zoning Districts.

The space and bulk standards for the City's zoning districts are as set forth in the following tables:

Table 1 – Residential Districts
Table 2.1 – Mixed-Use/Commercial Districts (Part 1 of 2)
Table 2.2 – Mixed Use/Commercial Districts (Part 2 of 2)
Table 3 – Industrial Districts
Table 4.1 – Conditional Districts (Part 1 of 2)
Table 4.2 – Conditional Districts (Part 2 of 2)

Table 1
Space and Bulk Regulations in Residential Districts

Legend:	
N/A	Not applicable or is not proscribed. Building, Fire, or other codes may apply.
HETS	Height equivalent of the taller structure
DU	Dwelling Unit(s)
NRA	Net Residential Acre

	Zoning District							
	RF	**AA**	**A**	**G**	**VR**	**RT**	**WR**	**RC**
Maximum net residential density	1 DU/2 NRA[19]	2 DU/NRA[2, 19]	4 DU/NRA[5, 19]	See notes 6 and 19	See notes 8 and 19	Space and bulk standards depend on whether the project is a Permitted or Special Exception land use. See note 12.	N/A	8 DU/ACRE
Minimum lot area	80,000 s.f.	See note 3	See note 3	7,500 s.f.	2,500 s.f.		5,000 s.f.	10,000 s.f.
Minimum lot area per family	80,000 s.f.	Same as min lot area	Same as min lot area	Same as max net residential density	Same as max net residential density		Same as min lot area	N/A
Minimum street frontage	150 feet	75 feet	50 feet	50 feet	25 feet[9]		75 feet	50 feet
Minimum front yard setback	30 feet[15]	20 feet	20 feet[18]	20 feet[18]	5 feet		10 feet	N/A
Maximum front yard setback	N/A	N/A	N/A	N/A	N/A		N/A	5 feet[20]
Minimum side yard setback	10 feet[1, 15]	10 feet[4]	6 feet[4]	6 feet[7]	6 feet[10]		10 feet	5 feet
Minimum rear yard setback	30 feet[1, 15]	25 feet[4]	20 feet[4]	15 feet[7]	15 feet[10]		10 feet	30 feet[21]
Maximum building height	35 feet	35 feet	35 feet	40 feet	40 feet		45 ft. or 60 ft.[17]	40 feet
Maximum building coverage	25%	N/A	25%	33%	33%[11]		50%	50%
Maximum lot coverage	N/A	N/A	N/A	N/A	N/A		N/A	80%
Minimum distance between principal buildings on same lot	N/A	HETS	HETS	N/A	HETS		N/A	N/A
Minimum landscaped area	N/A	N/A	N/A	N/A	N/A		30%	20%
Front entrance location	N/A	N/A	N/A	N/A	See note 14		N/A	N/A
Maximum height of telecommunication towers	150 feet[13]	N/A	N/A	N/A	N/A		N/A	N/A

Notes:

1. Except that buildings higher than thirty (30) feet shall have side and rear yards not less than fifty (50) percent of building height.
2. When public sewers are not present, for cluster developments and subdivisions only.
3. The minimum lot area depends on the neighborhood in which the parcel is located, which neighborhoods are shown on the Official Zoning Map of the City of South Portland. The following table contains the minimum lot area for each neighborhood wholly or partially zoned the Residential AA District or Residential A District:

Table 1
Space and Bulk Regulations in Residential Districts

Legend:	
N/A	Not applicable or is not proscribed. Building, Fire, or other codes may apply.
HETS	Height equivalent of the taller structure
DU	Dwelling Unit(s)
NRA	Net Residential Acre

Zoning District							
RF	AA	A	G	VR	RT	WR	RC

Neighborhood	Minimum Lot Area (s.f.) Residential AA District	Minimum Lot Area (s.f.) Residential A District
Cash Corner	N/A	8,000
Country Gardens	N/A	12,500
Highland	20,000	12,500
Knightville	N/A	7,500
Ligonia	N/A	6,500
Loveitt's Field	8,500	N/A
Meadowbrook	N/A	8,500
Meetinghouse Hill	N/A	6,000
Ocean Street	13,500	8,000
Pleasantdale	N/A	6,000
Stanwood Park	20,000	7,000
Sunset Park	N/A	7,000
Thornton Heights	N/A	7,000
Willard	N/A	6,000

4. Except that accessory structures may have side and rear yard setbacks of six (6) feet, and principal buildings higher than thirty (30) feet shall have side and rear yards not less than fifty (50) percent of building height.
5. For cluster developments and subdivisions only.
6. The maximum net residential density depends on the size of the lot. The following table contains the maximum net residential density for lot sizes within the Residential G zoning district:

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 s.f.

Table 1
Space and Bulk Regulations in Residential Districts

Legend:	
N/A	Not applicable or is not proscribed. Building, Fire, or other codes may apply.
HETS	Height equivalent of the taller structure
DU	Dwelling Unit(s)
NRA	Net Residential Acre

Zoning District							
RF	**AA**	**A**	**G**	**VR**	**RT**	**WR**	**RC**

7. Accessory structures may have a rear yard of six (6) feet. Principal buildings higher than thirty (30) feet shall have side and rear yards not less than fifty (50) percent of building height.
8. The maximum net residential density depends on the size of the lot. The following table contains the maximum net residential density for lot sizes within the Village Residential (VR) zoning district:

Lot Size (square feet)	Number of Units
2,500 – 6,855	2
6,856 – 11,211	3
11,212 – 15,567	4
15,568 – 19,923	5
19,924 – 24,279	6
24,280 – 28,635	7
28,636 – 32,991	8
32,992 – 37,347	9
37,348 – 43,560	10
43,561 and over	Lot size divided by 4,356 s.f.

Maximum net residential density for building conversions: an existing building may be modified to include more dwelling units than provided in the maximum net residential density table of this section as follows.

- The applicant shall submit a survey plan prepared by a Maine-licensed surveyor showing how many buildable lots into which the parcel legally could be divided.
- The number of residential units allowed in the modified building shall not exceed the number of residential dwelling units that would be allowed according to the surveyor's plan.
- The building may not be enlarged to increase living space; however, legally created decks and accessory buildings may be added at any time.
- The applicant shall record at the Cumberland County Registry of Deeds a declaration of protective covenants that runs with the land and is enforceable by the City, approved in advance by the Corporation Counsel as to form, to prevent any splitting or subdividing of the parcel in the future unless or until the converted building is demolished or the number of residential units is reduced to meet the limits established in the maximum net residential density table of this section.

9. Except fifty (50) feet for any lots created after January 1, 2019.
10. Except three (3) feet for accessory buildings.
11. Thirty-three (33) percent for principal buildings and forty (40) percent for all buildings added together.
12. Conversions which do not increase the floor area of an existing residence are deemed to be in conformance with this section. Any expansion of an existing structure, or construction or 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. 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.
13. Except that the maximum height shall be one hundred (100) feet is 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 is 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.
14. A principal entrance shall be located on the front façade of the building at the ground floor level. The entrance shall be distinct from, but may be located within, the garage door and shall be set back, if at all, no more than 10 feet from the front most wall of the building.
15. All yard setbacks for telecommunication towers shall be a minimum of 100% of tower height.

Table 1
Space and Bulk Regulations in Residential Districts

Legend:	
N/A	Not applicable or is not proscribed. Building, Fire, or other codes may apply.
HETS	Height equivalent of the taller structure
DU	Dwelling Unit(s)
NRA	Net Residential Acre

Zoning District							
RF	AA	A	G	VR	RT	WR	RC

16. [RESERVED]
17. Maximum building height: Residential: Forty Five (45) feet; Non Residential and mixed-use: Sixty (60) feet.
18. For corner or double frontage lots, each yard that abuts a way shall conform to the front yard space and bulk regulations, or as follows:
    a. Any one property boundary along a way may be designated by the property owner as a Primary Front Yard. To be eligible for a Primary Front Yard designation, the property must be a corner or double frontage lot that is undeveloped, under construction for a residential land use, or has an existing residential land use as of June 1, 2023. Properties that are under construction for a non-residential land use or contain an existing non-residential land use as of June 1, 2023 are not eligible to designate a Primary Front Yard and shall comply with the Front Yard setback requirements along all property boundaries that abut a way. If a Primary Front Yard is designated, all other property boundaries along a way shall be Secondary Front Yards.
    b. To designate a Primary Front Yard, the property owner shall submit a designation proposal, in writing, to the Code Enforcement Officer for review, or include the proposed designation in an application to the Planning Board when the designation is sought as part of a project that is subject to Planning Board review and approval. If the proposal is consistent with this Section, the Code Enforcement Officer, or the Planning Board, as applicable, will approve the Primary Front Yard and Secondary Front Yard designations in writing. The property owner shall record a Certificate of Front Yard Designation, in a form acceptable to the Corporation Counsel, in the Cumberland County Registry of Deeds within ninety (90) days of the approval or the Primary Front Yard designation is void.
    c. A request to designate a new Primary Front Yard or to revise a previously-designated Primary Front Yard shall be denied if the proposed Primary Front Yard or any associated Secondary Front Yard would create a new or an existing nonconformity as determined by the Code Enforcement Officer.
    d. The setback requirement for a designated Primary Front Yard shall be the front yard setback in the applicable zoning district.
    e. The setback requirement for a Secondary Front Yard shall be the greater of (i) the median front yard setback of properties located within 300 feet along the way associated with the Secondary Front Yard when there are at least three properties where the measurement can be taken; or (ii) the side yard setback of the applicable zoning district. In all cases, the minimum setback shall ensure that the corner clearance requirements of Sec. 27-1519 are met.
    f. The setback requirements from property boundaries on a corner or double frontage lot that are not Primary or Secondary Front Yards shall conform to the side yard setbacks for the applicable zoning district.
    g. When a Primary Front Yard is designated, the rear yard area shall be defined as the area between the rear line of the building opposite the Primary Front Yard property boundary and the property boundaries opposite the Primary Front Yard property boundary. Regardless of the location of the rear yard, a rear yard setback does not apply to corner or double frontage lot.
    h. Property addressing shall be determined by the City's E-9-1-1 addressing officer.
19. Maximum net residential density is not applicable to Mobile Home Parks pursuant to 30-A M.R.S. § 4358. Refer to Performance Standards for Manufactured Housing and Mobile Home Parks in Section 27-1520 for minimum lot size requirements in Mobile Home Parks.
20. Maximum front setback requirements do not apply to renovations to existing structures unless the structure is demolished and the foundation is removed or relocated.
21. No impervious area, including for parking or vehicle access purposes, is permitted in the rear yard.

(Ord. No. 39-22/23, 5/16/2023 [Fiscal Note: Less than $1000]; Ord. No. 7-23/24, 11/14/2023 [Fiscal Note: Less than $1000; Ord. No. 23-23/24, 3/7/2024 [Fiscal Note: Less than $1000]; Ord. No. 16-24/25, 02/04/2025 [Fiscal Note: Less than $1,000]; Ord. No. 15-25/26, 1/20/2026 [Fiscal Note: Less than $1000]; Ord. No. 25-25/26, 6/2/2026 [Fiscal Note: Less than $1000])

Editor's Note: Ord. No. 16-24/25, adopted by the City Council on February 4, 2025, erroneously numbered footnotes 20 and 21 as footnotes 19 and 20. The Editor has renumbered these to 20 and 21 and updated the RC column at the beginning of the table accordingly.

Table 2.1 Space and Bulk Regulations in Mixed-Use/ Commercial Districts

Legend:	
N/A	Not applicable or is not proscribed. Building, Fire, or other codes not within the Zoning Ordinance may apply.
HETS	Height equivalent of the taller structure
DU	Dwelling Unit(s)
NRA	Net Residential Acre

	Zoning District								
	LB[1]	SP		CS	CG	PO	CCRT	CCR	C
		Nonresidential	Residential						
Maximum net residential density	See note 1	N/A	17 DU/NRA	N/A	N/A	10 DU/NRA	N/A	N/A	17 DU/NRA[24]
Minimum lot area	5,000 s.f.[1]	30,000 s.f.	7,500 s.f.	30,000 s.f.	30,000 s.f.	2 acres	20,000 s.f.	20,000 s.f.	10,000 s.f.[24]
Minimum lot area per dwelling unit	See Note 1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A[24]
Minimum street frontage	25 feet[1]	100 feet	75 feet	100 feet	100 feet	150 feet	75 feet	75 feet	25 feet[24]
Minimum front yard setback	15 feet[1,2]	20 feet[5]	20 feet	40 feet[8, 29]	50 feet[13, 29]	50 feet[17, 29]	50 feet[19, 29]	50 feet[19, 29]	15 feet[5, 24,31]
Minimum side yard setback	0 feet[1,3]	20 feet[5]	15 feet[7]	30 feet[9, 29]	20 feet[14, 29]	30 feet[16, 29]	20 feet[20, 29]	20 feet[21, 29]	None[5, 24, 25,31]
Minimum rear yard setback	0 feet[1, 3, 29]	20 feet[5]	15 feet[7]	25 feet[10, 29]	20 feet[14, 29]	25 feet[17, 29]	20 feet[20, 29]	20 feet[20, 29]	None[5, 24, 25]
Maximum building height	35 feet[1,27]	86 feet[4]		86 feet	90 feet	90 feet	90 feet	90 feet	45 feet[24, 26]
Maximum building coverage	None[1]	40%	33%	30%	30% or 40%[15]	30%	30%[28]	30%[22]	N/A[24]
Maximum lot coverage	N/A[1]	N/A		N/A	N/A	N/A	N/A	N/A	N/A[24]
Minimum distance between principal buildings on same lot	N/A[1]	N/A	HETS	N/A[11]	N/A	N/A	N/A	N/A	N/A[24]
Other Building Separation	N/A[1]	N/A		See note 11	N/A	N/A	N/A	N/A	N/A
Minimum natural or landscaped open space	N/A[1]	N/A		30% of gross lot area	20% of gross lot area	30% of gross lot area[18]	30% of gross lot area[28]	20% of gross lot area[23]	N/A[24]
Maximum height of Telecommunication towers	See Section 27-703	150 feet[6]	N/A	200 feet[12]	200 feet[12]	200 feet[12]	200 feet[12]	200 feet[12]	150 feet[6]

Notes:

1. This table lists the space and bulk regulations for non-residential uses in the Limited Business (LB) zone. 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.
2. For any lot fronted on all sides by public streets, the portion of the lot adjacent to the street with the highest roadway classification (e.g. arterial, collector, local) shall be designated as the front of the lot, and the other frontages shall become the sides and rear of the lot accordingly.
3. 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; provided, however, that this exception as relates to side yards shall not apply to any lot fronted on all sides by public streets. Additionally, buildings higher than thirty (30) feet shall have side and rear yards not less than fifty (50) percent of building height.
4. 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.
5. All setbacks for telecommunication towers shall be a minimum of 100% of the tower height.
6. 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.

Table 2.1
Space and Bulk Regulations in Mixed-Use/ Commercial Districts

Legend:

N/A	Not applicable or is not proscribed. Building, Fire, or other codes not within the Zoning Ordinance may apply.
HETS	Height equivalent of the taller structure
DU	Dwelling Unit(s)
NRA	Net Residential Acre

Zoning District								
LB[1]	SP		CS	CG	PO	CCRT	CCR	C
	Nonresidential	Residential						

7. Except that principal buildings higher than thirty (30) feet shall have side and rear yards not less than fifty (50) percent of building height. The minimum side and rear yard setbacks for accessory buildings are six (6) feet.
8. 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.
9. Or fifty (50) percent of 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.
10. Or fifty (50) percent of building height, whichever is greater, provided that the rear yard setback shall be landscaped, remain unpaved, and not be used for off-street parking.
11. Except that for buildings sixty (60) feet or taller from an building on an abutting lot which contains a residential dwelling unit in existence since January 1, 2017, the minimum distance between buildings shall be one hundred (100) feet.
12. 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.
13. 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.
14. 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.
15. 40% lot coverage shall apply to permitted uses; 30% lot coverage shall apply to special exception uses.
16. Provided that there shall be no pavement or off-street parking in the fifteen (15) feet closest to the lot line.
17. Provided that the total of the front and rear yard setbacks shall not be less than 100 feet; and provided further than neither the front or rear yard setback shall be paved or otherwise used for off-street parking.
18. Provided, however, any large open tracts of land used for either combined residential and recreational facilities or recreational facilities allowed within this zone shall not be counted in determining compliance with this standard.
19. 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.
20. The side and rear yard setbacks shall be 20 feet or 50 percent of the building height, whichever is greater, and the buffering requirements of this Chapter shall be met.
21. The side yard setback shall be: (a) 20 feet or 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.

Table 2.1
Space and Bulk Regulations in Mixed-Use/ Commercial Districts

Legend:

N/A	Not applicable or is not proscribed. Building, Fire, or other codes not within the Zoning Ordinance may apply.
HETS	Height equivalent of the taller structure
DU	Dwelling Unit(s)
NRA	Net Residential Acre

Zoning District								
LB[1]	SP		CS	CG	PO	CCRT	CCR	C
	Nonresidential	Residential						

22. 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.
23. 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.
24. The space and bulk requirements for permitted residential uses shall be those of the Residential G district except that the maximum allowable density shall be seventeen (17) dwelling units per net residential acre.
25. 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.
26. Except for petroleum storage tanks which shall have a maximum height of sixty (60) feet.
27. Except buildings higher than thirty (30) feet shall have side and rear yards not less than fifty (50) per cent of building height.
28. In the event of an exercise of eminent domain by a governmental authority that causes a lot to no longer be in compliance with the maximum building coverage and minimum landscaped open space provisions herein, the lot shall be treated as conforming with regard to those requirements provided that (i) the maximum building coverage and minimum landscaped open space provisions were met at the time immediately prior to the date of the taking; and (ii) the building coverage is not further increased on the lot and the landscaped open space is not further reduced on the lot following the date of the taking.
29. The setbacks for telecommunication towers shall be a minimum of 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
30. Vegetated (or green) roofs may be counted toward meeting the landscaped open space requirement if the vegetated (or green) roof provides a vegetation growing medium with a depth of at least 6 inches, and the cumulative area of the proposed vegetated (or green) roof on a structure is at least 500 square feet.
31. Except that the minimum front and side yard setback for a municipally-owned public utility facility on parcels within areas of special flood hazard shall be zero (0) feet.

Table 2.2
Space and Bulk Regulations in Mixed-Use/Commercial Districts

Legend:	
N/A	Not applicable or is not proscribed. Building, Fire, or other codes not within the Zoning Ordinance may apply.
HETS	Height equivalent of the taller structure
DU	Dwelling Unit(s)
NRA	Net Residential Acre

	Zoning District								
	VC	**VCW**	**MSCC**	**VE**	**BC**	**MCC Basic Standards (see note 36)**	**WNC**	**WACC**	**MHCC**
Maximum net residential density	Greater of 24 DU/NRA or 8 DU	13 DU/NRA	24 DU/NRA	N/A	N/A	N/A[36]	N/A	N/A	24 DU/NRA
Minimum lot area	2,500 s.f.	3,500 s.f.	3,500 s.f.	N/A	N/A	N/A[36]	N/A	10,000 s.f.	3,500 s.f.
Minimum street frontage	25 feet	25 feet	25 feet	N/A	N/A	N/A[36]	50 feet	75 feet	25 feet
Minimum front yard setback	0 feet[1]	5 feet[6]	5 feet[10]	0 feet[14]	10 feet	0 feet[24,36]	0 feet[31]	30 feet	5 feet[34]
Maximum front yard setback	N/A	N/A	15 feet	10 feet[15]	20 feet[21]	See note 36	20 feet[32]	N/A	15 feet
Minimum side yard setback	N/A[2]	6 feet[7]	0 feet[11]	0 feet[16]	0 feet[22]	0 feet[25,36]	10 feet	15 feet	0 feet[35]
Minimum rear yard setback	N/A[2]	6 feet[7]	20 feet[11]	0 feet[17]	0 feet	0 feet[26,36]	10 feet	30 feet	20 feet[35]
Maximum building height	The lesser of 50 feet or 4 habitable stories[3]	40 feet	The lesser of 50 feet or 3 habitable stories	The lesser of 60 feet or 5 habitable stories[12]	The lesser of 50 feet or 4 habitable stories[20]	75 feet [27,36]	70 feet	60 feet	The lesser of 35 feet or 3 habitable stories
Minimum building height	24 feet or 2 habitable stories[37]	24 feet[8]	24 feet[9]	The greater of 30 feet or 3 habitable stories[13]	The greater of 20 feet or 2 habitable stories[19]	See note 36	N/A	N/A	24 feet[33]
Maximum building coverage	N/A	N/A	N/A	N/A	N/A	80%[36]	80%	70%	N/A
Maximum lot coverage	N/A	N/A	80%	80%	80%	N/A[36]	N/A	N/A	80%
Minimum natural or landscaped open space	N/A	N/A	N/A	N/A	N/A	N/A[36]	15%	15%	N/A
Minimum utilization of primary frontage	80%[4]	N/A	N/A	80%[18]	N/A	See note 36	N/A	N/A	N/A
Maximum area of building footprint	10,500 s.f.[5]	N/A	N/A	N/A	N/A	N/A[36]	N/A	N/A	N/A

Notes:

1. For construction after December 27, 1998 of new buildings on lots with frontage on Ocean 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.
2. Except where the side and/or rear yard abuts the Village Residential zoning district in which case it shall be a minimum of six (6) feet for side yards and fifteen (15) feet for rear yards. Accessory buildings shall have minimum side and rear yards of 3 feet.
3. Except the lesser of forty (40) feet or 3 habitable stories for any portion of a building within fifty (50) feet of the Village Residential zoning district. Maximum height shall include any elevators or stairway enclosures that are used to access the rooftop level, but shall not include any elevator equipment or enclosures necessary to access the topmost interior floor.
4. A building or buildings with frontage on Ocean Street shall occupy at least eighty percent (80%) of that frontage unless to do so would prohibit safe vehicular ingress and egress to the lot, in which case the eighty percent (80%) requirement shall be reduced only so much as necessary to allow safe vehicular ingress and egress to the lot.
5. The total building footprint area of new buildings or additions constructed after January 1, 2019, when added to the total footprint area of any building(s) on the lot as of January 1, 2019, shall not exceed 10,500 sq. ft.
6. 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.
7. 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.
8. Applies only to buildings constructed after June 1, 2006.
9. Applies only to buildings constructed after April 1, 2014.
10. 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.
11. 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.
12. Not including floors devoted primarily to parking, except forty-five (45) feet or four (4) habitable stories for a building on a lot with frontage on Broadway. Notwithstanding this limit, the portion of any building located within fifty (50) feet of the E Street property line shall be limited to a maximum of the lesser of (i) forty (40) feet or (ii) three (3) habitable stories, not including floors devoted primarily to parking.
13. Except twenty (20) feet or two (2) habitable for a building on a lot with frontage on Broadway. This requirement only applies to buildings constructed after August 1, 2016.
14. Except 15 feet from a property line abutting Broadway.
15. Except twenty (20) feet from a property line abutting Broadway. In all cases, up to forty percent (40%) of the width of the front façade of the building may be set back further than the maximum setback (i.e., further away from the front property line) if the space between the front wall of this portion of the building and the front property line is used as pedestrian space or for customer related outdoor service activities such as seating for a restaurant.
16. Except fifteen (15) feet where the side yard abuts a residential zoning district or a property in exclusive use for residential purposes as of the date of adoption of the Village Extension District, November 7, 2016.
17. Except the greater of fifteen (15) feet or fifty percent (50%) of the building height where the rear yard abuts a residential zoning district or a property in exclusive use for residential purposes as of the date of adoption of the Village Extension District, November 7, 2016.
18. A building or buildings shall fill at least eighty percent (80%) of the primary street frontage except along a property line abutting Broadway, unless to do so would prohibit safe vehicular access to the lot, in which case the 80% requirement may be reduced only so much as to allow safe vehicular access.
19. For buildings constructed after August 1, 2016.
20. Not including floors devoted primarily to parking.
21. Except that up to forty percent (40%) of the width of the front façade of the building may be set back further than the maximum setback (i.e., further away from the front property line) if the space between the front wall of this portion of the building and the front property line is used as pedestrian space or for customer related outdoor service activities such as seating for a restaurant.
22. Except 15 feet where the side yard abuts a residential zoning district.
23. [RESERVED]
24. Except 15 feet from any property line abutting E Street.

25. Except fifteen (15) feet where the side yard abuts a residential zoning district or a property in exclusive use for residential purposes as of the date of adoption of the Mill Creek Core District, November 7, 2016.
26. Except the greater of fifteen (15) feet or fifty percent (50%) of the building height where the rear yard abuts a residential zoning district or a property in exclusive use for residential purposes as of the date of adoption of the Mill Creek Core District, November 7, 2016.
27. Notwithstanding this limit, the portion of any building located within fifty (50) feet of the E Street property line shall be limited to a maximum of the lesser of (i) forty (40) feet or (ii) three (3) habitable stories, not including floors devoted primarily to parking.
28. A building or buildings shall fill at least sixty percent (60%)of the primary street frontage. The Planning Board may reduce this requirement if the width of the primary frontage would prohibit vehicular access to the lot without the necessity of a variance from the Board of Appeals.
29. Except that up to forty percent (40%) of the width of the front façade of the building may be set back further than the maximum setback (i.e., further away from the front property line) if the space between the front wall of this portion of the building and the front property line is used as pedestrian space or for customer related outdoor service activities such as seating for a restaurant. Where there is a permanent easement in existence as of August 1, 2016 that prevents a building from being located close to a street, the maximum setback shall be measured from the edge of the easement area.
30. Except the greater if twenty (20) feet or two (2) habitable stories for the portion of any building located within seventy-five (75) feet of the E Street property line.
31. Except 5 feet from a property line abutting Wermuth Road.
32. Except that up to 40% of the width of the front façade of the building may be set back further than the maximum setback (i.e., further away from the front property line) if the space between the front wall of this portion of the building and the front of the property line is used as pedestrian space or for customer related outdoor service activities such as seating for a restaurant.
33. For building constructed after April 1, 2017.
34. Provided that for construction of new structures after April 1, 2017, and further limited to front yards defined by Cottage Road, 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.
35. 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 building height exceeds thirty (30) feet, the applicable setback shall be a minimum of 50%of the building height. Detached accessory structures shall be subject to a side and rear setback of 6 feet.
36. All development and use of property in the MCC District shall conform to the standards in this table, and this includes projects regulated under the Planned Development Standards of 27-834(c). The Basic Development Standards of 27-834(b) shall also apply unless the property owner voluntarily elects to be regulated under the Planned Development provisions of 27-834(c) rather than Basic Development Standards of 27-834(b)
37. Applies only to buildings constructed after January 27, 2002.

Table 3
Space and Bulk Regulations in Industrial Districts

Legend:	
N/A	Not applicable or is not proscribed. Building, Fire, or other codes may apply.
HETS	Height equivalent of the taller structure
DU	Dwelling Unit(s)
NRA	Net Residential Acre

	Zoning District				
	IL	S	I		INR
			Residential	Nonresidential	
Maximum net residential density	N/A	N/A	17 DU/NRA	N/A	N/A
Minimum lot area	30,000 s.f.	30,000 s.f.	7,500 s.f.	30,000 s.f.	30,000 s.f.
Minimum lot area per dwelling unit	N/A	N/A	N/A	N/A	N/A
Minimum street frontage	100 feet	25 feet	75 feet	100 feet	100 feet
Minimum front yard setback	20 feet[1, 4]	20 feet[6, 11]	20 feet	20 feet[11]	20 feet[4, 13, 14]
Minimum side yard setback	20 feet[2, 4]	20 feet[6, 11]	15 feet[9]	20 feet[11]	20 feet[4, 13]
Minimum rear yard setback	20 feet[2, 4]	20 feet[6, 11]	15 feet[9]	20 feet[11]	20 feet[4, 13]
Maximum building height	45 feet[3]	86 feet[7]	86 feet	86 feet[7]	86 feet[7, 12]
Maximum building coverage	30%	65%	33%	40%	40%
Maximum lot coverage	N/A	N/A	N/A	N/A	N/A
Minimum distance between principal buildings on same lot	N/A	N/A	HETS	N/A	N/A
Minimum natural or landscaped open space	25% of gross lot area	N/A	N/A		N/A
Maximum height of telecommunication towers	200 feet[5]	150 feet[8]	N/A	150 feet[8]	200 feet[5]

Notes:

1. 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.
2. The yard setback shall be 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.
3. 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 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.
4. Except that for telecommunication towers located within 100 feet of residential districts A, AA, or G, the yard setbacks shall be a minimum of 100% of the tower height.
5. Except that the maximum height shall be 100 feet if the tower is located within 500 feet of residential districts A, AA or G.
6. 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.
7. 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.
8. Except that the minimum height shall be 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.
9. Except that principal buildings higher than 30 feet shall have side and rear yards not less than 50% of building height. Additionally, accessory buildings may have side and rear setbacks of 6 feet.
10. Minimum of 100% of tower height from any property boundary; two hundred (200) feet from any residential zoning district.
11. For telecommunication towers, all yard setbacks shall be a minimum of 100% of tower height.
12. Meteorological tower, maximum height: One hundred twenty (120) feet.
13. Meteorological tower, yard setbacks: Minimum of 100% of tower height from any property boundary; two hundred (200) feet from any residential zoning district.
14. See also Sec. 27-970.Standards for automobile graveyards, automobile recycling businesses and junkyards in the INR District for additional use-specific setbacks.

Table 4.1
Space and Bulk Regulations in Conditional Zones

Legend:	
N/A	Not applicable or is not proscribed. Building, Fire, or other codes not within the Zoning Ordinance may apply.
HETS	Height equivalent of the taller structure
DU	Dwelling Unit(s)
NRA	Net Residential Acre

	Zoning District										
							G-5				
	A-1	S-1	G-1	G-2	G-3	G-4	Mixed Use[18]	Single Family Residential[19]	G-6	G-7	O'NEIL[13]
Maximum net residential density	4 DU/NRA	N/A	17 DU/NRA	N/A	10 DU/NRA[7]	N/A	N/A		N/A	N/A	Refer To Contract Zone Agreement
Maximum residential density	N/A	40 DU/acre	N/A	14.84 DU/acre	N/A	N/A	N/A		N/A	17 DU/acre	
Maximum Dwelling Units	N/A	N/A	102 units	N/A	335 units	19 units	45 units		8 units	N/A	
Maximum area of non-residential development	N/A	N/A	N/A	N/A	15 acres[17]	N/A	N/A		N/A	N/A	
Minimum lot area	12,500 s.f.	N/A	1 acre	N/A	7,500 s.f.	1 acre	5,000 s.f.		5,000 s.f.	7,500 s.f.	
Minimum area per family	N/A	N/A	N/A	N/A	N/A	N/A	N/A		N/A	N/A	
Minimum street frontage	75 feet	25 feet	75 feet	75 feet	75 feet	75 feet	25 feet	50 feet	50 feet	75 feet	
Minimum front yard setback	20 feet	20 feet	20 feet	20 feet	10 feet	10 feet	3 feet[11]	20 feet	10 feet	N/A	
Maximum front yard setback	N/A	N/A	N/A	N/A	N/A	N/A	15 feet	N/A	N/A	N/A	
Minimum side yard setback	6 feet[12]	10 feet	15 feet[3]	15 feet	10 feet[12]	15 feet[10,12]	0 feet	6 feet[1,12]	6 feet[12]	15 feet[12]	
Minimum rear yard setback	20 feet[12]	10 feet	20 feet[3]	15 feet	10 feet[12]	15 feet[10,12]	0 feet	20 feet[1,12]	10 feet[12]	15 feet[12]	
Other setbacks	N/A	N/A	See note 15	N/A	See note 16	N/A	N/A	N/A	N/A	N/A	
Maximum building height	35 feet	86 feet[2]	45 feet[5]	30 feet[6]	45ft or 60ft[8]	50 feet	50 feet	35 feet	35 feet	50 feet	
Maximum number of stories	N/A	N/A	N/A	N/A	N/A	N/A	4 stories	N/A	N/A	N/A	
Minimum building height	N/A	N/A	N/A	N/A	N/A	N/A	24 feet	N/A	N/A	N/A	
Maximum building coverage	25%	40%	33%	N/A	N/A	N/A	45%	25%	25%	50%	
Maximum lot coverage	N/A	N/A	N/A	N/A	N/A	N/A	N/A		N/A	N/A	
Minimum distance between principal buildings on same lot	HETS	N/A	HETS	HETS	See note 9	N/A	N/A		HETS	N/A	
Minimum natural or landscaped open space	N/A	N/A	N/A	N/A	33% of NRA	30% of Gross Lot Area	N/A		N/A	N/A	
Maximum area of building footprint	N/A	N/A	See note 4	N/A	N/A	N/A	N/A		N/A	N/A	

Notes:

1. Structures higher than 30 feet shall have side and rear yards not less than 50% of the building height.
2. Measured at the building on the southeasterly side of the property.
3. Structures higher than 30 feet shall have side and rear yards not less than 50% of the building height. A minimum sixty (60) foot structure setback from the stream channel is required for all structures adjacent to Gambler's Arm Brook. The following are exempt from this requirement: (a) detention ponds; (b) stormwater treatment facilities; (c) walking or jogging paths or recreation areas.
4. 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.
5. Maximum building height for special exception uses as identified in Sec. 27-1034(a), (b), and(c): Thirty-five (35) feet; pitched roof required.
6. As measured at the building end of the northern side of the site.
7. Notwithstanding the phased development of the site, net residential density shall be based upon the total site area, less required deductions as outlined in Sec. 27-201.
8. Residential structures shall have a maximum height of 45 feet. Non-residential buildings shall have a maximum height of 60 feet.
9. The minimum distance for residential structures is 15 feet, non-residential structures is equivalent to the height of the taller building.
10. Principal buildings higher than 30 feet shall have side and rear yards not less than 50% of the building height.
11. Provided that 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.
12. Accessory structures side and rear setback: six (6) feet.
13. The property located in this zoning district is subject to the Contract Zone Agreement between the City and Meeting House Hill Park LLC, a copy of which is attached to this ordinance as Appendix A, Appendix B, and Appendix C incorporated herein by reference.
14. Notwithstanding any other provision of this Chapter to the contrary, the vertical measurement from the finished floor elevation (top of the foundation wall or slab-on-grade) at any one location to the highest point of the building at that same location shall not exceed the following measurements (except that utility structures such as chimneys, TV antennae and HVAC systems shall not be included in this measurement, nor shall any construction whose sole function is to house or conceal such structures):

Building Location	Maximum Vertical
Building located at least 75' but less than 200' from the front property line	35 feet
Building located at least 200' from the front property line	60 feet
Building located at least 30' from the side property line for side yards abutting non-residential uses	60 feet
Building located at least 75' but less than 350' from the side property line for side yards abutting residential uses	35 feet
Building located at least 350' from the side property line for side yards abutting residential uses	60 feet
Building located at least 75' but less than 200' from the rear property line	35 feet
Building located at least 200' from the rear property line	60 feet

15. The minimum setback from lots on Highland Avenue shall be seventy-five (75) feet
16. 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.
17. Including building coverage, parking and landscaping.
18. These standards apply to uses in the area identified as the "Mixed Use Development Area" on Exhibit A of the Conditional Residential & Limited Commercial Use District G-5
19. These standards apply to uses in the area identified as the "Single Family Residential Lot Area" on Exhibit A of the Conditional Residential & Limited Commercial Use District G-5.

Table 4.2
Space and Bulk Regulations in Conditional Zones

Legend:

N/A	Not applicable or is not proscribed. Building, Fire, or other codes not within the Zoning Ordinance may apply.
HETS	Height equivalent of the taller structure
DU	Dwelling Unit(s)
NRA	Net Residential Acre

	Zoning District							
	SCH-1	**CAZ**	**INR-MSW-1**	**INR-EDF-1**	**CKZ**	**P**	**OS**	**MSCR**
Maximum net residential density	4 DU/NRA[1]	N/A	Same as INR District	Same as INR District[8]	N/A	N/A	N/A	15 DU/NRA
Maximum residential density	N/A	N/A			N/A	N/A	N/A	N/A
Maximum Dwelling Units	N/A	N/A			N/A	N/A	N/A	N/A
Maximum area of non-residential development	N/A	N/A			N/A	N/A	N/A	N/A
Minimum lot area	7,000 s.f.	12,500 s.f.			10,000 s.f.[9]	N/A	N/A	30,000 s.f.
Minimum area per family	7,000 s.f.	N/A			N/A	N/A	N/A	N/A
Minimum street frontage	75 feet	75 feet			25 feet	N/A	N/A	25 feet[14]
Minimum front yard setback	75 feet	20 feet			15 feet[12]	5 feet[13]	5 feet	15 feet[14]
Maximum front yard setback	N/A	N/A			N/A	N/A	N/A	N/A
Minimum side yard setback	30 feet or 75 feet[2,3]	15 feet[5,6]	See Note 7		N/A[12]	5 feet[13]	5 feet	15 feet[15]
Minimum rear yard setback	75 feet[2,3]	20 feet[5,6]	Same as INR District		N/A[12]	5 feet[13]	5 feet	15 feet[15]
Other setbacks	N/A	N/A			See note 12	N/A	N/A	N/A
Maximum building height	See note 4	40 feet			45 feet[11]	50 feet	20 feet	95 feet
Maximum number of stories	N/A	N/A			N/A	N/A	N/A	N/A
Minimum building height	N/A	N/A			N/A	N/A	N/A	N/A
Maximum building coverage	25%	25%			N/A	10%	5%	N/A
Maximum lot coverage	N/A	N/A			N/A	N/A	N/A	N/A
Minimum distance between principal buildings on same lot	30 feet	HETS			N/A	HETS	HETS	HETS
Minimum natural or landscaped open space	N/A	N/A			N/A	N/A	N/A	25%
Maximum area of building footprint	N/A	N/A			N/A	N/A	N/A	N/A

Notes:

1. Maximum net residential density for cluster developments and subdivisions: Four (4) dwelling units per net residential acre.
2. Minimum side yards: Thirty (30) feet for side yards abutting non-residential uses. Seventy-five (75) feet for side yards abutting residential uses.
3. Accessory structures side and rear setback: ten (10) feet.
4. Notwithstanding any other provision of this Chapter to the contrary, the vertical measurement from the finished floor elevation (top of the foundation wall or slab-on-grade) at any one location to the highest point of the building at that same location shall not exceed the following measurements (except that utility structures such as chimneys, TV antennae and HVAC systems shall not be included in this measurement, nor shall any construction whose sole function is to house or conceal such structures):

Table 4.2
Space and Bulk Regulations in Conditional Zones

Legend:

N/A	Not applicable or is not proscribed. Building, Fire, or other codes not within the Zoning Ordinance may apply.
HETS	Height equivalent of the taller structure
DU	Dwelling Unit(s)
NRA	Net Residential Acre

Zoning District							
SCH-1	CAZ	INR-MSW-1	INR-EDF-1	CKZ	P	OS	MSCR

Building Location	Maximum Vertical
Building located at least 75' but less than 200' from the front property line	35 feet
Building located at least 200' from the front property line	60 feet
Building located at least 30' from the side property line for side yards abutting non-residential uses	60 feet
Building located at least 75' but less than 350' from the side property line for side yards abutting residential uses	35 feet
Building located at least 350' from the side property line for side yards abutting residential uses	60 feet
Building located at least 75' but less than 200' from the rear property line	35 feet
Building located at least 200' from the rear property line	60 feet

5. Structures higher than 30 feet shall have side and rear yards not less than 50% of the building height.
6. Accessory structures side and rear setback: six (6) feet.
7. Side setbacks are as indicated for the INR District, provided, however, that no side setback shall be required for a principal building on a property that meets the following:
   a. the property on which the principal building is located abuts a drainage area that is at least 0.5 acre in area;
   b. the drainage area is at least 40 feet wide throughout the portion of the drainage area that abuts the principal building;
   c. 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;
   d. the zero side setback shall be limited to only one side setback on the property on which the principal building is located;
   e. the side lot line opposite the side lot with the zero side setback shall be subject to double the standard side setback; and
   f. 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.
8. Except as otherwise provided for the construction of temporary free standing buildings in the Conditional INR-EDF-1 District, space and bulk requirements for the Conditional INR-EDF-1 District shall be those of the INR District
9. The space and bulk requirements for permitted residential uses shall be those of the G Residential District.
10. 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.
11. Except the following:
    a. For petroleum storage tanks the maximum height is sixty (60) feet.
    b. For telecommunication towers, the maximum height is 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.
12. Telecommunication towers, all yard setbacks: Minimum 100% of tower height.
13. Buildings higher than thirty (30) feet shall have side and rear yards not less than fifty (50) per cent of building height.
14. The frontage and front setback shall be determined from Main Street.
15. Buildings higher than thirty (30) feet and adjacent to a residential district or conditional residential district shall have side and rear yards not less than fifty (50) percent of building height.

(Ord. No. 13-23/24, 2/6/2024 [Fiscal Note: Less than $1000]; Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000]; Ord. No. 7-24/25, 12/3/2024 [Fiscal Note: Less than $1000])

Sec. 27-404. Land Uses for Zoning Districts.

The permitted and special exception land uses for the City's zoning districts are as set forth in the following tables:

Table A – Residential Districts
Table B.1 – Mixed-Use/Commercial Districts (Part 1 of 2)
Table B.2 – Mixed-Use/Commercial Districts (Part 2 of 2)
Table C – Industrial Districts
Table D.1 – Conditional Districts (Part 1 of 2)
Table D.2 – Conditional Districts (Part 2 of 2)
Table E – Parks and Open Space Districts

Table A
Allowable Land Uses in Residential Districts

P	Permitted Uses
S	Special Exception Uses
*	Use-specific standards apply
P-CS	Special Permitted Uses in the CS Zone
[1]	Notes and details provided per zone by footnote

Land Use	Zoning District								Municipal Code Special Standards
	RF	AA	A	RC	G	VR	RT	WR	
Agriculture and Incidental Uses									
Agriculture	P[18]								
Pre-existing farm		P	P	P	P	P	P		
Controlled-environment agriculture					S[17]	S[17]			
Commercial greenhouse			S[6]				S[6]		
Farmers' market*		S[7]	S[7]		S	S	S[7]	P	§27-1580 et seq.
Community gardens			S						
Utilities									
Telecommunication tower*	S[10]							S	§27-1551 et seq.
Cable TV facilities			P[8]		P[8]	P[8]	P[8]		
Public utility facilities	S	S	S		S	S	S		
Telephone exchange	P[12]								
Medium-scale ground mounted solar*	P	S	S	S	S	S	S		§27-1806 & 1807
Large-scale ground mounted solar*	P	S[3]	S[3]	S[3]	S[3]		S[3]		§27-1806 & 1807
Institutional and Community Facilities									
Governmental offices	S	S	S	S	S	S	S	P	
Fire station / Police station	P	P	P	P	P	P	P		
Cemeteries	P	S	S				S		
Funeral home		S	S		P		S		
Crematory	P								
Educational									
Schools, public	P	P	P	P	P	P	P		
Schools, private	P	P	P	P	P	P	P		
Schools, religious	P	P	P	P	P	P	P		
Child, adult, or combined day care centers	P	P	P	P	P	P	P	P	
Culture and Assembly									
Places of assembly and worship	P	P	P	P	P	P	P	P	
Library	P	P	P	P	P	P	P	P	
Cultural facilities	P	P	P	P	P	P	P	P	
Charitable and philanthropic organizations	S			P	S	S		P	
Residential									
Single-family detached / community homes	P	P	P	P	P	P	P	P	
Two-family	P[15]	P[15]	P[15]	P	P	P	S	P	
Multi-family	P[15]	P[15]	P[15]	P	P	P	S	P	
Accessory Dwelling Units (ADUs)*	P	P	P	P	P	P	P	P	§27-1576 et seq.
Nursing home	S	S[5]	S[5]	P	P[5]		S[5]	S	
Independent living facility	S			P					
Congregate housing/congregate care				P				P	
Congregate housing individual unit owner						S			
Mobile home parks*	S	S	S		S	S		S	§27-1520
Open Space and Recreational									
Commercial indoor recreation								S	
Commercial outdoor recreation, small-scale								S	
Municipal indoor recreation	P	S	S	S	S	S	S	P	
Municipal outdoor recreation	P	S	S	S	S	S	S	P	
Passive recreation facilities	P	P	P	P	P	P	P	P	

Table A
Allowable Land Uses in Residential Districts

P	Permitted Uses
S	Special Exception Uses
*	Use-specific standards apply
P-CS	Special Permitted Uses in the CS Zone
[1]	Notes and details provided per zone by footnote

Land Use	Zoning District								Municipal Code Special Standards
	RF	AA	A	RC	G	VR	RT	WR	
Office									
Home Occupation	P	P	P	P	P	P	P	P	
Professional offices					P	S[9]	P	S[11]	
Financial services					S[1,9]	S[1,9]	P[1]		
Medical									
Hospitals	S								
Medical offices				S[9]	P	S[9]		S	
Services									
Personal services				S[9]	S[9]	S[9]		P	
Retail									
Neighborhood convenience store				S[9]	S[9]	S[9]			
Manufacturing and Industrial									
Extractive industry	S[13]								§27-1546
Other									
Accessory buildings/uses	P	P	P	P	P	P	P	S	
Mobile Vending Units*	P	P	P		P	P	P	P	§14-1049(e)
Stationary Vending Units					P	P			§27-1522
Adaptive Reuse*	S	S	S	S	S	S	S	S	§27-1591 et seq.

Notes:

1. Not inclusive of branch banks.
2. [RESERVED].
3. Large-scale ground-mounted solar energy systems on lots greater than or equal to three (3) acres
4. [RESERVED].
5. Not include mental care facilities.
6. The sale or rental of manufactured or handmade goods must remain clearly subordinate to the raising and sale of plant goods.
7. On City-owned property
8. 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
9. Intended specifically for the convenience and service of residents of the immediate area and located on sites of at least one acre. If such a use is provided on the first level of a three-story residential structure, the one acre requirement does not apply.
10. Monopole tower only.
11. Professional offices and office complexes as a part of mixed use building with a residential component, except that, if the office facility has frontage on Westbrook Street or is a municipal office or office within a housing complex, the residential component is not required.
12. Without service yard or outside storage of materials or supplies.
13. Resource extraction shall not require special exception approval in instances where such removal is clearly and only incidental to the construction of a building for which a building permit has been issued.
14. [RESERVED]
15. Two-family dwelling units and multi-family dwelling units are permitted for the purpose of compliance with 30-A M.R.S. § 4364-A, but are not permitted generally in the zone or for the purpose of 30-A M.R.S. § 4364.
16. [RESERVED]
17. Subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 et seq. and the pesticide restrictions in Chapter 32.
18. Including retail sales of farm produce located on the same premises but exclusive of abattoirs and piggeries.

Table B.1 Allowable Land Uses in Mixed-Use/Commercial Districts		
	P	Permitted Uses
	S	Special Exception Uses
	*	Use-specific standards apply
	P-CS	Special Permitted Uses in the CS Zone (see §27-746 and §27-747)
	[1]	Notes and details provided per zone by footnote

Land Use	Zoning District								Municipal Code Special Standards
	LB	SP	CS[32]	CG	PO	CCRT	CCR	C	
Agriculture and Incidental Uses									
Pre-existing farm	P	P						P	
Controlled environment agriculture	S[20]	S[20]	S[20]	P[20]	P[20]	P[20]	P[20]	S[20]	
Marijuana cultivation facility*				P	P	P	P	S[35]	§27-1902 et. seq.
Medical marijuana cultivation facility*				P	P	P	P	S[35]	§27-1902 et. seq.
Farmers' market*	S	S	S	S		S	S	S	§27-1580 et seq.
Utilities									
Telecommunication tower*	S[36]	S[9]	S	P[21]	S	P	P	S[9]	§27-1551 et seq.
Cable tv facilities	P[22]	P[22]						P[22]	
Public utility facilities	S	S	S	P	S	S	S	S[35]	
Medium-scale ground mounted solar*	S	S	P/P-CS	P	P	P	P	S	§27-1806 & 1807
Large-scale ground mounted solar*	S	S[23]	S	P	S	S	S	S	§27-1806 & 1807
Institutional and Community Facilities									
Governmental offices	P	P	P	P	P	P	P	P	
Fire station / Police station	P	P	P	P	P	P	P	P	
Funeral home	P	P						P	
Residential									
Single-family detached / Community homes	P	P	P-CS					P[31]	
Two-family	P	P	P-CS					P[31]	
Multi-family	P	P	P-CS					P[31]	
ADUs*	P	P	P-CS					P	§27-1576 et seq.
Nursing home	P[8]	P[8]	P-CS					P[8]	
Congregate housing/congregate care			P-CS						
Shelter, large-scale			S	S	S				
Shelter, medium-scale	S		S	S	S				
Educational									
Schools, public	P	P					P	P	
Schools, private	P	P					P	P	
Schools, religious	P	P					P	P	
Educational Services					S	P	P		
Child, adult, or combined daycare centers	P	P	P-CS/ S	P	P	P	P	P	
Culture and Assembly									
Places of assembly and worship	P	P				S[18]	P[18]	P	
Library	P	P						P	
Cultural facilities	P	P				S[18]	P[18]	P[18]	
Charitable and philanthropic organizations	S	P				S	P	P	
Convention center					S				
Open Space and Recreational									
Commercial indoor recreation			P-CS	S	S		P	P	
Commercial outdoor recreation, large-scale					S				
Commercial outdoor recreation, small-scale			P-CS	S	S		S	P[18]	
Municipal indoor recreation	S	P	P-CS	S			S	P	
Municipal outdoor recreation	S	P	P-CS	S			S	P	
Passive recreation facilities	P	P	P	P	P	P	P	P	
Office									

Table B.1
Allowable Land Uses in Mixed-Use/Commercial Districts

P	Permitted Uses
S	Special Exception Uses
*	Use-specific standards apply
P-CS	Special Permitted Uses in the CS Zone (see §27-746 and §27-747)
[1]	Notes and details provided per zone by footnote

Land Use	Zoning District								Municipal Code Special Standards
	LB	SP	CS[32]	CG	PO	CCRT	CCR	C	
Home occupation	P	P						P	
Professional offices	P	P	P/P-CS	P	P	P	P	P	
Business services			P-CS	P		P	P		
Financial services			P/P-CS[4]	S[4]		P[38]	P[38]		
R&D labs and offices			P/P-CS		P				
Marijuana testing facility*				P	P	P	P	P[35]	§27-1902 et. seq.
Medical marijuana testing facility*				P	P	P	P	P[35]	§27-1902 et. seq.
Medical									
Hospitals			P-CS		P[15]				
Medical offices	P	P	P/P-CS		P		P	P	
Services									
Automotive, electronic, and machinery repair services	S[5]			P			S[5]		
Personal and household goods repair	P	P	P/P-CS[3]	S		P	P	P	
Personal services	P	P	P/P-CS	S	S	P	P	P	
Retail									
Neighborhood convenience store	P/S[10]	P	P-CS	P		P	P	P	
Retail Trade	P/S[10]	P[33]	P-CS	P		P[34]	P[34]	P[33]	
Outdoor sales, display and services	S[25]						S[25]	S[25]	
Marijuana store*						P			§27-1902 et. seq.
Medical marijuana store*						P			§27-1902 et. seq.
Marijuana dispensary, without on-site cultivation*						P			§27-1902 et. seq.
Restaurant and Entertainment									
Restaurants	P/S[11]	P	P-CS[6]	P	P[19]	P[19]	P	P	
Clubs		P						P	
Banquet and Event Facility	P/S[11]	P	P-CS	P	S	P	P	P	
Lodging									
Lodging establishment, large-scale	P[24]	P[24]	P-CS[7]	S	S[7]	P	P	P	
Lodging establishment, small-scale	P[24]	P[24]	P-CS[7]	S	S[7]	P	P	P	
Vehicle and Transportation									
Automotive filling stations				P			S[5]	S[5]	
Car washes				P			S[5]	S	
Motor vehicle sales				P			S[17]		
Transportation termini				P				P	
Passenger shuttle service facility							S		
Auto rental facility							S		
Marinas		P						P	
Manufacturing and Industrial									
Cottage industry	S	S						S	
Food manufacturing		S		S				S	
Light industrial		S[3]		S[3]				S[3]	
Marine uses		P/S[12,35]						S[35]	
Marijuana manufacturing facility*				P	P	P	P	S[35]	§27-1902 et. seq.
Medical marijuana manufacturing facility*				P	P	P	P	S[35]	§27-1902 et. seq.
Warehousing / distribution facilities		S		P			P[16]	P	

Table B.1
Allowable Land Uses in Mixed-Use/Commercial Districts

P	Permitted Uses
S	Special Exception Uses
*	Use-specific standards apply
P-CS	Special Permitted Uses in the CS Zone (see §27-746 and §27-747)
[1]	Notes and details provided per zone by footnote

Land Use	Zoning District								Municipal Code Special Standards
	LB	SP	CS[32]	CG	PO	CCRT	CCR	C	
Self-service storage facility				P			P[16]	P	
Wholesale trade				P					
Storing and handling petroleum products		P[30]						P[28,35]	
Extractive industry				S[27]				S	
Other									
Accessory uses	P	P	P/P-CS/ S[1]	P	P	P	P	P	
Mobile Vending Units	P	P	P	P	P	P	P	P	§14-104(e)
Stationary Vending Units	P	P	P	P	P	P	P	P	§27-1522
Adaptive Reuse*	S	S	S	S	S	S	S	S	§27-1591 et seq.

Notes:

1. [RESERVED]
2. [RESERVED]
3. Not inclusive of any prohibited uses identified in Sec. 27-964.
4. Not including branch banks or facilities for drive-through customer transactions.
5. 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.
6. 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.
7. With a minimum of four (4) floors above the ground surface.
8. Exclusive of mental care.
9. Monopole towers only.
10. Permitted use if the use does not include gasoline filling stations and outdoor sales and service; provided such facilities may not be open to the public between the hours of 12:00a.m. and 6:00a.m. If outdoor sales and service is proposed or if extended hours are proposed, the use shall be reviewed as a special exception use. In no case shall the use include gasoline filling stations.
11. Restaurants or Banquet or Event Facilities may be considered permitted use, provided, however, such facilities may not be open between the hours of 1:00 a.m. and 6:00 a.m. If extended hours are proposed, the restaurant or Banquet or Event Facility shall be reviewed as a special exception use.
12. Only when used for permitted or special exception uses of this zoning district.
13. [RESERVED]
14. [RESERVED]
15. Provided that no veterinary office shall include an animal hospital or kennel.
16. Wholesale Trade and Warehousing/Distribution Facilities in the CCR district shall only be permitted on parcels that abut properties within the Light Industrial (IL) Zoning District.
17. In the CCR zone, limited used motor vehicle sales may be allowed as an accessory use to new motor vehicle sales facilities, noting that the Planning Board may impose conditions to further the intent and purpose of this Chapter, including: (a) a limitation on the number and location of new and used cars stored and displayed on the site; (b) a limitation on the maximum percentage of ground area which may be devoted to outdoor sales or display; (c) a requirement that such outdoor sales or display be restricted to a specific portion of the site; (d) a limitation on the hours of operation for, and the number of units included within, such outdoor sales or display; (e) 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 buffer 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.
18. So long as the building is fully enclosed.
19. Excluding drive-throughs.
20. Subject to the design standards in Sec. 27-1572 et seq. and Chapter 32 pesticide restrictions.
21. Site Plan approval by the Planning Board is required.
22. 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

Table B.1 Allowable Land Uses in Mixed-Use/Commercial Districts		
	P	Permitted Uses
	S	Special Exception Uses
	*	Use-specific standards apply
	P-CS	Special Permitted Uses in the CS Zone (see §27-746 and §27-747)
	[1]	Notes and details provided per zone by footnote

Land Use	Zoning District								Municipal Code Special Standards
	LB	SP	CS[32]	CG	PO	CCRT	CCR	C	

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.

23. On lots greater than or equal to three (3) acres.
24. Including a maximum of two (2) dwelling units for resident operators of the lodging establishment.
25. 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.
26. [RESERVED].
27. Provided that a buffer of at least 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.
28. 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. The use does not include automobile filling stations.
29. [RESERVED]
30. Subject to the provisions of Sec. 27-1517; excluding automobile filling stations.
31. Residential uses in located in air space above other 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.
32. Any permitted use (P) shall only be permitted on tracts or parcels of land under five (5) acres in size existing on or before September 21, 1987. Any special permitted use (SP) shall only be permitted if developed per the requirements of Sections 27-746 and 27-747.
33. Exclusive of junkyards and salvaging operations.
34. Not including outdoor sales or display except as an accessory use, and not including new or used motor vehicle sales facilities.
35. The use shall not be located within the following Comprehensive Plan Key Land Use Policy Areas: a) Land Use Designation #1, *Pleasantdale-Buttonwood Community Commercial Hub* Land Use Designation, as shown in Fig. 6.4, Land Use Designations Broadway from Mill Creek to Cash Corner, of the 2012 Comprehensive Plan; b) Land Use Designation #2, *Limited Office-Service* Land Use Designation, as shown in Fig. 6.6, Land Use Designations Main Street Corridor (North End), of the 2012 Comprehensive Plan; c) Land Use Designation #3, *Office-Service* Land Use Designation, as shown in Fig 6.6, Land Use Designations Main Street Corridor (North End), of the 2012 Comprehensive Plan; and d) Land Use Designation #4, *Cash Corner Planned Commercial Mixed-Use* Land Use Designation, as shown in Fig. 6.6, Land Use Designations Main Street Corridor (North End), of the 2012 Comprehensive Plan.
36. 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.
37. [RESERVED]
38. Including branch banks.

Table B.2 Allowable Land Uses in Mixed-Use/Commercial Districts		
	P	Permitted Uses
	S	Special Exception Uses
	*	Use-specific standards apply
	P-CS	Special Permitted Uses in the CS Zone (see §27-746 and §27-747)
	[1]	Notes and details provided per zone by footnote

Land Use	Zoning District									Municipal Code Special Standards
	VC	VCW	MSCC	VE	BC	MCC	WNC	WACC	MHCC	
Agriculture and Incidental Uses										
Pre-existing farm	P	P								
Controlled-environment agriculture	S[12]	S[12]	S[12]	S[12]	S[12]	S[12]	S[12]	S[12]	S[12]	
Farmers' market*	S	S	S				P	S	S	§27-1580 et seq.
Utilities										

Table B.2
Allowable Land Uses in Mixed-Use/Commercial Districts

P	Permitted Uses
S	Special Exception Uses
*	Use-specific standards apply
P-CS	Special Permitted Uses in the CS Zone (see §27-746 and §27-747)
[1]	Notes and details provided per zone by footnote

Land Use	Zoning District									Municipal Code Special Standards
	VC	VCW	MSCC	VE	BC	MCC	WNC	WACC	MHCC	
Telecommunication tower*	S[28]							S		§27-1551 et seq.
Telecommunication antennas			S	S	S	S			S	
Cable TV facilities	P[26]	P[26]								
Public utility facilities	S	S	S	S	S	S		S	S	
Medium-scale ground mounted solar*	S	S	S	S	S	S		S		§27-1806 & 1807
Large-scale ground mounted solar*			S[8]		S	S		S		§27-1806 & 1807
Institutional and Community										
Governmental offices	S	S	P	P	P	P		P	P	
Fire station / Police station	P	P								
Funeral home	P	P	P	P	P	P	S		P	
Residential										
Single-family detached / Community homes	P[1]	P[7]	P[9]	P[34]		P[35]			P[17]	
Two-family	P[1]	P[7]	P	P[34]		P[19,35]	P	P	P	
Multi-family	P[1]	P[7]	P	P[34]		P[19,35]	P	P	P	
ADUs*	P	P	P	P	P	P	P	P	P	§27-1576 et seq.
Nursing home	P[2]	P[2]	P	P		P	P		P	
Assisted living			P	P		P			P	
Congregate housing/congregate care			P	P		P			P	
Congregate housing, individual unit owner			P	P		P			P	
Live/work units	P		P	P	P	P			P	
Artist studios	P	P	P	P	P	P			P	
Shelter, medium-scale			S	S	S	S			S	
Educational										
Schools, public	P	P	P	P	P	P			P	
Schools, private	P	P	P	P	P	P			P	
Schools, religious	P	P	P	P	P	P			P	
Educational services		P						P		
Child, adult, or combined day care centers	P	P	P	P	P	P	P	P	P	
Culture and Assembly										
Places of assembly and worship	P	P	P	P	P	P	P	S	P	
Library	P	P								
Cultural facilities	P	P	P	P	P	P[20]	P	S[42]	P	
Charitable and philanthropic organizations	S	S	P	P	P	P	S	P	P	
Open Space and Recreational										
Commercial indoor recreation			S	S	S	S	P		S	
Commercial outdoor recreation, large-scale										
Commercial outdoor recreation, small-scale			S	S	S	S			S	
Municipal indoor recreation	S	S	S	S	S	S	P	S	S	
Municipal outdoor recreation	S	S	S	S	S	S		S	S	
Passive recreation facilities	P	P	P	P	P	P	P	P	P	
Office										
Home occupation	P	P	P	P	P	P	P	P	P	
Professional offices	P	P	P[37,39]	P	P	P	P	P	P	
Business services			P[37,39]	P	P	P		P	P	
Financial services			P[37,39]				S[22]	P[36]		

Table B.2
Allowable Land Uses in Mixed-Use/Commercial Districts

P	Permitted Uses
S	Special Exception Uses
*	Use-specific standards apply
P-CS	Special Permitted Uses in the CS Zone (see §27-746 and §27-747)
[1]	Notes and details provided per zone by footnote

Land Use	Zoning District									Municipal Code Special Standards
	VC	VCW	MSCC	VE	BC	MCC	WNC	WACC	MHCC	
Marijuana testing facility*			P					P		§27-1902 et. seq.
Medical marijuana testing facility*			P					P		§27-1902 et. seq.
Medical										
Medical offices	P	P	P	P	P	P	P		P	
Services										
Automotive, electronic, and machinery repair services	S		S[13]					S[13]	S[13]	
Personal services	P	P	P	P	P	P	P	P	P	
Personal and household goods repair	P	P	P	P	P	P	P	P	P	
Retail										
Neighborhood convenience store	P/S[3]	P[22,38]					P	P	P[18,22]	
Retail trade	P/S[3]	P[22,38]	P[11,18,37,39]	P[11,18,22]	P[6,18]	P[18,41]	P	P	P[18,22]	
Outdoor sales	S[14]	S[14]	S[14]	S[14]	S[14]	S[14]			S[14]	
Marijuana store*	S		S	S	S	S	S			§27-1902 et. seq.
Medical marijuana store*	S		S	S	S	S	S			§27-1902 et. seq.
Marijuana dispensary*	S[4]		S	S[4]	S[4]					§27-1902 et. seq.
Restaurant and Entertainment										
Movie theaters			S[10]	S[10]	S[16]	S[16]			S[10]	
Restaurants	P/S[5]	P[18,22]	P[22]	P[18,22]	P[6,15]	P/S[21]	P[22]	P[22]/S[37]	P[18,22]	
Banquet and Event Facility	P/S[5]	P[18]	P	P[18]	P[15]	P/S[21]	P	P/S	P[18]	
Lodging										
Lodging establishment, large-scale	P[29]		P[29,30]			P		P		
Lodging establishment, small-scale	P[29]	P[29]	P[29,30]	P[31]	P[31]	P		P	P[31]	
Vehicle and Transportation										
Automotive filling stations								S[23]		
Car washes								S[23]		
Motor vehicle sales								S[13]		
Passenger shuttle service facility								S[24]		
Auto rental facility								S[24]		
Surface parking lots as primary use			S	S	S	S			S	
Multi-storied parking structures			S	S	S	S			S	
Manufacturing and Industrial										
Marijuana manufacturing facility*								S		§27-1902 et. seq.
Medical marijuana manufacturing facility*								S		§27-1902 et. seq.
Light industrial				S[25,33]	S[25,33]	P[27]/ S[25,33]				
Self-service storage facility								S		
Other										
Accessory buildings/uses	P	P[32]	P	P	P	P	P	P	P	
Adaptive Reuse*	S	S	S	S	S	S	S	S	S	§27-1591 et seq.
Mobile Vending Unit	P	P	P	P	P	P	P	P	P	§14-104(e)
Stationary Vending Unit	P	P	P	P	P	P	P	P	P	§27-1522

Notes:

1. 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, except that accessory dwelling units may be established on the ground floor when the accessory dwelling unit is located in the rear yard.
2. Exclusive of mental care.

Table B.2 Allowable Land Uses in Mixed-Use/Commercial Districts		
	P	Permitted Uses
	S	Special Exception Uses
	*	Use-specific standards apply
	P-CS	Special Permitted Uses in the CS Zone (see §27-746 and §27-747)
	[1]	Notes and details provided per zone by footnote

Land Use	Zoning District									Municipal Code Special Standards
	VC	VCW	MSCC	VE	BC	MCC	WNC	WACC	MHCC	

3. Retail stores are considered permitted uses if such facilities are not open to the public between the hours of 12:00 a.m. and 6:00 a.m. If extended hours are proposed, the retail store shall be reviewed as a special exception use.
4. Without on-site medical marijuana cultivation facility.
5. Restaurants or Banquet or Event Facilities may be considered permitted provided, however, such facilities may not be open between the hours of 1:00 a.m. and 6:00 a.m. If extended hours are proposed, the restaurant or Banquet or Event Facility shall be reviewed as a special exception use.
6. Provisions for drive-through services are permitted only if the maximum number of transactions during the AM or PM Peak Hour is less than twenty.
7. 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 VCW 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 does not apply to Accessory Dwelling Units located in the rear yard and 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.
8. Only allowed on lots greater than or equal to three (3) acres.
9. Single-family detached dwellings are only permitted if they were in existence as of April 1, 2014. After this date, the construction of new single-family dwellings is not permitted. Community homes continue to be permitted uses.
10. Theaters not exceeding 12,000 SF in total building floor area.
11. Pawn shops, alternative financial establishments, and outdoor sales and service are expressly prohibited.
12. Subject to the design standards in Sec. 27-1572 et seq. and Chapter 32 pesticide restrictions.
13. 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.
14. Outdoor sales, display and services, other than accessory uses as defined in Sec. 27-201, may be allowed as special exception uses subject, in addition to other ordinance requirements, to the following terms and conditions: (a) The Planning Board may limit the percentage of area coverage; (b) The Planning Board may restrict the outdoor sales, display, and services to a specific portion of the lot in question; (c) The Planning Board may limit the time and/or number of units involved in such outdoor sales, display or service.
15. Provided that such facilities may not be open between the hours of 1:00 a.m. and 6:00 a.m.
16. Theaters not exceeding twenty thousand (20,000) square feet in total building floor area.
17. Single-family detached dwellings are only permitted if they were in existence prior to April 1, 2017. After this date, new single-family detached dwellings are not permitted.
18. Provided that such facilities may not be open to the public between the hours of 12:00AM and 6:00AM.
19. Only allowed on lots for which E Street provides the closest street frontage.
20. Only as part of a Planned Development approved under the standards of Sec. 27-834.
21. Such facilities may not be open between the hours of 1:00 a.m. and 6:00 a.m. If extended hours are proposed, the restaurant or Banquet or Event Facility shall be reviewed as a special exception use and are only allowed as a Planned Development approved under the standards of Sec. 27-834.
22. Excluding drive-through facilities.
23. Provided that gasoline pumps or other service appliances shall not extend nearer than fifty (50) feet to the street line.
24. Provided that the site contain buffers along its street frontage and side yards to provide adequate protection to neighboring properties from detrimental visual features of the use as determined by the Planning Board.
25. Fully enclosed facilities for light manufacturing or assembly activities only as part of a mixed-use building.
26. 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.
27. In fully enclosed facilities as part of a Planned Development approved under the standards of Sec. 27-834.
28. 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.
29. Including a maximum of 2 dwelling units for resident operators of the lodging establishment.
30. 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 unit meets the design standards and all other standards applicable to new buildings in the Main Street Community Commercial zoning district.
31. If the owner or operator maintains a permanent residence on site.
32. Not including telecommunication antennas.
33. Not inclusive of any prohibited uses identified in Sec. 27-964.
34. Located on the upper floors of a mixed-use building; or located on the first floor of a mixed-use building provided that no dwelling unit or portion thereof, except for a live/work unit, is located in the part of the building that is adjacent to the front property line or to a property line abutting Ocean Street, Cottage Road, E Street, or Broadway.
35. Located on the upper floors of a mixed-use building; or located on the first floor of a mixed-use building provided that no dwelling unit or portion thereof, except for a live/work unit, is located in the part of the building that is adjacent to the property line of the street where the primary building entrance is located.

Table B.2 Allowable Land Uses in Mixed-Use/Commercial Districts		
	P	Permitted Uses
	S	Special Exception Uses
	*	Use-specific standards apply
	P-CS	Special Permitted Uses in the CS Zone (see §27-746 and §27-747)
	[1]	Notes and details provided per zone by footnote

Land Use	Zoning District									Municipal Code Special Standards
	VC	VCW	MSCC	VE	BC	MCC	WNC	WACC	MHCC	

36. Including branch banks.
37. Including drive-through facilities.
38. Such stores and establishments may not be open to the public between the hours of 12:00 a.m. and 6:00 a.m.
39. 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.
40. [RESERVED].
41. Provisions for drive-up or drive-through services are permitted in conjunction with a retail or service establishment only as part of a Planned Development approved under the standards of Sec. 27-834.
42. So long as the use is fully enclosed.

Table C Allowable Land Uses in Industrial Districts		
	P	Permitted Uses
	S	Special Exception Uses
	*	Use-specific standards apply
	P-CS	Special Permitted Uses in the CS Zone
	[1]	Notes and details provided per zone by footnote

Land Use	Zoning District				Municipal Code Special Standards
	IL	S	I	INR	
Agriculture and Incidental Uses					
Pre-existing farm			P	P	
Controlled-environment agriculture	P	P	S	P	Sec. 27-1572 et. seq. and *Chapter 32: Pesticides*
Marijuana cultivation facility*	P	P	S	P	Sec. 27-1901 et. seq.
Medical marijuana cultivation facility*	P	P	S	P	Sec. 27-1901 et. seq.
Farmers' market*		S	S	S	Sec. 27-1580 et. seq.
Utility					
Telecommunication tower*	P[18]	S[1]	S[1]	P[18]	Sec. 27-1551 et. seq.
Meteorological tower				P[11]	
Cable tv facilities			P	P	
Public utility facilities	S	P	S	S	
Medium-scale ground mounted solar*	P	P	S	P	Sec. 27-1801 et. seq.
Large-scale ground mounted solar*	S	S	S	P	Sec. 27-1801 et. seq.
Community					
Governmental offices			S	S	
Fire station / Police station	S	S	P	P	
Funeral home			P	P	
Residential					
Single-family detached / Community homes			P		
Two-family			P		
Multi-family			P		
ADUs*			P		Sec. 27-1576 et. seq.
Nursing home			P[7]		
Shelter, large-scale	S				
Shelter, medium-scale	S				
Educational					
Schools, public			P	P	
Schools, private			P	P	
Schools, religious			P	P	
Educational services	P				
Child, adult, or combined day care centers	P		P	P	
Culture and Assembly					
Places of assembly and worship			P	P	
Library			P	P	
Cultural facilities			P	P	
Charitable and philanthropic organizations			P	P	
Recreation					
Commercial indoor recreation	S	S			
Commercial outdoor recreation, large-scale					
Commercial outdoor recreation, small-scale	S	S			
Municipal indoor recreation	S	S	P	P	
Municipal outdoor recreation	S	P	P	P	
Passive recreation facilities	P	P	P	P	

Table C Allowable Land Uses in Industrial Districts		
	P	Permitted Uses
	S	Special Exception Uses
	*	Use-specific standards apply
	P-CS	Special Permitted Uses in the CS Zone
	[1]	Notes and details provided per zone by footnote

Land Use	Zoning District				Municipal Code Special Standards
	IL	S	I	INR	
Office					
Home occupation			P		
Professional offices	P	P	P	P	
Business services	P	P			
Financial services	P[2]	P			
R&D labs and offices	P				
Marijuana testing facility*	P	P	P	P	Sec. 27-1901 et. seq.
Medical marijuana testing facility*	P	P	P	P	Sec. 27-1901 et. seq.
Medical					
Medical offices	P		P	P	
Service					
Automotive, electronic, and machinery repair services	S[20]		S[20]	S[20]	
Personal and household goods repair	P		P	P	
Personal services	P		P	P	
Retail					
Neighborhood convenience store	P		P[8]	P[8]	
Retail Trade	P	S	P[8]	P[8]	
Marijuana or medical marijuana store*			S		Sec. 27-1901 et. seq.
Medical marijuana store*			S		Sec. 27-1901 et. seq.
Marijuana dispensary*			S[14]		Sec. 27-1901 et. seq.
Restaurant and Entertainment					
Restaurants	S[5]	P[6]	P	P	
Clubs			P	P	
Banquet and Event Facility	S[5]	P[6]	P	P	
Lodging					
Lodging establishment, large-scale	P	P	P	P	
Lodging establishment, small-scale	P	P	P	P	
Vehicle and Transportation					
Automotive filling stations			S[9]	S[9]	
Automobile rental facility	S				
Car washes				S	
Transportation termini			P	P	
Marinas			P	P	
Aviation facilities	P[3]				

Table C Allowable Land Uses in Industrial Districts		
	P	Permitted Uses
	S	Special Exception Uses
	*	Use-specific standards apply
	P-CS	Special Permitted Uses in the CS Zone
	[1]	Notes and details provided per zone by footnote

Land Use	Zoning District				Municipal Code Special Standards
	IL	S	I	INR	
Manufacturing and Industrial					
Cottage Industry	P	P	P	P	
Food manufacturing	P	P	P[10]	P[10]	
Light Industrial	P	P	P[10]	P[10]	
Marine uses		P			
Marijuana products manufacturing facility*	P	P	S	P	Sec. 27-1901 et. seq.
Medical marijuana products manufacturing facility*	P	P	S	P	Sec. 27-1901 et. seq.
Warehousing / distribution facilities	S	S	P[10]	P[10]	
Self-service storage facility	P	P	P	P	
Raw-materials manufacturing			P[10]	P[10]	
Wholesale trade	S	S			
Sorting center for construction & demo material				S	
Gas distribution and bottling		P[19]			
Automobile graveyards, recycling, or junkyards				S	Sec. 27-970 et. seq.
Storing and handling petroleum products		P[15]	P[15]	P[15]	
Petroleum storage tank farms		P[16]			
Extractive industry*			S	S	Sec. 27-1546 et. seq.
Other					
Accessory buildings/uses	P	P	P	P	
Mobile Vending Units	P	P	P	P	§14-104(e)
Stationary Vending Units	P	P	P	P	§27-1522
Adaptive Reuse*	S	S	S	S	Sec. 27-1591 et. seq.

Notes:

1. Monopole towers only.
2. Not including branch banks or facilities for drive-through customer transactions.
3. Expressly limited to the following: (a) Administration buildings; (b) Air freight operations; (c) Physical plant service, repair and storage; (d) Charter flight service; (e) Airport carrier operations, including ground support and fueling; (f) Aircraft and aircraft accessory sales services; (g) Flying school; (h) Aircraft hangars; (i) Access spurs; (j) Parking lots associated with aviation facilities; (k) Airport deicing fluid delivery and storage areas; (l) Processing buildings, above and below ground storage tanks, pump stations and other related infrastructure required for spent aircraft deicing fluid recovery and recycling operations; (m) Aircraft taxiways, taxilanes, aprons and lighting; (n) Aircraft runways existing as of April 22, 2009, associated approach lighting, noise abatement measures, safety and communication related improvements and other infrastructure; (o) Airport related stormwater control facilities; (p) 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. Aviation facilities shall also be subject to the following special provisions as to restricted access areas: (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; (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; (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; (4) All construction requires site plan approval; (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.
4. Only allowed when ancillary to and located in a structure housing a permitted use or other special exception use.
5. Only allowed when ancillary to and located in a structure housing a permitted use or other special exception use, and no drive-through service shall be allowed.
6. Provided, however, such facilities may not be open between the hours of 1:00 a.m. and 6:00 a.m.
7. Exclusive of mental care.

Table C Allowable Land Uses in Industrial Districts		
	P	Permitted Uses
	S	Special Exception Uses
	*	Use-specific standards apply
	P-CS	Special Permitted Uses in the CS Zone
	[1]	Notes and details provided per zone by footnote

Land Use	Zoning District				Municipal Code Special Standards
	IL	S	I	INR	

8. Exclusive of junkyards and salvaging operations.
9. 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.
10. 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.
11. Only permitted on property identified by the City of South Portland as Assessor's Map 56, Lot 4D.
12. [RESERVED]
13. Only on closed portions of existing landfill.
14. With or without on-site medical marijuana cultivation facility.
15. 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.
16. Including accessory piers, pumping and distribution facilities as governed by all applicable sections of the Code.
17. [RESERVED]
18. Site plan approval by the Planning Board is required.
19. General bottled gas distribution and bottling of non-flammable and non-toxic gases.
20. Provided that no unlicensed vehicles, or junked or wrecked vehicles will be permitting 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.

Table D.1 Allowable Land Uses in Conditional Districts		
	P	Permitted Uses
	S	Special Exception Uses
	*	Use-specific standards apply
	P-CS	Special Permitted Uses in the CS Zone
	[1]	Notes and details provided per zone by footnote

Land Use	Zoning District										Municipal Code Special Standards
	A-1	S-1	G-1	G-2	G-3	G-4	G-5	G-6	G-7	O'NEIL	
Agriculture and Incidental Uses											
Pre-existing farm	P		P						P		
Controlled-environment agriculture											
Commercial greenhouse	S[1]										
Farmers' market*	S		S	P		S					§27-1580 et. seq.
Community gardens										P	
Utility											
Cable TV facilities	P[2]		P[2]						P[2]		
Public utility facilities	S		S		P				S		
Medium-scale ground mounted solar*	S	S	S	P	S	S		S			§27-1806 & 1807
Large-scale ground mounted solar*		S	S	P	S						§27-1806 & 1807
Institutional and Community											
Governmental offices	S		S		P		P		S		
Fire station / Police station	P		P						P		
Cemeteries	S										
Funeral home	S										
Residential											
Single-family detached / Community homes	P		P		P	P	P	P	P	P	
Two-family	P[24]		P	P[10]	P	P	P	P[24]	P	P	
Multi-family	P[24]		P	P[10]	P	P	P	P[24]	P	P	
ADUs*	P		P	P			P	P	P		§27-1576 et seq.
Elderly housing				P	P						
Nursing home	S[3]								P[3]		
Assisted living		P[23]									
Congregate housing/congregate care		P[23]		S							
Live/work units							P				
Artist studios							P				
Educational											
Schools, public	P	P	P		P	P	P		P		
Schools, private	P	P	P		P	P	P		P		
Schools, religious	P	P	P		P	P	P		P		
Child, adult, or combined day care centers	P	P	P	P	P	P	P	P	P	P	
Culture and Assembly											
Places of assembly and worship	P		P						P		
Cultural facilities	P		P		P		P		P		
Charitable and philanthropic organizations			S				P		S		
Libraries	P		P		P		P		P		

Table D.1
Allowable Land Uses in Conditional Districts

P	Permitted Uses
S	Special Exception Uses
*	Use-specific standards apply
P-CS	Special Permitted Uses in the CS Zone
[1]	Notes and details provided per zone by footnote

Land Use	Zoning District										Municipal Code Special Standards
	A-1	S-1	G-1	G-2	G-3	G-4	G-5	G-6	G-7	O'NEIL	
Open Space and Recreation											
Commercial indoor recreation											
Commercial outdoor recreation, large-scale											
Commercial outdoor recreation, small-scale											
Municipal indoor recreation	S		S		P				S		
Municipal outdoor recreation	S	P[5]	S	P	P				S	P	
Passive recreation facilities	P	P[5]	P	P	P	P	P	P	P	P	
Office											
Home Occupation	P		P		P	P	P	P	P	P	
Professional offices		P[6]	S[7]		P				P		
Business services							P[20]		S[16]		
Medical											
Medical offices			S[7]		P				P		
Service											
Personal and household goods repair							P				
Personal services			S[8]				P				
Retail											
Neighborhood convenience store			S[9]		P[17]		P[18]		S[16]		
Retail trade					P[17]		P[18]				
Outdoor sales							S[22]				
Restaurant and Entertainment											
Restaurants							P[19]				
Banquet and Event Facility							P[19]				
Other											
Accessory buildings/uses	P	P[26]	P	P[27]	P	P	P	P	P	P	
Mobile Vending Units	P	P	P	P	P	P	P	P	P	P	§14-104(e)
Stationary Vending Units			P		P		P		P		
Adaptive reuse*									S		§27-1591 et. seq.

Notes:

1. 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.
2. 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.
3. Exclusive of mental care.
4. [RESERVED]
5. Limited to walking or jogging paths consistent with the City's Green Belt Walkway Plan.
6. Limited to uses for the management of the congregate housing and assisted living facilities and for related public and private housing management services.
7. This use is limited to the property identified as Assessor's Map 59, Lot 24 as of the April 1, 2000 assessment date. Additionally, drive-thru services shall not be allowed.
8. 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.
9. No gasoline pumps are permitted. No drive-thrus 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

Table D.1 Allowable Land Uses in Conditional Districts		
	P	Permitted Uses
	S	Special Exception Uses
	*	Use-specific standards apply
	P-CS	Special Permitted Uses in the CS Zone
	[1]	Notes and details provided per zone by footnote

Land Use	Zoning District										Municipal Code Special Standards
	A-1	S-1	G-1	G-2	G-3	G-4	G-5	G-6	G-7	O'NEIL	

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.

10. Dwellings shall be limited to persons 55 and older and persons with disabilities.
11. [RESERVED]
12. [RESERVED]
13. [RESERVED]
14. [RESERVED]
15. [RESERVED]
16. 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 multi-floor residential structures constructed after enactment of this Chapter.
17. Not exceeding twenty-five hundred (2,500) square feet of floor area and not including gas stations and outdoor sales.
18. Provided that such facilities may not be open to the public between the hours of 12:00 midnight 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.
19. Provided that such facilities may not be open between the hours of 12:00 midnight and 6:00 a.m.
20. Drive-thru services shall not be allowed.
21. [RESERVED]
22. Other than accessory uses as defined in sec. 27-201, subject (in addition to other ordinance requirements) to the following terms and conditions: (1) shall be located within the area identified as the "Mixed Use Development Area" on Exhibit A of the Conditional Residential & Limited Commercial Use District G-5; (2) shall be located in an area that is within fifteen (15) feet of the Main Street sidewalk.
23. Containing two-family or 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.
24. Two-family dwelling units and multi-family dwelling units are permitted for the purpose of compliance with 30-A M.R.S. §4364-A, but are not permitted generally in the zone or for the purpose of 30-A M.R.S. §4364.
25. [RESERVED]
26. Limited to services provided to residents of the facility and their family members and care providers, including roof-mounted solar energy systems and small-scale ground-mounted solar energy systems, but not including home occupations.
27. Not including home occupations.
28. [RESERVED]

Table D.2 Allowable Land Uses in Conditional Districts		
	P	Permitted Uses
	S	Special Exception Uses
	*	Use-specific standards apply
	P-CS	Special Permitted Uses in the CS Zone
	[1]	Notes and details provided per zone by footnote

Land Use	Zoning District							Municipal Code Special Standards
	SCH-1	CAZ	INR-MSW-1[20]	INR-EDF-1[20]	CKZ			
Agriculture and Incidental Uses								
Pre-existing farm	P				P			
Controlled-environment agriculture*		S	P	P	S			§27-1572 et seq
Commercial greenhouse	S[2]							
Farmers' market*	S[1]		S		S			§27-1580 et. seq.
Marijuana cultivation facility*			P	P	S			§27-1901 et seq.
Medical marijuana cultivation facility*			P	P	S			§27-1901 et seq.
Community gardens								
Utility								
Cable TV facilities	P[19]		P[19]	P[19]	P[19]			
Public utility facilities	S		S		S			
Medium-scale ground mounted solar*	S	S	P	P	S			§27-1806 & 1807
Large-scale ground mounted solar*	S[3]	S	P	P	S			§27-1806 & 1807
Telecommunications tower			P[20]	P[20]	S[14]			
Institutional and Community								
Governmental offices	S	P	S					
Fire station / Police station	P		P	P	P			
Cemeteries	S							
Funeral home	S		P	P	P			
Residential								
Single-family detached / Community homes	P				P			
Two-family	P[4]				P			
Multi-family	P[4]				P			
ADUs*	P				P			§27-1576 et seq.
Nursing home	S[5]				P[5]			
Educational								
Schools, public	P		P	P	P			
Schools, private	P		P	P	P			
Schools, religious	P		P	P	P			
Child, adult, or combined day care centers	P	P	P	P	P			
Culture and Assembly								
Places of assembly and worship	P		P	P	P			
Cultural facilities	P		P	P	P			
Charitable and philanthropic organizations		P	P	P	P			
Libraries	P		P	P	P			
Open Space and Recreation								
Cemeteries								
Commercial indoor recreation								
Commercial outdoor recreation, large-scale								
Commercial outdoor recreation, small-scale								
Municipal indoor recreation	S		P	P	P			
Municipal outdoor recreation	S		P	P	P			
Passive recreation facilities	P	P	P	P	P			
Municipal dog parks								

Table D.2
Allowable Land Uses in Conditional Districts

P	Permitted Uses
S	Special Exception Uses
*	Use-specific standards apply
P-CS	Special Permitted Uses in the CS Zone
[1]	Notes and details provided per zone by footnote

Land Use	Zoning District							Municipal Code Special Standards
	SCH-1	CAZ	INR-MSW-1[20]	INR-EDF-1[20]	CKZ			
Office								
Home Occupation	P				P			
Professional offices		P	P	P	P			
Marijuana testing facility*			P	P	P			§27-1901 et seq.
Medical marijuana testing facility*			P	P	P			§27-1901 et seq.
Medical								
Medical offices			P	P	P			
Service								
Personal and household goods repair		P	P	P	P			
Personal services		P	P	P	P			
Kennels					P			
Retail								
Neighborhood convenience store		P[21]						
Retail trade		P[21]	P[22]	P[22]	P[22]			
Outdoor sales					S[9]			
Marijuana store*		S						§27-1901 et seq.
Medical marijuana store*		S						§27-1901 et seq.
Restaurant and Entertainment								
Restaurants		P[18]	P	P	P			
Clubs			P		P			
Banquet and Event Facility		P[18]	P	P	P			
Lodging								
Lodging establishments, large-scale			P	P	P			
Lodging establishments, small-scale			P	P	P			
Vehicle and Transportation								
Automotive filling stations		P[6]	S[7]	S[7]	S[8]			
Car washes			S	S	S			
Public boat landings								
Marinas			P	P	P			
Transportation terminal			P	P	P			
Public transportation shelter								
Manufacturing and Industrial								
Cottage industry			P	P	S			
Food manufacturing			P[17]	P[17]	S			
Light industrial			P[12,17]	P[12,17]	S			
Self-service storage facility			P	P	P			
Marijuana products manufacturing facility*			P	P	S			§27-1901 et seq.
Medical marijuana products manufacturing facility*			P	P	S			§27-1901 et seq.
Extractive industry*			S	S	S			§27-1546 et. seq.
Storing and handling of petroleum*			P[13]	P[13,23]	P[13]			§27-1517
Raw-materials manufacturing			P[12,17]	P[12,17]				
Warehousing / distribution facilities			P[17]	P[17]	P			
Sorting center for construction or demolition materials			S	S				
Automobile graveyards, recycling, or junkyards			S	S				§27-970 et. seq.
Waste handling management				P[10]				
Transfer station for municipal solid waste			P					
Temporary free standing buildings				P[11]				
Other								
Accessory buildings/uses	P	P	P	P	P			

Table D.2
Allowable Land Uses in Conditional Districts

P	Permitted Uses
S	Special Exception Uses
*	Use-specific standards apply
P-CS	Special Permitted Uses in the CS Zone
[1]	Notes and details provided per zone by footnote

Land Use	Zoning District							Municipal Code Special Standards
	SCH-1	CAZ	INR-MSW-1[20]	INR-EDF-1[20]	CKZ			
Mobile Vending Units	P	P	P	P	P			§14-104(e)
Stationary Vending Units		P						§27-1522
Adaptive reuse*	S		S		S			§27-1591

Notes:

1. On City-owned property.
2. 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.
3. On lots greater than or equal to three (3) acres.
4. Two-family dwelling units and multi-family dwelling units are permitted for the purpose of compliance with 30-A M.R.S. §4364-A, but are not permitted generally in the zone or for the purpose of 30-A M.R.S. §4364.
5. Exclusive of mental care.
6. 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 11:00p.m. and 5:00a.m., and the facility shall not be used as an automotive repair shop. Auditory advertisements are not permitted.
7. 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.
8. 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.
9. Other than accessory uses as defined in §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 service 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.
10. Including waste hauling, storing, salvaging, reducing, recycling, metal recovery and reclamation, and landfilling
11. Construction of temporary free standing buildings (up to 25,000 s.f. in size and 60 feet tall) within the footprint of the lined landfill solid waste boundary for the purposes of housing ash processing and metal recovery equipment.
12. Not inclusive of the prohibited uses identified in Sec. 27-964.
13. 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.
14. Monopole tower only.
15. [RESERVED]
16. [RESERVED]
17. 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.
18. Provided such facilities may not be open between the hours of 11:00p.m and 5:00a.m.; and that drive-through facilities are not permitted.
19. 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.
20. Any uses proposed under this conditional zone shall undergo site plan review.
21. Provided such facilities may not be open between the hours of 11:00p.m. and 5:00a.m.
22. Excluding junkyards, salvaging operations, and outdoor sales and services.
23. The use shall not be located within the following Comprehensive Plan Key Land Use Policy Areas: a) Land Use Designation #1, *Pleasantdale-Buttonwood Community Commercial Hub* Land Use Designation, as shown in Fig. 6.4, Land Use Designations Broadway from Mill Creek to Cash Corner, of the 2012 Comprehensive Plan; b) Land Use Designation #2, *Limited Office-Service* Land Use Designation, as shown in Fig. 6.6, Land Use Designations Main Street Corridor (North End), of the 2012 Comprehensive Plan; c) Land Use Designation #3, *Office-Service* Land Use Designation, as shown in Fig 6.6, Land Use Designations Main Street Corridor (North End), of the 2012 Comprehensive Plan; and d) Land Use Designation #4, *Cash Corner Planned Commercial Mixed-Use* Land Use Designation, as shown in Fig. 6.6, Land Use Designations Main Street Corridor (North End), of the 2012 Comprehensive Plan.

Table E Allowable Land Uses in Parks and Open Space Districts		
	P	Permitted Uses
	S	Special Exception Uses
	*	Use-specific standards apply
	P-CS	Special Permitted Uses in the CS Zone
	[1]	Notes and details provided per zone by footnote

Land Use	Zoning District			Municipal Code Special Standards
	P	OS		
Agriculture and Incidental Uses				
Farmers' market*	S			§27-1580 et. seq.
Community gardens	P	S		
Utility				
Public utility facilities	S	S		
Large-scale ground mounted solar*	S			§27-1806 & 1807
Telecommunications tower	S			
Institutional and Community				
Cemeteries	P			
Libraries	P			
Culture and Assembly				
Charitable and philanthropic organizations	S			
Open Space and Recreation				
Cemeteries	P			
Municipal indoor recreation	P			
Municipal outdoor recreation	P			
Passive recreation facilities	P	P		
Municipal dog parks	S			
Vehicle and Transportation				
Public boat landings	P			
Marinas	P			
Public transportation shelter	P			
Other				
Accessory buildings/uses	P[1]	P[2]		
Mobile Vending Units	P			§14-104(e)
Stationary Vending Units	P			§27-1522

Notes:

1. Including but not limited to crematories, gazebos, picnic shelters or other similar open air structures.
2. Accessory uses and structures to permitted uses, such as memorials and educational displays; and accessory uses and structures to special exception uses, such as gazebos, picnic shelters, storage sheds, memorials and educational displays, or other similar structures.

Sec. 27-405 – 27-500. Reserved.

(Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000]; Ord. No. 5-25/26, 8/5/2025 [Fiscal Note: Less than $1000]; Ord. No. 25-25/26, 6/2/2026 [Fiscal Note: Less than $1000])

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).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table A** – Residential Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 (Fiscal Note: Less than $1000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

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

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table A** – Residential Districts, under the corresponding column.

(Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

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

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 1** – Residential Districts, under the corresponding column.

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. 23, 4/4/2023 [Fiscal Note: Less than $1000])

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).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table A** – Residential Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 22/23-24, 5/7/2024 [Fiscal Note: Less than $1000])

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

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table A** – Residential Districts, under the corresponding column.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000]; (Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

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

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 1** – Residential Districts, under the corresponding column.

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. 11-16/17 1/18/17 [Fiscal Note: Less than $1,000], Ord. No. 10-18/19, 3/12/19 [Fiscal Note: Less than $1000]; (Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000])

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 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.

(Ord. No. 12/19-20, 11/7/19 [Fiscal Note: Less than $1000])

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).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table A** – Residential Districts, under the corresponding column.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

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

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table A** – Residential Districts, under the corresponding column.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000]; Ord. No. 12-16/17 2/6/17 [Fiscal Note: Less than $1000]; Ord. No. 14-16/17, 3/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

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

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 1** – Residential Districts, under the corresponding column.

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. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000]; Ord. No. 11-16/17, 1/18/17); Ord. No. 10-18/19, 3/12/2019 [Fiscal Note: Less than $1000] (Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000])

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 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.

(Ord. No. 12/19-20, 11/7/19 [Fiscal Note: Less than $1000])

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 – 27-540. Reserved.

RESIDENTIAL CORRIDOR DISTRICT RC

Sec. 27-541. Purpose (RC).

To provide residential areas within the City of South Portland of medium density in a manner which will promote infill housing along higher-volume corridors in the City that serve as transition areas between established residential neighborhoods and areas with mixed-use, non-residential, or large infrastructure land uses. Residential development in this district will be oriented toward the abutting transportation corridors, and shall incorporate design standards that to support an attractive streetscape.

Sec. 27-542. Permitted uses (RC).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table A** – Residential Districts, under the corresponding column.

Sec. 27-543. Special exceptions (RC).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table A** – Residential Districts, under the corresponding column.

Sec. 27-544. Space and bulk regulations (RC).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 1** – Residential Districts, under the corresponding column.

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. 27-545. Off-street parking (RC).

In the Residential Corridor District RC, off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter, and shall comply with the following parking design requirements:

a) Parking areas shall be screened from public ways.

b) Off-street parking as well as other vehicle access facilities, such as access drives and driveways, must not be located between the front of a

principal or accessory building and the Broadway right of way. The Planning Board may grant a waiver to allow parking and vehicle access facilities between Broadway and a principal or accessory building for one or more of the following reasons:

a. The new principal or accessory structure is placed behind the rear elevation of another new or existing principal structure, when that new or existing principal structure is closer to the Broadway right of way than the proposed principal or accessory structure;
b. For principal or accessory buildings that are in existence as of October 1, 2024, adhering to the provision on parking and vehicle access facilities placement would require the installation of more than 250 square feet of new impervious area on the parcel; or
c. For principal or accessory buildings that are in existence as of October 1, 2024, adhering to the provision on parking and vehicle access facilities placement would substantially reduce the usability of the existing building, for example a garage no longer has access to its main entry doors.

Sec. 27-546. Signs (RC).

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

Sec. 27-547. Farm animals and produce (RC).

In the Residential Corridor District (RC), the keeping of farm-type animals, including but not limited to horses, ponies, cattle, pigs and fowl, except 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. 27-548. Site plan review (RC).

Any use allowed in the Residential Corridor District (RC) 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. 27-549. Performance Standards (RC).

To promote infill development that is oriented toward abutting public ways, supports future expansion of sidewalks and bicycle networks, and limits curb cuts onto public ways, the following standards shall apply to all new construction, as defined in Section 27-548 within the RC that require Planning Board review and approval:

a) Notwithstanding Table 23-37 in Chapter 23, Streets and Sidewalks, Section 23-37, Standards and Criteria, only one (1) curb cut is permitted on parcels in the RC District. For parcels with more than one curb cut in existence at the time of submitting an application for new construction or subdivision that requires Planning Board review, the application shall be required to amend site access to meet the requirement of one (1) curb cut per parcel. If a parcel abuts more than one public way and Chapter 23, Streets and Sidewalks, Section 23-37, allows more than one curb cut on the parcel, one (1) additional curb cut is permissible so long as no more than one (1) curb cut exists on any single right-of-way.

b) Developments that involve more than one parcel in existence on October 1, 2024, and any subdivision of existing parcels, shall be required to consolidate or eliminate existing curb cuts such that the new development or subdivided parcels are served by one curb cut on any single right-of-way. If a single curb cut is proposed to serve more than one parcel, access easements shall be provided to all parcels so served.

c) Parcels that maintain frontage on a public right of way that is not Broadway shall amend the access to the parcel to establish a single curb cut for the parcel on the alternate public right of way and not on Broadway when a new construction is proposed that requires Planning Board review. The Planning Board may waive this requirement if a curb cut on the non-Broadway right of way would not be able to provide access to the lot unless buildings in existence on October 1, 2024 are demolished. Existing fences shall not be a valid basis to waive this requirement.

d) No new impervious area is permitted in the rear yard setback within the RC District.

Secs. 27-550. Reserved.

(Ord. No. 16, 1/21/2024, [Fiscal Note: Less than $1000])

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).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table A** – Residential Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

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

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table A** – Residential Districts, under the corresponding column.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 26, 4/18/2023 [Fiscal Note: Less than $1000]; Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

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

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 1** – Residential Districts, under the corresponding column.

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. 23, 4/4/2023 [Fiscal Note: Less than $1000])

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.

(Ord. No. 13-19/20, 12/3/19 [Fiscal Note: Less than $1000]; Ord. No. 15-25/26, 1/20/2026 [Fiscal Note: Less than $1000])

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 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.

(Ord. No. 12-19/20, 11/7/19 [Fiscal Note: Less than $1000])

Sec. 27-559. [Reserved].

(Ord. No. 25-25/26, 6/2/2026 [Fiscal Note: Less than $1000])

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 27-571-A. Dual-Zone Lots

Sec.27-112 notwithstanding, the following provisions shall govern lots divided between the Village Commercial zoning district and the Village Residential zoning district as of January 1, 2019:

(a) Lots fronting on Ocean Street

(1) The portion of the lot within the Village Commercial district shall be governed by all of the Village Commercial zoning standards.

(2) The portion of the lot within the Village Residential district shall be governed by the Village Commercial district standards for maximum net residential density. Otherwise, all other Village Residential zoning standards shall apply.

(3) The portion of any side lot line within the Village Residential zone shall be treated as a rear lot line for setback purposes.

(b) Lots not fronting on Ocean Street

(1) The entire lot shall be governed by the Village Commercial district provisions for maximum net residential density.

(2) The entire lot shall otherwise be governed by the Village Residential zoning standards.

(Ord. No. 9-18/19, 2/5/19 [Fiscal Note: Less than $1000])

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

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table A** – Residential Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

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

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table A** – Residential Districts, under the corresponding column.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

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

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 1** – Residential Districts, under the corresponding column.

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. 9-18/19, 2/5/19 [Fiscal Note: Less than $1000]; (Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000])

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 for units with one or more bedrooms or units with eight hundred (800) square feet or more of floor area.

(b) Multi-family (non-elderly) residential structures: Three quarters or seventy-five percent (75%) of a parking space is required per dwelling unit for units that do not have a separate bedroom or units with less than eight hundred (800) square feet of floor area.

(Ord. No. 9-18/19, 2/5/19 [Fiscal Note: Less than $1000])

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 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.

(Ord. No. 12/19-20, 11/7/19 [Fiscal Note: Less than $1000])

Sec. 27-579. [Reserved].

(Ord. No. 10-16/17 1/4/17 [Fiscal Note: Less than $1,000];(Ord. No. 25-25/26, 6/2/2026 [Fiscal Note: Less than $1000])
)

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:

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

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table A** – Residential Districts, under the corresponding column.

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

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table A** – Residential Districts, under the corresponding column.

(Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

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).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 1** – Residential Districts, under the corresponding column.

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.

(Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Secs. 27-588 – 27-600. Reserved.

ARTICLE VI. RESIDENTIAL DISTRICTS (CONT.)

WEST END RESIDENTIAL DISTRICT (WR)

Sec. 27-601. Purpose (WR).

The development and settlement pattern in the West End Residential District is multifamily residential with small scale retail and services, offices and state facilities. The purpose of this district is to support and, in some cases, expand these uses, while maintaining affordability and character. Additional density for residential and mixed-use development is encouraged, while allowing for the growth of small-scale commercial, office and recreational uses that serve neighborhood residents. Bicycle and pedestrian connections to Long Creek are encouraged to attract visitors and residents to enjoy its trails and open spaces. Landscaping buffers and screening, and expansion and maintenance of recreational areas are encouraged for aesthetics and to enhance neighborhood amenities.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000])

Sec. 27-602. Permitted uses (WR).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table A** – Residential Districts, under the corresponding column.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000], Ord. No. 10-17/18, 11/6/17 [Fiscal note: Less than $1000]; Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 10-23/24, 11/28/2023 [Fiscal Note: Less than $1000]; Ord. No. 22, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-603. Special Exceptions (WR).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table A** – Residential Districts, under the corresponding column.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; Ord. No. 9-20/21, 11/17/2020 [Fiscal Note: Less than $1000]; Ord. No. 10-23/24, 11/28/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-604. Space and bulk regulations (WR).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 1** – Residential Districts, under the corresponding column.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000]; (Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Sec. 27-605. Off-street parking (WR).

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

(a) No off-street parking including aisles providing direct access to parking spaces shall be located between the front property line of the lot and the front wall of the building extending the full width of the lot.

(b) Parking standards may be waived by up to one third (1/3) of required spaces provided the applicant uses Low Impact Development (LID) standards for landscaping around the immediate area of the proposed parking in order to address the runoff issues directly associated with Long Creek.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000])

Sec. 27-606. Signs (WR).

Signs shall be regulated in accordance with the requirements of Sec. 27-1561 *et seq.* of this Chapter and must also comply with the Design Standards for Commercial and Neighborhood Activity Centers in Sec. 27-1572 *et seq.*; in the event of a conflict between the two requirements, the Design Standards for Commercial and Neighborhood Activity Centers shall control.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000])

Sec. 27-607. Site plan review (WR).

Any use allowed in the West End Residential 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. 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.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000])

Sec. 27-608. Design standards (WR).

All building construction or remodeling projects within the West End Residential zoning district must comply with the Design Standards for Commercial and Neighborhood Activity Centers in Sec. 27-1572 *et seq*.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000])

Sec. 27-609. Connectivity standards (WR).

(a) Development proposals shall demonstrate that adequate facilities are provided for pedestrian access and movement to, along, and within the property being improved. This includes, but is not limited to: building sidewalks where gaps exist in the public sidewalk network; providing easements to enable connections of public trail systems; replacing sidewalks that are in poor condition; and, ensuring crosswalk facilities meet the standards of the Americans with Disabilities Act.

(b) Development proposals shall include improvements as necessary to conform to Objective #1, Neighborhood Connectivity, of the West End Neighborhood Master Plan.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000])

Secs. 27-610 – 27-700. Reserved.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000])

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).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table B.1** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000]; Ord. No. 3-23/24, 9/5/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

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

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table B.1** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; Ord. No. 9-20/21, 11/17/2020 [Fiscal Note: Less than $1000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

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

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 2.1**
– Mixed-Use/Commercial Districts, under the corresponding column.

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. 23, 4/4/2023 [Fiscal Note: Less than $1000])

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. 27-710-A. Dual-Zone Lots

Sec. 27-112 notwithstanding, the following provisions shall govern lots divided between the Village Commercial zoning district and the Village Residential zoning district as of January 1, 2019:

(a) Lots fronting on Ocean Street

(1) The portion of the lot within the Village Commercial district shall be governed by all of the Village Commercial zoning standards.

(2) The portion of the lot within the Village Residential district shall be governed by the Village Commercial district standards for maximum net residential density. Otherwise, all other Village Residential zoning standards shall apply.

(3) The portion of any side lot line within the Village Residential zone shall be treated as a rear lot line for setback purposes.

(b) Lots not fronting on Ocean Street

(1) The entire lot shall be governed by the Village Commercial district provisions for maximum net residential density.

(2) The entire lot shall otherwise be governed by the Village Residential zoning standards.

Ord. No. 9-18/19, 2/5/19 [Fiscal Note: Less than $1000]

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

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table B.2** – Mixed-Use/Commercial Districts, under the corresponding column.

(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]; (Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 9-18/19, 2/5/19 [Fiscal Note: Less than $1000]; Ord. No. 4-22/23, 10/18/2022 Fiscal Note: Less than $1000]; Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000]; Ord. No. 26-22/23, 4/18/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

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

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table B.2** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

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

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 2.2** – Mixed-Use/Commercial Districts, under the corresponding column.

For construction after December 27, 1998 of new buildings on lots with frontage on Ocean 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.

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. 9-18/19, 2/5/19 [Fiscal Note: Less than $1000]; Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Sec. 27-714. Off-street parking (VC).

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

(a) Multi-family (non-elderly) residential structures: One (1) off-street parking space is required per dwelling unit for units with one or more bedrooms or units with eight hundred (800) square feet or more of floor area.

(b) Multi-family (non-elderly) residential structures: One half or fifty (50%) of a parking space is required per dwelling unit for units that do not have a separate bedroom or units with less than eight hundred (800) square feet of floor area.

Ord. No. 9-18/19, 2/5/19 [Fiscal Note: Less than $1000]

Sec. 27-715. Signs (VC).

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

Ord. No. 9-18/19, 2/5/19 [Fiscal Note: Less than $1000]

Sec. 27-716. 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.

Ord. No. 9-18/19, 2/5/19 [Fiscal Note: Less than $1000]

Sec. 27-717 and 718. Reserved.

Ord. No. 9-18/19, 2/5/19 [Fiscal Note: Less than $1000]

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).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table B.2** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

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

Special exception uses for this zoning district are as set forth in Sec. 27-404,**Table B.2** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000] ; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; Ord. No. 9-20/21, 11/17/2020 [Fiscal Note: Less than $1000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

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

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 2.2** – Mixed-Use/Commercial Districts, under the corresponding column.

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]; (Ord. No. 23, 4/4/2023 [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).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table B.1** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-731. Special exceptions (SP).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table B.1** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; Ord. No. 9-20/21, 11/17/2020 [Fiscal Note: Less than $1000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-732. Nonresidential space and bulk regulations (SP).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 2.1**
– Mixed-Use/Commercial Districts, under the corresponding column.

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. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Sec. 27-733. Residential space and bulk regulations (SP).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 2.1** – Mixed-Use/Commercial Districts, under the corresponding column.

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. 23, 4/4/2023 [Fiscal Note: Less than $1000])

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. 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.

(Ord. No. 16-16/17, 4/19/17 [Fiscal Note: Less than $1,000])

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.

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table B.1** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 10-23/24, 11/28/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, [Fiscal Note: Less than $1000])

Sec. 27-740. Special permitted uses (CS).

The following are permitted uses if developed in accordance with the requirements of Secs. 27-746 and 27-747.

Special permitted uses for this zoning district are as set forth in Sec. 27-404, **Table B.1** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 16-16/17, 4/19/17 [Fiscal Note: Less than $1,000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000]; Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-741. Special exceptions (CS).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table B.1** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than

$1000]; Ord. No. 9-20/21, 11/17/2020 [Fiscal Note: Less than $1000]; Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000]; Ord. No. 10-23/24, 11/28/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-742. Space and bulk regulations (CS).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 2.1** – Mixed-Use/Commercial Districts, under the corresponding column.

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. 16-16/17, 4/19/17 [Fiscal Note: Less than $1,000]; (Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000])

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, one (1) building-mounted sign on each side of the building, one (1) additional building-mounted sign for each occupancy, and one (1) free-standing sign for each vehicular entrance to the lot. signages shall not exceed sixty (60) square feet in surface area per sign face, and free-standing signs shall not exceed eighty (80) square feet in surface area per sign 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) All building construction or remodeling projects within the Suburban Commercial zoning district must comply with the Design Standards for Commercial and Neighborhood Activity Centers in Sec. 27-1572 et seq.

(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.

(Ord. No. 16-16/17, 4/19/17 [Fiscal Note: Less than $1,000]; Ord. No. 13-22/23, 1/3/2023 [Fiscal Note: Less than $1000])

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 for special uses set forth in Sec. 27-740 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 and approved by the Planning Board prior to submission of any application for final subdivision, site plan, or special exception approval. Submission of a master plan may coincide with the review of a preliminary subdivision plan by the Planning Board, however action on the master plan request shall occur before the review and approval of the preliminary subdivision 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 and 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 their 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 at any time prior to Planning Board approval of the application, and shall indicate the manner in which these facilities will be made available for public use.

(Ord. No. 16-16/17, 4/19/17 [Fiscal Note: Less than $1,000]; Ord. No. 26-22/23, 4/18/2023 [Fiscal Note: Less than $1000]; Ord. No. 3-25/26, 7/9/2025 [Fiscal Note: Less than $1000])

Sec. 27-748. Reserved.

(Ord. No. 16-16/17, 4/19/17 [Fiscal Note: Less than $1,000])

GENERAL COMMERCIAL DISTRICT CG

Sec. 27-749. Purpose (CG).

The General Commercial District is established to accommodate wholesale and service uses 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.

(Ord. No. 25-25/26, 6/2/2026 [Fiscal Note: Less than $1000])

Sec. 27-750. Permitted uses (CG).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table B.1** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; (Ord. No. 12-19/20, 11/7/19 [Fiscal Note: Less than $1000]; Ord. No. 9-20/21, 11/17/2020 [Fiscal Note: Less than $1000]; Ord. No 7-23/24, 11/14/2023 {Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000]

Sec. 27-751. Special exceptions (CG).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table B.1** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; Ord. No. 14-22/23, 1/17/2023 [Fiscal Note: Less than $1000]; Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000]; Ord. No 7-23/24, 11/14/2023 {Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-752. Space and bulk regulations (CG).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 2.1**
– Mixed-Use/Commercial Districts, under the corresponding column.

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. 23, 4/4/2023 [Fiscal Note: Less than $1000])

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 CG 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.

(Ord. No. 15-25/26, 1/20/2026 [Fiscal Note: Less than $1000])

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. 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.

(Ord. No. 15-25/26, 1/20/2026 [Fiscal Note: Less than $1000])

Sec. 27-758. Permitted uses (PO).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table B.1** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 9-20/21, 11/17/2020 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-759. Special exceptions (PO).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table B.1** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-760. Space and bulk regulations (PO).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 2.1**
– Mixed-Use/Commercial Districts, under the corresponding column.

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. 23, 4/4/2023 [Fiscal Note: Less than $1000])

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.

(g) 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).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table B.1** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-765. Special exceptions (CCRT).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table B.1** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-766. Space and bulk regulations (CCRT).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 2.1**
– Mixed-Use/Commercial Districts, under the corresponding column.

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. 19-21/22, 5/3/2022 [Fiscal Note: Less than $1000] Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Sec. 27-767. Off-street parking (CCRT).

Subject to the provisions of Sec. 27-766, off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter.

(Ord. No. 12/19-20, 11/7/19 [Fiscal Note: Less than $1000])

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 the creation and expansion of a thriving mixed-use district in which a wide diversity of nonresidential and residential uses are allowed and which encourages an intensification of use to create more of a mixed-use destination rather than a collection of single-use areas. The CCR District will accommodate the full range of retail, services, educational, cultural and entertainment, residential, supportive living, medical, hospitality and lodging, and; as well as related utility and other civic services or infrastructure that are necessary to support this diversity of uses. As a regional destination, efficient and safe transportation systems for all users are essential.

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 of the community.

(Ord. No. 12-25/26, 5/20/2025 [Fiscal Note: Less than $1000])

Sec. 27-772. Permitted uses (CCR).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table B.1** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 9-20/21, 11/17/2020 [Fiscal Note: Less than $1000]; Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000]; Ord. No. 27-22/23, 4/18/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-773. Special exceptions (CCR).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table B.1** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-774. Space and bulk regulations (CCR).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 2.1**
– Mixed-Use/Commercial Districts, under the corresponding column.

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. 23, 4/4/2023 [Fiscal Note: Less than $1000])

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).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table B.1** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No.1-14/15, 7/7/14 [Fiscal Note: Less than $1000]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; (Ord. No. 12/19-20, 11/7/19 [Fiscal Note: Less than $1000]; Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000]; Ord. No. 10-23/24, 11/28/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-781. Special exceptions (C).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table B.1** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000], Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; Ord. No. 9-20/21, 11/17/2020 [Fiscal Note: Less than $1000]; Ord. No 7-23/24, 11/14/2023 {Fiscal Note: Less than $1000]; Ord. No. 10-23/24, 11/28/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-782. Space and bulk regulations (C).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 2.1**
– Mixed-Use/Commercial Districts, under the corresponding column.

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. 23, 4/4/2023 [Fiscal Note: Less than $1000])

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 – 27-799. Reserved.

ARTICLE VIII. MIXED USE/COMMERCIAL DISTRICTS

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).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table B.2** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 4, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000]; Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-802. Special Exceptions (MSCC).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table B.2** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-803. Space and bulk regulations (MSCC).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 2.2** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000])

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.

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

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.

Sec. 27-810. Reserved

VILLAGE EXTENSION DISTRICT VE

Sec. 27-811. Purpose (VE).

To provide a higher density, pedestrian-focused neighborhood with a mix of commercial and residential uses within the City of South Portland that, in combination with the Mill Creek Core District and the Knightville Village Commercial and Residential Districts, provides an area with a distinct identity as a green and livable place that offers a wide range of housing, employment, retail, service, institutional, public transportation, and recreation opportunities within walking distance.

Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]

Sec. 27-812. Permitted uses (VE).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table B.2** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 10-23/24, 11/28/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-813. Special exceptions (VE).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table B.2** – Mixed-Use/Commercial Districts, under the corresponding column.

Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000]; Ord. No. 10-23/24, 11/28/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-814. Space and bulk regulations (VE).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 2.2** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]; Ord. No. 9-18/19, 2/5/19 [Fiscal Note: Less than $1000]; Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Sec. 27-815. Design Standards (VE).

All building construction or remodeling projects within the Village Extension zoning district must comply with the Design Standards for Commercial and Neighborhood Activity Centers (Secs. 27-1572 through 27-1575).

Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]

Sec. 27-816. Off-street parking (VE).

Off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter. No off-street parking including aisles providing direct access to parking spaces shall be located between the front property line of the lot and the front wall of the building extending the full width of the lot.

Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]

Sec. 27-817. Signs (VE).

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

Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]

Sec. 27-818. Site plan review (VE).

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.

Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]

Sec. 27-819. – 27-820. Reserved

BROADWAY CORRIDOR DISTRICT BC

Sec. 27-821. Purpose (BC).

To accommodate a wide-range of uses while continuing to allow for auto-focused uses in a form that creates a transition to the more pedestrian focused, higher density development in the adjacent Mill Creek Core District.

(Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000])

Sec. 27-822. Permitted uses (BC).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table B.2** – Mixed-Use/Commercial Districts, under the corresponding column.

Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000]; Ord. No. 10-23/24, 11/28/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-823. Special exceptions (BC).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table B.2** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000]; Ord. No. 10-23/24, 11/28/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-824. Space and bulk regulations (BC).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 2.2** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]; Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Sec. 27-825. Design standards (BC).

All building construction or remodeling projects within the Broadway Corridor zoning district must comply with the Design Standards for Commercial and Neighborhood Activity Centers (Secs. 27-1572 through 27-1575).

Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]

Sec. 27-826. Additional development standards (BC).

(a) Any drive-through service facility in the Broadway Corridor District must comply with the following additional standards:

1. Any point of customer service for the facility must be located on a side of the building that does not face a public street; and

2. The access lane(s) or exit lane(s) for the drive-through service facility must not pass between the front of the building and the front property line.

(b) The portion of the lot between the front wall of the building and the front property line shall be maintained as a landscaped area and/or as pedestrian space.

(c) A pedestrian connection shall be provided from the public sidewalk to the main customer or public entrance to the building.

(d) Where feasible, vehicular entrances from public streets shall be designed to provide access to more than one building.

(e) Where feasible, provisions shall be made to interconnect parking lots serving adjacent lots or buildings.

Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]

Sec. 27-827. Off-street parking (BC).

Off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter. No off-street parking including aisles providing direct access to parking spaces shall be located between the front property line of the lot and the front wall of the building extending the full width of the lot.

Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]

Sec. 27-828. Signs (BC).

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

Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]

Sec. 27-829. Site plan review (BC).

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.

Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]

Sec. 27-830. Reserved

MILL CREEK CORE DISTRICT MCC

Sec. 27-831. Purpose (MCC).

To allow for and encourage the development of mixed-use, multistory buildings as Mill Creek evolves into a pedestrian focused, higher density more downtown-like area.

(Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000])

Sec. 27-832. Permitted uses (MCC).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table B.2** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000]; Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 10-23/24, 11/28/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-833. Special exceptions (MCC).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table B.2** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000]; Ord. No. 10-23/24, 11/28/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-834. Space and bulk regulations (MCC).

A property in the MCC zoning district shall conform to the space and bulk standards as set forth in Sec. 27-403, **Table 2.2** – Mixed-Use/Commercial Districts, under the MCC column. The standards set forth in the MCC column of **Table 2.2** apply to all developments including projects regulated under the Planned Development Standards of (c). The Basic Development Standards of (b) shall also apply unless the property owner voluntarily elects to be regulated under the Planned Development provisions of (c) rather than the Basic Development Standards of (b).

(a) Basic Standards

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 2.2** – Mixed-Use/Commercial Districts, under the MCC column.

(b) Basic Development Standards

The following additional standards apply to all development and use of property within the MCC zoning district unless the property owner voluntarily elects to be regulated under the Planned Development provisions of subsection (c) rather than the Basic Development Standards of this subsection:

Minimum utilization of primary frontage:	A building or buildings shall fill at least sixty percent (60%)of the primary street frontage. The Planning Board may reduce this requirement if the width of the primary frontage would prohibit vehicular access to the lot without the necessity of a variance from the Board of Appeals.
Maximum front yard setback:	Fifteen (15) feet, except that up to forty percent (40%) of the width of the front façade of the building may be set back further than the maximum setback (i.e., further away from the front property line) if the space between the front wall of this portion of the building and the front property line is used as pedestrian space or for customer related outdoor service activities such as seating for a restaurant. Where there is a permanent easement in existence as of August 1, 2016 that prevents a building from being located close to a street, the maximum setback shall be measured from the edge of the easement area.
Minimum building height	The greater of thirty (30) feet

For buildings constructed After August 1, 2016	or three (3) habitable stories, except the greater if twenty (20) feet or two (2) habitable stories for the portion of any building located within seventy-five (75) feet of the E Street property line.
Maximum lot coverage:	Eighty (80) percent.

(c) Planned Development

Recognizing that the evolution of Mill Creek into a pedestrian focused, higher density more downtown-like area will require collaboration between the City and property owners and developers, a property owner or developer may voluntarily elect to develop under the provisions of this subsection rather than the standards of subsection (b), Basic Development Standards, if the project involves the construction of a new building, the expansion of an existing building, or the renovation of at least fifty percent (50%) of the floor area of an existing building. A property owner who elects to develop under the Planned Development provisions may also request modifications to the standards of Sec. 27-835, Sec. 27-836, and Sec. 27-837 as part of the Master Development Plan. To utilize the provisions of this subsection, the property owner or developer must prepare a Master Development Plan that details the development proposal and demonstrates to the Planning Board that the proposal will be consistent with the City's vision and objectives for Mill Creek as set out in the Mill Creek Master Plan adopted by the City Council on August 6, 2015.

The proposed Master Development Plan must include, at a minimum, the following information:

1. A site plan and building plans providing the information required by the Site Plan Review requirements of Sec. 27-1424 and the Design Standards for Commercial and Neighborhood Activity Centers (Secs. 27-1572 through 27-1575).

2. A narrative and illustrations demonstrating how the Master Development Plan will be consistent with the City's vision for Mill Creek, and each of the following objectives, contained in the Mill Creek Master Plan:

(a) Make Mill Creek more of a pedestrian focused neighborhood by enhancing the ability of residents, shoppers, visitors, and employees to easily and safely move around the neighborhood on foot while improving the ability of people who live outside of Mill Creek to easily and safely walk and bike to the neighborhood.

(b) Establish Mill Creek as a distinct and special place with a clear identity, attractive gateways, and a high-quality visual environment so Mill Creek becomes a destination and a place where people want to spend time and live.

(c) Make Mill Creek "greener" in both a physical and environmental sense with more green spaces, trees, landscaping and flowers, better connections between parks, and upgraded environmental conditions such as green, energy efficient buildings and improved stormwater management.

(d) Increase the diversity and intensity of uses and activities in Mill Creek so that, over time, it becomes a true mixed-use downtown neighborhood with a variety of both commercial and residential uses with a focus on encouraging the development of multi-story, mixed-use buildings within a more pedestrian focused, urban environment.

(e) Create a transition between Mill Creek and Knightville to protect Knightville's residential neighborhood (the letter streets) from the potential impacts of redevelopment of Mill Creek.

(f) Minimize the potential impacts of increased flooding from storms and sea level rise on Mill Creek so that it can remain a viable and attractive area in which people want to live, visit, and invest.

The Planning Board shall review the proposed Master Development Plan to determine if it is consistent with the City's vision for Mill Creek contained in the Mill Creek Master Plan and the six objectives set out above. If the Board determines that the proposed development plan is consistent with the vision and objectives, the project may be developed in accordance with the Master Development Plan. Any proposed changes to the project in the future will be required to conform to the Master Development Plan. If the Planning Board determines that the Master Development Plan is not consistent with the vision and objectives, the Basic Development Standards of subsection (b), together with the other applicable provisions of this district and Chapter 27, shall apply to the use and development of the property.

(Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]; (Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Sec. 27-835. Design Standards (MCC).

All building construction or remodeling projects within the Mill Creek Core zoning district must comply with the Design Standards for Commercial and Neighborhood Activity Centers (Secs. 27-1572 through 27-1575), unless the project is approved as a Planned Development, in which case the provisions of the approved Master Development Plan shall apply.

Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]

Sec. 27-836. Additional development standards (MCC).

The following shall apply unless alternative provisions are specifically approved as part of a Master Development Plan for a Planned Development:

(a) Any drive-through service facility in the Mill Creek Core District must comply with the following additional standards:

1. Any point of customer service for the facility must be located on a side of the building that does not face a public street, and

2. The access lane(s) or exit lane(s) for the drive-through service facility must not pass between the front of the building and the front property line.

(b) The portion of the lot between the front wall of the building and the front property line shall be maintained as a landscaped area and/or as pedestrian space. Where a permanent easement exists that prevents the building from being located close to the street, the Planning Board may allow alternative use of the space including the space within the easement area.

(c) A pedestrian connection shall be provided from the public sidewalk to the main customer or public entrance to the building.

(d) Any nonresidential use or activity that is located on a lot that has its principal street frontage on E Street between Q Street and D Street or that has its principal building entrance from E Street within this area shall be subject to the following limitations:

(1) All nonresidential activity shall be limited to the hours between 7:00 a.m. and 9:00 p.m.

(2) Routine deliveries shall be limited to two-axle delivery vehicles such as step vans and box trucks.

Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]

Sec. 27-837. Off-street parking (MCC).

Off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter. No off-street parking including aisles providing direct access to parking spaces shall be located between the front property line of the lot and the front wall of the building extending the full width of the lot unless specifically approved as part of a Master Development Plan for a Planned Development.

Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]

Sec. 27-838. Signs (MCC)

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

Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]

Sec. 27-839. Site plan review (MCC).

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.

Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]

Secs. 27-840. Reserved.

WEST END NEIGHBORHOOD CENTER DISTRICT (WNC)

Sec. 27-841. Purpose (WNC).

The purpose of the West End Neighborhood Center District is to encourage redevelopment of underutilized parcels and good design. The area is a transit-oriented neighborhood center that contains a mix of uses primarily intended to serve adjacent neighborhoods with day-to-day retail goods and services. Flexible parking standards will allow for on street and shared parking, and in some cases reduced parking requirements.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000])

Sec. 27-842. Permitted uses (WNC).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table B.2** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 10-23/24, 11/28/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-843. Special exception uses (WNC).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table B.2** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000], Ord. No. 10-17/18, 11/6/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 10-23/24, 11/28/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-844. Space and bulk regulations (WNC).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 2.2** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000], Ord. No. 14-18/19, 4/16/19 [Fiscal Note: Less than $1000]; (Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Sec. 27-845. Off-street parking (WNC).

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

(a) No off-street parking including aisles providing direct access to parking spaces shall be located between the front property line of the lot and the front wall of the building extending the full width of the lot.

(b) On a mixed-use site, non-residential parking requirements may be met by counting shared residential parking spaces and on-street parking within five hundred (500) ft. of the site. A parking study may be required if deemed necessary by the Planning Board.

(c) Parking standards may be waived by up to one half (1/2) of required spaces provided the lot is within five hundred (500) ft. of a bus shelter.

(d) Off-site parking shall be allowed within one thousand five hundred (1,500) feet of the site if the number of off-site parking spaces being provided exceed minimum parking standards or the site plan was approved more than two years ago and a parking study is conducted to determine the number of available parking spaces. Off-site parking areas must be under common ownership or an access agreement must be provided.

(e) Off-street parking shall be set back a minimum of twenty (20) feet from at least fifty (50) percent of the property line abutting Westbrook Street. This may be reduced to twenty-five (25) percent for projects that provide a minimum of 33% of the total dwelling units as affordable housing. For the purposes of this section, dwelling units count as affordable housing if the percentage of income a household is charged in rent and other housing expenses,

or must pay in monthly mortgage payments (including insurance and taxes), does not exceed 30% of a household's income. Household income shall not exceed 80% of Area Median Income (AMI) as defined by the United States Department of Housing and Urban Development (HUD).

(f) Notwithstanding the provisions of Sec. 27-1556, the size of all required off-street parking spaces may be reduced to a minimum of eight (8) feet in width by a minimum of sixteen (16) feet in length for projects that provide a minimum of 33% of the total dwelling units as affordable housing as defined in subsection (e). The length may be reduced by an additional one (1) foot for 90° parking.

(g) The aisle width may be reduced to a minimum of twenty-one (21) feet for parking areas that provide access exclusively to parking spaces that have been reduced in size in accordance with subsection (f).

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000], Ord. No. 14-18/19, 4/16/19 [Fiscal Note: Less than $1000])

Sec. 27-846. Signs (WNC).

Signs shall be regulated in accordance with the requirements of Sec. 27-1561 *et seq.* of this Chapter and must also comply with the Design Standards for Commercial and Neighborhood Activity Centers in Sec. 27-1572 *et seq.*; in the event of a conflict between the two requirements, the Design Standards for Commercial and Neighborhood Activity Centers shall control.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000])

Sec. 27-847. Site plan review (WNC).

Any use allowed in the West End Neighborhood Center 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. 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.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000])

Sec. 27-848. Design standards (WNC).

All building construction or remodeling projects within the West End Neighborhood Center zoning district must comply with the Design Standards for Commercial and Neighborhood Activity Centers in Sec. 27-1572 *et seq*.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000])

Sec. 27-849. Connectivity standards (WNC).

(a) Development proposals shall demonstrate that adequate facilities are provided for pedestrian access and movement to, along, and within the property being improved. This includes, but is not limited to: building sidewalks where gaps exist in the public sidewalk network; providing easements to enable connections of public trail systems; replacing sidewalks that are in poor condition; and, ensuring crosswalk facilities meet the standards of the Americans with Disabilities Act.

(b) Development proposals shall include improvements as necessary to conform to Objective #1, Neighborhood Connectivity, of the West End Neighborhood Master Plan.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000])

Sec. 27-850. Reserved.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000])

WESTERN AVENUE COMMERCIAL CORRIDOR DISTRICT (WACC)

Sec. 27-851. Purpose (WACC).

The Western Avenue Commercial Corridor District is established to accommodate higher intensity commercial uses, while still serving the surrounding residential neighborhoods. Commercial and mixed-use development will be designed to enhance and encourage multimodal and pedestrian connectivity from nearby residential neighborhoods, surrounding sites and nearby public parks and amenities.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000])

Sec. 27-852. Permitted uses (WACC).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table B.2** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000], Ord. No. 10-17/18, 11/6/17, [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000]; Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-853. Special exception uses (WACC).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table B.2** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000], Ord. No. 10-17/18, 11/6/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; (Ord. No. 12/19-20, 11/7/19 [Fiscal Note: Less than $1000]; Ord. No. 9-20/21, 11/17/2020 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-854. Space and bulk regulations (WACC).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 2.2** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000]; Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Sec. 27-855. Off-street parking (WACC).

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

> Parking Standards may be waived by up to one third (1/3) of required spaces provided the applicant uses Low Impact Development (LID) standards for landscaping around the immediate area of the proposed parking in order to address the runoff issues directly associated with Clarks Pond.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000]; Ord. No. 17-19/20, 3/10/20 [Fiscal Note: Less than $1000])

Sec. 27-856. Signs (WACC).

Signs shall be regulated in accordance with the requirements of Sec. 27-1561 *et seq.* of this Chapter and must also comply with the Design Standards for Commercial and Neighborhood Activity Centers in Sec. 27-1572 *et seq.*; in the event of a conflict between the two requirements, the Design Standards for Commercial and Neighborhood Activity Centers shall control.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000])

Sec. 27-857. Site plan review (WACC).

Any use allowed in the Western Avenue Commercial Corridor 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. 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.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000])

Sec. 27-858. Design standards (WACC).

All building construction or remodeling projects within the Western Avenue Commercial Corridor zoning district must comply with the Design Standards for Commercial and Neighborhood Activity Centers in Sec. 27-1572 *et seq*.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000])

Sec. 27-859. Connectivity standards (WACC).

(a) Development proposals shall demonstrate that adequate facilities are provided for pedestrian access and movement to, along, and within the property being improved. This includes, but is not limited to: building sidewalks where gaps exist in the public sidewalk network; providing easements to enable connections of public trail systems; replacing sidewalks that are in poor condition; and, ensuring crosswalk facilities meet the standards of the Americans with Disabilities Act.

(b) Development proposals shall include improvements as necessary to conform to Objective #1, Neighborhood Connectivity, of the West End Neighborhood Master Plan.

Sec. 27-860 – 27-900. Reserved.

(Ord. No. 6-17/18, 9/18/17 [Fiscal Note: Less than $1000])

MEETINGHOUSE HILL COMMUNITY COMMERCIAL MHCC

Sec. 27-861. Purpose (MHCC).

To provide a higher density, mixed residential and commercial hub within the Meetinghouse Hill 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 Cottage Road motorists.

(Ord. No. 7-17/18, 9/18/17 [Fiscal Note: Less than $1000])

Sec. 27-862. Permitted Uses (MHCC).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table B.2** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 7-17/18, 9/18/17 [Fiscal Note: Less than $1000], Ord. No. 10-17/18, 11/6/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 4, 10/18/2022, [Fiscal Note: Less than $1000]; Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000]; Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 10-23/24, 11/28/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-863. Special exception uses (MHCC).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table B.2** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 7-17/18, 9/18/17 [Fiscal Note: Less than $1000, Ord. No. 10-17/18, 11/6/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; Ord. No. 9-20/21, 11/17/2020 [Fiscal Note: Less than $1000]; Ord. No. 4, 10/18/2022, [Fiscal Note: Less than $1000]; Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000]; Ord. No. 10-23/24, 11/28/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-864. Space and bulk regulations (MHCC).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 2.2** – Mixed-Use/Commercial Districts, under the corresponding column.

(Ord. No. 7-17/18, 9/18/17 [Fiscal Note: Less than $1000]; Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Sec. 27-865. Off-street parking (MHCC).

(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.

(Ord. No. 7-17/18, 9/18/17 [Fiscal Note: Less than $1000])

Sec. 27-866. Buffering (MHCC).

Sec. 5-58(5)(a) and other sections of the Code notwithstanding, any use in the Meetinghouse Hill 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.

(Ord. No. 7-17/18, 9/18/17 [Fiscal Note: Less than $1000])

Sec. 27-867. Signs (MHCC).

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

(Ord. No. 7-17/18, 9/18/17 [Fiscal Note: Less than $1000])

Sec. 27-868. Site plan review (MHCC).

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.

(Ord. No. 7-17/18, 9/18/17 [Fiscal Note: Less than $1000])

Sec. 27-869. Design standards (MHCC).

All building construction or remodeling projects within the Meetinghouse Hill Community Commercial zoning district must comply with the Design Standards for Neighborhood Activity Centers in Sec. 27-1572 et seq.

(Ord. No. 7-17/18, 9/18/17 [Fiscal Note: Less than $1000])

Sec. 27-870 – 27-900. Reserved.

(Ord. No. 7-17/18, 9/18/17 [Fiscal Note: Less than $1000])

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).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table C** – Industrial Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; (Ord. No. 12/19-20, 11/7/19 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-903. Special exceptions (IL).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table C** – Industrial Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-904. Space and bulk regulations (IL).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 2.2** – Industrial Districts, under the corresponding column.

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. 23, 4/4/2023 [Fiscal Note: Less than $1000])

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).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table C** – Industrial Districts, under the corresponding column.

(Ord. No. 1-14/15, 7/7/14 [Fiscal Note: Less than $1000]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; (Ord. No. 12/19-20, 11/7/19 [Fiscal Note: Less than $1000]; Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-923. Special exceptions (S).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table C** – Industrial Districts, under the corresponding column.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-924. Reserved.

(Ord. No. 26-22/23, 4/18/2023 [Fiscal Note: Less than $1000])

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).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 3** – Industrial Districts, under the corresponding column.

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. 23, 4/4/2023 [Fiscal Note: Less than $1000])

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).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table C** – Industrial Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; (Ord. No. 12/19-20, 11/7/19 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-943. Special exceptions (I).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table C** – Industrial Districts, under the corresponding column.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [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).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 3** – Industrial Districts, under the corresponding column.

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. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Sec. 27-946. Residential space and bulk regulations (I).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 3** – Industrial Districts, under the corresponding column.

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. 23, 4/4/2023 [Fiscal Note: Less than $1000])

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).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table C** – Industrial Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; (Ord. No. 12/19-20, 11/7/19 [Fiscal Note: Less than $1000]; Ord. No. 9-20/21, 11/17/2020 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-963. Special exceptions (INR).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table C** – Industrial Districts, under the corresponding column.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [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).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 3** – Industrial Districts, under the corresponding column.

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. 23, 4/4/2023 [Fiscal Note: Less than $1000])

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).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table D.1** – Conditional Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1003. Special exceptions (A-1).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table D.1** – Conditional Districts, under the corresponding column.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 14 16/17, 3/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1004. Space and bulk regulations (A-1).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 4.1**
– Conditional Districts, under the corresponding column.

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. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Editor's Note: Table 4.2 was erroneously referenced in Sec. 27-1004 in Ordinance #23-22/23 adopted by the City Council on 04/18/2023, instead of Table 4.1, which includes the applicable zoning district space and bulks standards. The Editor has renumbered the referenced table to Table 4.1 for clarity.

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 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.

(Ord. No. 12/19-20, 11/7/19 [Fiscal Note: Less than $1000])

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.

Sec. 27-1009. Driveways from the A-1 to INR Zones.

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 are permitted 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.

(Ord. No. 26-22/23, 4/18/2023 [Fiscal Note: Less than $1000])

Secs. 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 owner of the Property shall grant to the City a twenty (20) foot wide easement for the relocated Greenbelt Easement to replace the easement from Maine Technical College System recorded in Book 11479, Page 203. 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.

(Ord. No. 7-21/22, 9/28/2021 [Fiscal Note: Less than $1,000])

Sec. 27-1014. Permitted Uses (S-1).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table D.1** – Conditional Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000];(Ord. No. 7-21/22, 9/28/2021 [Fiscal Note: Less than $1,000]; Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1014.5. Special exceptions (S-1).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table D.1** – Conditional Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1015. Space and Bulk Regulations (S-1).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 4.1** – Conditional Districts, under the corresponding column.

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.

(Ord. No. 7-21/22, 9/28/2021 [Fiscal Note: Less than $1,000]; Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Editor's Note: Table 4.2 was erroneously referenced in Sec. 27-1015 in Ordinance #23-22/23 adopted by the City Council on 04/18/2023, instead of Table 4.1, which includes the applicable zoning district space and bulks standards. The Editor has renumbered the referenced table to Table 4.1 for clarity.

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).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table D.1** – Conditional Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 (Fiscal Note: Less than $1000]; Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1034. Special Exceptions (G-1).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table D.1** – Conditional Districts, under the corresponding column.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1035. Space and Bulk Regulations (G-1).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 4.1** – Conditional Districts, under the corresponding column.

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. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Editor's Note: Table 4.2 was erroneously referenced in Sec. 27-1035 in Ordinance #23-22/23 adopted by the City Council on 04/18/2023, instead of Table 4.1, which includes the applicable zoning district space and bulks standards. The Editor has renumbered the referenced table to Table 4.1 for clarity.

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 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.

(Ord. No. 12/19-20, 11/7/19 [Fiscal Note: Less than $1000])

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).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table D.1** – Conditional Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1043. Special exceptions (G-2).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table D.1** – Conditional Districts, under the corresponding column.

(Ord. No. 12-12/13, 3/4/13 [Fiscal Note: Less than $1000]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1044. Space and bulk regulations (G-2).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 4.1** – Conditional Districts, under the corresponding column.

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. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Editor's Note: Table 4.2 was erroneously referenced in Sec. 27-1044 in Ordinance #23-22/23 adopted by the City Council on 04/18/2023, instead of Table 4.1, which includes the applicable zoning district space and bulks standards. The Editor has renumbered the referenced table to Table 4.1 for clarity.

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 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.

(Ord. No. 12/19-20, 11/7/19 [Fiscal Note: Less than $1000])

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).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table D.1** – Conditional Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1000]; Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1053.5. Special exceptions (G-3).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table D.1** – Conditional Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1054. Space and Bulk Regulations (G-3).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 4.1** – Conditional Districts, under the corresponding column.

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]; Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Editor's Note: Table 4.2 was erroneously referenced in Sec. 27-1054 in Ordinance #23-22/23 adopted by the City Council on 04/18/2023, instead of Table 4.1, which includes the applicable zoning district space and bulks standards. The Editor has renumbered the referenced table to Table 4.1 for clarity.

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).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table D.1** – Conditional Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1061. Special Exception Uses (G-4).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table D.1** – Conditional Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1062. Space and Bulk Regulations (G-4).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 4.1** – Conditional Districts, under the corresponding column.

(Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Editor's Note: Table 4.2 was erroneously referenced in Sec. 27-1062 in Ordinance #23-22/23 adopted by the City Council on 04/18/2023, instead of Table 4.1, which includes the applicable zoning district space and bulks standards. The Editor has renumbered the referenced table to Table 4.1 for clarity.

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 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.

(Ord. No. 12/19-20, 11/7/19 [Fiscal Note: Less than $1000])

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 – 1070. Reserved.

(Ord. No.7-13/14, 2/19/14 [Fiscal Note: Less than $1000])

CONDITIONAL RESIDENTIAL USE DISTRICT G-5

Sec. 27-1071. Purpose (G-5).

Pursuant to Sec. 27-117 of the Code, conditional or contract zoning, the property identified as Assessor's Map 53, Lot 302E as of the April 1, 2017 assessment date (the "Property"), which adjoins residential areas of the City, is rezoned from Main Street Community Commercial and Residential District A to Conditional Residential & Limited Commercial Use District G-5, with a number of conditions and restrictions relating to the physical development and operation of the Property.

The purpose of the Conditional Residential & Limited Commercial Use District G-5 is to implement the vision and goals of the Comprehensive Plan's Main Street Community Commercial Hub. In particular, the District will promote Main Street as a mixed-use City street that provides services to the surrounding neighborhoods as well as motorists using Main Street. Development in the District will include ground-floor retail and service businesses, along with increased residential options. The Mixed Use District G-5 is intended to catalyze future redevelopment on Main Street that will promote the evolution to a more attractive and pedestrian-friendly environment.

(Ord. No. 21-17/18, 5/1/18 [Fiscal Note: Less than $1000])

Sec. 27-1072. Conditions to Zone Change to Conditional Residential & Limited Commercial Use District G-5.

Pursuant to Sec. 27-117 of the Code, the Property described in Sec. 27-1071 shall be limited as follows:

(a) A minimum of fifty (50) percent of the dwelling units constructed in the zone will be affordable to and reserved for households with incomes at or below eighty (80) percent of the area median income, adjusted for family size, as defined by the United States Department of Housing and Urban Development.

(b) All two-family and multi-family and commercial building(s) within the Conditional Mixed Use G-5 zoning district must comply with the Design Standards for Neighborhood Activity Centers in Sec. 27-1572 et seq.

(c) All two-family and multi-family and commercial building(s) shall only be constructed within the area identified as the "Mixed Use Development Area" on Exhibit A of the Conditional Residential & Limited Commercial Use District G-5.

(d) If requested by the City's Transportation Director, the owner of the Property shall install a bus shelter on the Property along Main Street, at the property owner's expense, provided, however, that the property owner may seek grants or other sources of funding to fund this expense.

(e) The owner of the Property shall provide an adequate outdoor smoking area on the Property for residents and employees of commercial/retail space.

(f) Commercial deliveries shall only be conducted between the hours of 7:00 a.m. and 6:00 p.m.

(g) Three (3) or fewer single family house lots shall be permitted to be created on the Property. The house lots shall be located within the area identified as the, "Single Family Residential Lot Area" on Exhibit A of the Conditional Residential & Limited Commercial Use District G-5. Any land not occupied by single-family house lots, structures or required parking for building(s) in the Mixed-Use Development Area, shall be used for open space, community space, stormwater management infrastructure, snow storage, or screening and buffering.

Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]

Sec. 27-1073. Permitted Uses (G-5)

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table D.1** – Conditional Districts, under the corresponding column.

(Ord. No. 21-17/18, 5/1/18 [Fiscal Note: Less than $1000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1074. Special Exceptions (G-5)

Special exception uses for this zoning district area are set forth in Sec. 27-404, **Table D.1** – Conditional Districts, under the corresponding column.

Sec. 27-1075. Prohibited Uses (G-5).

(a) Drive-through facilities for stores, shops, banks, offices, and restaurants or other establishments selling food or beverages.

Sec. 27-1076. Space and Bulk Regulations (G-5).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 4.1**
– Conditional Districts, under the corresponding column.

(Ord. No. 21-17/18, 5/1/18 [Fiscal Note: Less than $1000]; Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Editor's Note: Table 4.2 was erroneously referenced in Sec. 27-1076 in Ordinance #23-22/23 adopted by the City Council on 04/18/2023, instead of Table 4.1, which includes the applicable zoning district space and bulks standards. The Editor has renumbered the referenced table to Table 4.1 for clarity.

Sec. 27-1077. Signs (G-5).

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

(Ord. No. 21-17/18, 5/1/18 [Fiscal Note: Less than $1000])

Sec. 27-1078. Off-Street Parking (G-5).

Except as set forth in this Sec. 27-1078, off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter.

(a) Up to twenty (20) percent 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.

(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 lit. Spaces within offices and commercial facilities, located on balconies, or within residential dwelling units shall not be counted toward required parking.

(Ord. No. 21-17/18, 5/1/18 [Fiscal Note: Less than $1000])

Sec. 27-1079. Buffering (G-5).

Sec. 5-58(5)(a) and other sections of the Code notwithstanding, any use in the Conditional Residential & Limited Commercial Use District G-5 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. 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, notwithstanding any portion of the property line necessary for driveways or ingress/egress to the property. The screening from the buffer must be sufficient to ameliorate commercial or other non-residential views, as viewed from a vantage point at ground level up to six (6) feet in height, that otherwise would be detrimental to the quality of life of the abutting residential occupants and/or to their property values. In all cases, the Planning Board shall determine whether the quality, function, height, and other characteristics of any proposed fencing, landscaping, or other buffering meet the requirements of this section.

(Ord. No. 21-17/18, 5/1/18, [Fiscal Note: Less than $1000])

Sec. 27-1080. Site plan review (G-5)

Site plan review shall be required in accordance with Article XIV of this Chapter.

(Ord. No. 21, 5/1/18, [Fiscal Note: Less than $1000])

CONDITIONAL RESIDENTIAL USE DISTRICT G-6

Sec. 27-1081. Purpose (G-6).

Pursuant to Sec. 27-117 of the Code, conditional or contract zoning, the property identified as Assessor's Map 62, Lot 9 as of the April 1, 2019 assessment date (the "Property"), which is located in residential area of the City, is rezoned from Residential District A to Conditional Residential Use District G-6, 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-6 is to provide suitable areas within the City of South Portland of medium density in a manner which will promote a wholesome living environment for low and moderate income residents.

(Ord. No. 18-18/19, 6/25/19 [Fiscal Note: Less than $1000])

Sec. 27-1082. Conditions to Zone Change to Conditional Residential Use District (G-6).

Pursuant to Sec. 27-117 of the Code, the Property described in Sec. 27-1081 shall be limited as follows:

(a) The initial sale of one hundred (100) percent of the dwelling units constructed in the zoning district will be affordable to and reserved for households with incomes at or below eighty (80) percent of the area median income, as defined by the United States Department of Housing and Urban Development.

(b) The subdivision and site plan application for development of the property shall include plans for the construction of an extension of Sunset Avenue that, except as otherwise provided in Sec. 27-1087 below, shall meet the City street standards as contained in Chapter 24 Subdivisions. The extension of Sunset Avenue shall include a turnaround near its end that is approved by both the City's Fire Chief and Public Works Director. When completed to the required standards in Sec. 27-1087 below as determined by the City's Public Works Director, the extension of Sunset Avenue shall be offered to the City as a public street.

(c) Upon subdivision approval, fee title to the pedestrian access easement recorded in Book 33643, Page 38, shall be offered by the City by deed subject to a reserved sewer easement, to enable the connection of the sewer line serving the Property to the sewer main located within the fifty (50) foot wide sewer/storm drain easement located within the pedestrian access easement area.

(d) Development of the Property shall substantially conform to the Conceptual Site Plan, 131 Sunset Ave. Residential Development prepared by Acorn Engineering for the South Portland Housing Development Corp. revised through March 14, 2019, a copy of which shall be kept on file in the Code Enforcement Office of the South Portland Planning & Development Department.

(e) The detention and treatment of stormwater runoff from development of the Property shall be accommodated by the City's Sunset Avenue gravel wetland stormwater detention and treatment basin created as part of Phase I of the Thornton Heights Sewer Separation Project. However, the use of the Sunset Avenue stormwater basin as part of the Property's development is subject to approval by the City's Director of Water Resource Protection Department based on the facility's capacity to accommodate the development's runoff without significant loss of function.

(Ord. No. 18-18/19, 6/25/19 [Fiscal Note: Less than $1000])

Sec. 27-1083. Permitted Uses (G-6).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table D.1** – Conditional Districts, under the corresponding column.

(Ord. No. 18-18/19, 6/25/19 [Fiscal Note: Less than $1000]; Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1084. Special Exceptions. (G-6).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table D.1** – Conditional Districts, under the corresponding column.

(Ord. No. 18-18/19, 6/25/19 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1085. Space and Bulk Regulations (G-6).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 4.1** – Conditional Districts, under the corresponding column.

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. 18-18/19, 6/25/19 [Fiscal Note: Less than $1000]; Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Editor's Note: Table 4.2 was erroneously referenced in Sec. 27-1085 in Ordinance #23-22/23 adopted by the City Council on 04/18/2023, instead of Table 4.1, which includes the applicable zoning district space and bulks standards. The Editor has renumbered the referenced table to Table 4.1 for clarity.

Sec. 27-1086. Off street parking (G-6).

In the Conditional Residential Use District G-6, off-street parking shall be provided in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter.

(Ord. No. 18-18/19, 6/25/19 [Fiscal Note: Less than $1000])

Sec. 27-1087. Street Standards (G-6).

In the Conditional Residential Use District G-6, 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 right-of-way: *Thirty (30) feet.*
Minimum pavement width: *Twenty-four (24) feet.*
Minimum sidewalk width: *None provided.*
Minimum center line radius: *Forty (40) feet.*
Minimum tangent between curves of reverse alignment: *Fifty (50) feet.*
Design speed-MPH: *Fifteen (15) miles-per-hour.*
Maximum length of dead-end street: *Seven hundred (700) feet measured from the center line of feeder-street to center of turnaround radius.*

The turnaround need not necessarily be a traditional cul de sac with the specifies radii, but shall be able to facilitate the reversal of direction for City-owned or authorized refuse trucks, snowplows, and emergency vehicles as determined by the City's Fire Chief and Public Works Director. Prior to any review or approval of the turnaround, the owner or authorized agent of the owner of the Property shall submit evidence, through the use of a turning template program or other method satisfactory to the Fire Chief and Public Works Director, that these types of vehicles are able to reverse directions within the allotted turnaround space.

(Ord. No. 18-18/19, 6/25/19 [Fiscal Note: Less than $1000])

Sec. 27-1088. Signs (G-6).

In the Conditional Residential Use District G-6, signs shall be provided in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter.

(Ord. No. 18-18/19, 6/25/19 [Fiscal Note: Less than $1000])

Sec. 27-1089. Stormwater Management (G-6).

In the Conditional Residential Use District G-6, the stormwater management standards shall be those contained in Sec. 27-1536 et seq., except that stormwater standards shall be considered to have been met if 90% of the stormwater runoff, generated by impervious surfaces resulting from development of the Property, is conveyed to the City's Sunset Avenue gravel wetland stormwater detention and treatment basin created as part of Phase I of the Thornton Heights Sewer Separation Project.

(Ord. No. 18-18/19, 6/25/19 [Fiscal Note: Less than $1000])

Sec. 27-1090. Site plan review (G-6).

Site plan review shall be required in accordance with Article XIV of this chapter.

(Ord. No. 18-18/19, 6/25/19 [Fiscal Note: Less than $1000])

Sec. 27-1091. Subdivision Review (G-6).

In the Conditional Residential Use District G-6, subdivision review shall be as set forth in Sec. 24-3 of the Code; provided, however, that any subdivision within the Conditional Residential Use District G-6 shall be reviewed and processed as a minor subdivision.

(Ord. No. 18-18/19, 6/25/19 [Fiscal Note: Less than $1000])

CONDITIONAL RESIDENTIAL USE DISTRICT G-7

Sec. 27-1092A. Purpose (G-7).

The purpose of the Conditional Residential Use District G-7 is to provide the City an area of high residential density in a manner that will promote a wholesome and affordable living environment.

Sec. 27-1092B. Conditions to Zone Change to Conditional Residential Use District G-7 (G-7).

(a) A minimum of fifty (50) percent of all housing units in housing developments subject to Planning Board review, for which an application for Planning Board approval is submitted after May 23, 2024, shall be affordable unit as defined in Section 27-2202 (a)(1)(b) for rental units and Section 27-2202 (a)(1)(c) for owned housing. All affordable units shall ensure affordability for a tern consistent with Section 27-2202 (a)(6). The Planning Board may waive this requirement for a housing development upon a showing by the applicant that at least seventy-five (75) percent of housing units within the G-7 zone are affordable as defined in Section 27-2202 (a)(1)(b) for rental units and Section 27-2202 (a)(1)(c) for owned housing.

(Ord. No. 25-23/24, 6/25/2024 {Fiscal Note: Less than $1000])

Sec. 27-1092C. Permitted uses (G-7).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table D.1** – Conditional Districts, under the corresponding column.

(Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1092D. Special exceptions (G-7).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table D.1** – Conditional Districts, under the corresponding column.

(Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1092E. Space and bulk regulations (G-7).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 4.1**
– Conditional Districts, under the corresponding column.

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. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Editor's Note: Table 4.2 was erroneously referenced in Sec. 27-1092E in Ordinance #23-22/23 adopted by the City Council on 04/18/2023, instead of Table 4.1, which includes the applicable zoning district space and bulks standards. The Editor has renumbered the referenced table to Table 4.1 for clarity.

Sec. 27-1092F. Off-street parking (G-7).

In the Conditional Residential Use District G-7, unless a lesser parking requirement is permitted elsewhere in this Chapter, off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter.

(Ord. No. 25-23/24, 6/25/2024 [Fiscal Note: Less than $1000])

Sec. 27-1092G. Signs (G-7).

In the Conditional Residential Use District G-7, signs shall be regulated in accordance with the requirements of Sec. 27-1561 *et seq.* of this Chapter.

Sec. 27-1092H. Site plan review (G-7).

Any use allowed in the Conditional Residential Use District G-7, involving new construction which, when added to new construction within the receding 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) and 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. 27-1093 – 27-1097. Reserved.

(Ord. No. 11-21/22, 11/9/2021 [Fiscal Note: Less than $1000])

O'NEIL STREET PARK CONTRACT ZONE DISTRICT (O'NEIL)

Sec. 27-1098. O'Neil Street Park Contract Zone Agreement (O'NEIL).

The property located in this zoning district is subject to the Contract Zone Agreement between the City and Meeting House Hill Park LLC, a copy of which is attached to this ordinance as

APPENDIX A , APPENDIX B, and **APPENDIX C** incorporated herein by reference.

(Ord. No. 13-19/20, 2/18/20 [Fiscal Note: Less than $1000); Ord. No. 11-21/22, 11/9/2021 [Fiscal Note: Less than $1000]; Ord. No. 15-21/22, 2/15/2022 [Fiscal Note: Less

Secs. 27-1099 – 27-1100. Reserved.

(Ord. No. 11-21/22, 11/9/2021 [Fiscal Note: Less than $1000])

ARTICLE XI. CONDITIONAL AND OTHER SPECIAL USE DISTRICTS

CONDITIONAL SCHOOL DISTRICT 1 (SCH-1)

Sec. 27-1101. Purpose (SCH-1).

Pursuant to Sec. 27-117 of the Code, the property identified as Assessor's Map 52, Lot 3A as of the April 1, 2018 assessment date (the "Property"), is rezoned from Residential District A to Conditional School District 1 (SCH-1), with a number of conditions and restrictions relating to the physical development and operation of the Property. The purposes of the Conditional School District 1 (SCH-1) are to permit the construction of a new middle school on the same campus as the existing Memorial Middle School in a manner that maintains elements of the existing school campus, follows best architectural practices for modern school construction, and minimizes negative impacts to the surrounding neighborhood.

(Ord. No. 7-18/19, 12/18/18 [Fiscal Note: Less than $1000])

Sec. 27-1102. Conditions to Zone Change (SCH-1).

The following conditions shall apply to the Conditional School District 1 (SCH-1):

(a) New construction and/or remodeling must meet minimum Leadership in Energy & Environmental Design (LEED) construction standards but does not need to be LEED certified or registered.

(b) All electrical service to the principal buildings shall be underground.

(Ord. No. 7-18/19, 12/18/18 [Fiscal Note: Less than $1000])

Sec. 27-1103. Permitted Uses (SCH-1).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table D.2** – Conditional Districts, under the corresponding column.

(Ord. No. 7-18/19, 12/18/18 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1104. Special Exception Uses (SCH-1).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table D.2** – Conditional Districts, under the corresponding column.

(Ord. No. 7-18/19, 12/18/18 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1105. Space and Bulk Regulations (SCH-1).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 4.2** – Conditional Districts, under the corresponding column.

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. 7-18/19, 12/18/18 [Fiscal Note: Less than $1000]; Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Sec. 27-1106. Off-Street Parking (SCH-1).

In the Conditional School District 1 (SCH-1), off-street parking shall be provided in accordance with requirements of Sec. 27-1556 of this Chapter.

(Ord. No. 7-18/19, 12/18/18 [Fiscal Note: Less than $1000])

Sec. 27-1107. Signs (SCH-1).

In the Conditional School District 1 (SCH-1), 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 seventy (70) square feet.

(b) One (1) single- or double-sided ground sign (a free-standing sign without a physical gap between the message portion of the sign and the sign base) is permitted. The face a single side of the sign shall not exceed sixty (60) square feet, except that if the sign contains a changeable message feature as provided in subsection (c) below, the maximum size shall be as set forth in subsection (c)(iii). The base of the sign shall be at least eighteen (18) inches in height and be made of brick or other durable material to reduce the potential for deterioration of the base. There shall be a frame around the sign connected to the base to provide architectural character to the sign. Both the sign base and frame shall complement the design of the principal building.

(c) For any non-residential use, one (1) on-premises sign created, designed, manufactured or modified in such a way that its message may be electronically, digitally or mechanically altered by the complete substitution or replacement of one display by another on each side subject to the following requirements:

(i) Fade/Dissolve transitions. Changeable sign displays shall contain static messages only, changed only through dissolve or fade transitions, or with the use of other subtle transitions and frame effects that do not have the appearance of moving text or images, but which may otherwise not have movement, or the appearance or optical illusion of movement, of any part of the sign assembly, design, or pictorial segment of the sign,

including the movement of any illumination or the flashing, scintillating or varying of light intensity.

(ii) Minimum display time. Each message on the sign must be displayed for a minimum of thirty (30) seconds.

(iii) Maximum size. The maximum size of a single side of the face of the changeable sign is twenty-four (24) square feet, but may be combined with a ground sign for a total combined maximum size of a single side of the face of the sign of eighty-four (84) square feet.

(iv) Spacing. Changeable signs must be separated from other changeable signs by a minimum of one hundred fifty (150) feet.

(v) Setback. Changeable signs must be at least one hundred (100) feet from a principal residential structure.

(vi) Orientation. When located within one hundred fifty (150) feet of a principal residential structure, the sign must be oriented so that no portion of the sign face is visible from that structure.

(vii) Brightness. Changeable signs may not exceed a maximum illumination of 5,000 nits during daylight hours, nor a maximum of 500 nits between dusk to dawn, as measured from the brightest portion of the sign face. Prior to the issuance of a permit for a changeable sign, the applicant shall provide written certification from the sign manufacturer that the light intensity has been factory pre-set not to exceed the levels specified above, and the intensity level is protected from end-user manipulation by password-protected software or other method as deemed appropriate by the Code Enforcement Officer.

(viii) Dimmer. Changeable signs must have an automatic dimmer that must be used to reduce nighttime brightness levels.

(d) 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.

(Ord. No. 7-18/19, 12/18/18 [Fiscal Note: Less than $1000])

Sec. 27-1108. Farm animals and produce (SCH-1).

In the Conditional School District 1 (SCH-1), the keeping of farm-type animals, including but not limited to horses, ponies, cattle, pigs and fowl except 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.

(Ord. No. 7-18/19, 12/18/18 [Fiscal Note: Less than $1000]; (Ord. No. 12/19-20, 11/7/19 [Fiscal Note: Less than $1000])

Sec. 27-1109. Site plan review (SCH-1).

Any use allowed in the Conditional School District 1 (SCH-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 6 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.

(Ord. No. 7-18/19, 12/18/18 [Fiscal Note: Less than $1000])

Secs. 27-1110 – 27-1119. Reserved.

(Ord. No. 14-21/22, 11/30/2021 [Fiscal Note: Less than $1000])

PARK DISTRICT (P)

Sec. 27-1120. Purpose (P).

To preserve open space as a valuable resource and to provide high-quality, well-maintained recreational facilities, open space, and access to the City's waterfront for recreational purposes for residents and visitors. Development in the Park District should be limited to maintain the predominant use as open space, but allow for both active and passive recreational uses to occur.

Sec. 27-1121. Permitted uses (P).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table E** – Parks and Open Space Districts, under the corresponding column.

(Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1122. Special exceptions (P).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table E** – Parks and Open Space Districts, under the corresponding column.

(Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1123. Space and bulk regulations (P).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 4.2** – Conditional Districts, under the corresponding column.

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. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Sec. 27-1124. Off-street parking (P).

In the Park District (P), off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter.

Sec. 27-1125. Signs (P).

In the Park District (P), signs shall be regulated in accordance with the requirements of Sec. 1561 *et seq.* of this Chapter.

Sec. 27-1126. Site plan review (P).

Any use allowed in the Park District (P), involving new construction which, when added to new construction within the preceding two (2) years, exceeds five hundred (500) 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 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 nonconforming use.

Secs. 27-1127 – 27-1129. Reserved.

OPEN SPACE DISTRICT (OS)

Sec. 27-1130. Purpose (OS).

To preserve, protect, and enhance minimally developed or underdeveloped areas within the City containing unique naturally occurring or manmade landscape features which provide visual relief and enjoyment. Development in the Open Space District should emphasize and be consistent with the natural state of the land, minimize disruption, and enhance the natural conditions in support of climate resiliency.

Sec. 27-1131. Permitted uses (OS).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table E** – Parks and Open Space Districts, under the corresponding column.

(Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1132. Special exceptions (OS).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table E** – Parks and Open Space Districts, under the corresponding column.

(Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec.27-1133. Space and bulk regulations (OS).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 4.2**
– Conditional Districts, under the corresponding column.

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. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Sec. 27-1134. Off-street parking (OS).

In the Open Space District (OS), off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter. Additionally, all parking surfaces shall be pervious.

Sec. 27-1135. Signs (OS).

In the Open Space District (OS), signs shall be regulated in accordance with the requirements of Sec. 27-1561 *et seq.* of this Chapter.

Sec. 27-1136. Site plan review (OS).

Any use allowed in the Open Space District (OS), involving new construction which, when added to new construction within the preceding two (2) years, exceeds one hundred (100) 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 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.

(Ord. No. 14-21/22, 11/30/2021 [Fiscal Note: Less than $1000])

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 Historic Preservation Committee (hereinafter "HPC") 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).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table D.2** – Conditional Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1203.5 Special Exceptions (CAZ).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table D.2** – Conditional Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1000]; (Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1204. Space and bulk regulations (CAZ).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 4.2** – Conditional Districts, under the corresponding column.

(Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000])

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])

Secs. 27-1221 – 27-1222 – 27-1223. Repealed.

(Ord. No. 16-16/17, 4/19/17 [Fiscal Note: Less than $1,000])

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).

Permitted and special exception uses for this zoning district are as set forth in Sec. 27-404, **Table D.2** – Conditional Districts, under the corresponding column.

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.

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 4.2** – Conditional Districts, under the corresponding column.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

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- 1250. Reserved.

CONDITIONAL NON-RESIDENTIAL INDUSTRIAL ECOMAINE

DISPOSAL FACILITY DISTRICT 1 (INR-EDF-1)

Sec 27-1251. Purpose (INR-eDF-1).

Pursuant to Section 27-117 of the Code, Conditional or Contract Zoning, the property identified as Assessor's Map 86 Lot 3A as of the April 1, 2017 assessment date, which is uniquely located in a Rural Residential (RF) zoning district, is rezoned from Rural Residential (RF) to Conditional Non-Residential Industrial ecomaine Disposal Facility District 1 (INR-EDF-1), with a number of conditions and restrictions relating to the physical development and operation of the property. The conditions are intended to: (1) ensure compatibility with the uses of the Non-Residential Industrial (INR) district and with the surrounding Light Industrial (IL) district properties; (2) to be consistent with the intent of the October 2012 South Portland Comprehensive Plan and the

City's Solid Waste Disposal Ordinance; and (3) to comply with ecomaine's Maine Department of Environmental Protection (MEDEP) original operating permit (Board Order #L-03127-07-A-N dated July 9, 1986) and its Landfill Metal Reclamation Amendment (Board Order #S-01327-WD-AM-A dated August 23, 2011), as may be amended from time to time.

Sec. 27-1252. Zone changed from Rural Residential (RF) to Conditional Non-Residential Industrial ecomaine Disposal Facility District 1 (INR-EDF-1) with conditions.

The property identified in Sec. 27-1251 above and shown on the Official Zoning Map as Conditional Non-Residential Industrial Ecomaine Disposal Facility District 1 (INR-EDF-1) is rezoned from Rural Residential (RF) to Conditional Non-Residential Industrial Ecomaine Disposal Facility District 1 (INR-EDF-1) with conditions and restrictions.

Sec. 27-1253. Conditions to zone change to INR-EDF-1.

Pursuant to Sec. 27-117 of the Code, the property described in Sec. 27 1251 above shall be limited as follows:

A. Use and development of the property shall be in accordance with the MEDEP Solid Waste Management Regulations (SWMR) and all site-specific MEDEP Board Order Permits for operating and development of the ecomaine ashfill/balefill landfill including operations associated with ash processing and metal reclamation.

B. Use and development of the property shall be in accordance with the City's Solid Waste Disposal Ordinance and Sec. 27 961 et seq. regarding land use activity in the Non-Residential Industrial (INR) zoning district.

C. Use and development of the property shall be in general accordance with ecomaine's facility operations manual and cell development plans. The primary use of the property is for the landfilling of ash, generated at ecomaine's municipal solid waste (MSW) incinerator, and other residuals permitted by the Maine Department of Environmental Protection (MEDEP) within the permitted limit of the site's secure landfill. Occasionally, MSW is stored onsite, within the permitted limits of the landfill, due to a shutdown of the ecomaine incinerator or when there is insufficient handling capacity to incinerate all the MSW received at the incinerator or a similar operational restriction.

D. The storage of ash, MSW, or other permitted waste within the conditional INR EDF-1 District that is outside the permitted limits of the landfill is prohibited.

E. The storage or disposal of hazardous waste or free liquids within the conditional INR-EDF-1 District is prohibited.

Sec. 27-1254. Definitions (INR-EDF-1).

In applying the provisions of this zoning district, the following definitions apply and supersede any conflicting definitions that may be found elsewhere in this
Chapter:

A. Acceptable waste shall mean ordinary household, municipal, institutional, commercial and industrial Solid Waste including, but not limited to, the following:

(1) Garbage, trash, rubbish, paper and cardboard, plastics, refuse, beds, mattresses, sofas, and automobile or small vehicle tires, to the extent that ecomaine determines that the air emission criteria and standards applicable to and at the ecomaine Disposal Facility are not violated; and
(2) Processable portions of commercial and industrial solid waste; and
(3) Residential recycleable materials and commercial recyclable materials.

B. Ashes shall mean the residue from the burning of wood, coal, coke or other combustible material.

C. Commercial recyclable materials means that portion of commercial solid waste which consists of recyclable materials.

D. Commercial solid waste means solid waste generated by a sole proprietorship, partnership, professional association, corporation or other business organization, provided that commercial solid waste shall not include residential solid waste, or solid waste generated by a municipal or quasi-municipal organization or by a state-approved school administration.

E. Construction and demolition debris shall mean solid waste consisting of one or more of the following materials resulting from construction, remodeling, repair, and demolition of structures:

(1) Inert fill;
(2) Land clearing debris;
(3) Asphalt;
(4) Masonry;
(5) Wall board;
(6) Pipes; and
(7) Metal conduits.

F. Disposal shall mean the discharge, deposit, dumping or placing of any solid waste into or on any land.

G. ecomaine shall mean ecomaine, a non-capital stock, non-profit corporation created pursuant to 30-A M.R.S.A. Chapter 115, 13-B M.R.S.A. § 101 et seq. and 38 M.R.S.A. § 1304- B(5)1, or any successor thereto or assignee thereof.

H. ecomaine Disposal Facility shall mean any land or structure or combination of land area and structures, including dumps and transfer stations owned or operated by or under a contract with ecomaine, and/or any other site designated by ecomaine or its assignee used for storing, salvaging, reducing, incinerating, reclaiming or disposing of acceptable waste pursuant to the waste handling agreement and amendments thereto entered into between the City and ecomaine.

I. Hazardous waste shall mean a waste substance or material in any physical state, designated as hazardous by the terms of a certain waste handling agreement between the City and ecomaine.

J. Municipal disposal facilities shall mean any land or structure or combinations of land area and structures owned or operated by, or under contract with, or approved by the City, including a transfer station or similar facility used in connection with the disposal of acceptable waste.

K. Public solid waste disposal facility or disposal facility shall mean any land or structure or combination of land area and structures, including transfer stations, used for storing, salvaging, reducing, incinerating, reclaiming or disposing of solid wastes; this term shall include the ecomaine Disposal Facility and municipal disposal facilities.

L. Recyclable materials shall mean solid waste which has useful physical or chemical properties after serving a specific purpose and can be reused or recycled for the same or other purposes, including: newspapers; magazines; paperboard; paper products; cardboard; plastics; metal; foil; and glass.

M. Residential recyclable materials means that portion of residential solid waste which consists of recyclable materials.

N. Residential solid waste means household waste, residential refuse, or solid waste generated in a residence.

O. Solid waste shall mean useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including by way of example, and not by limitation, rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse, but shall not include septage tank sludge nor agricultural or hazardous wastes; it shall include acceptable waste, unacceptable waste and construction and demolition debris as defined herein.

P. Unacceptable waste shall mean that portion of solid waste which is not acceptable waste and includes, but is not limited to, sewage and its derivatives, construction and demolition debris, products fluorescent light bulbs, junk vehicles, special within the meaning of the Atomic Energy Act of waste, including hazardous chemicals.

Sec. 27-1255. Uses; review; space and bulk (INR-EDF-1).

Permitted and special exception uses for this zoning district are as set forth in Sec. 27-404, **Table D.2** – Conditional Districts, under the corresponding column.

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 in accordance within the INR District regulations.

Except as provided in the section for the construction of temporary free standing buildings, space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 4.2** – Conditional Districts, under the corresponding column.

(Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Secs. 27-1256 – 27-1260. Reserved.

(Ord. No. 4-18/19, 9/18/18 [Fiscal Note: Less than $1000] Ord. No. 23-21/22, 6/7/2022 [Fiscal Note: Less than $1000]; Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

COMMERCIAL KENNEL ZONE (CKZ)

Sec. 27-1261. Purpose (CKZ).

Pursuant to Sec. 27-117 of the Code, the property identified as Assessor's Map 065, Lot 16B as April 1, 2022 (hereinafter the "Property") located at 2112 Broadway is rezoned from Commercial to Commercial Kennel Zone (CKZ), with a number of conditions and restrictions relating to the physical development and operation of the Property. The purpose of the Commercial Kennel Zone is to provide an appropriate reuse opportunity for a new animal kennel facility. This property is ideal for this use as there is a large buffer of natural and artificial barriers to the abutting residential neighborhoods to the existing zone.

Sec. 27-1262. Conditions (CKZ).

The following conditions shall apply to the Commercial Kennel Zone:

(a) Kennels shall be kept in a clean and sanitary manner by the daily removal of waste and by the use of spray and disinfectants to prevent the accumulation of flies, the spread of disease or offensive odor.

(b) Temporary storage containers for any kennel wastes containing or including animal excrement shall be kept tightly covered at all times. Such containers shall be made of steel or plastic to facilitate cleaning.

(c) Animal odors shall not be detectable beyond the lot lines of the property wherein the kennel is located.

(d) Dust and drainage from the kennel enclosure shall not create a nuisance or a hazard to adjoining property or uses.

(e) All outdoor areas accessible to the boarded animals shall be screened with a stockade or similar style privacy fence. Such fence must be a minimum of 6-feet in height.

(f) Grooming services are allowed provided the grooming services are conducted indoors and the grooming area is limited to 1,500 square feet in area.

(g) No more than 200 animals may be kept on the premises on an overnight basis.

(h) Outdoor play areas will be at least 500 feet from any residentially zoned home.

Sec. 27-1263. Permitted uses (CKZ).

Permitted uses for this zoning district are as set forth in Sec. 27-404, **Table D.2** – Conditional Districts, under the corresponding column.

(Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1264. Special Exceptions (CKZ).

Special exception uses for this zoning district are as set forth in Sec. 27-404, **Table D.2** – Conditional Districts, under the corresponding column.

(Ord. No. 22-23/24, 5/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1265. Space and bulk regulations (CKZ).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 4.2** – Conditional Districts, under the corresponding column.

(Ord. No. 23, 4/4/2023 [Fiscal Note: Less than $1000])

Sec. 27-1266. Off-street parking (CKZ).

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

Sec. 27-1267. Signs (CKZ).

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

Sec. 27-1268. Site plan review (CKZ).

Any use allowed in the Commercial Kennel 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; 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.

(Ord. No. 23-21/22, 6/7/2022 [Fiscal Note: Less than $1000])

Sec. 27-1269. Purpose (MSCR).

Pursuant to Sec. 27-117 of the Code, Conditional or Contract Zoning, the property identified as Assessor's Map 63, Lot 121 as of the April 1, 2023 assessment date located at 675 Main Street (hereinafter the "Property") is rezoned from Limited Business (LB) and Residential (A) to Conditional Main Street Commercial Residential District (MSCR), with a number of conditions and restrictions relating to the physical development and operation of the Property. The purpose of the MSCR District is to provide a densely developed, mixed-use area that is consistent with the goals of the 2012 South Portland Comprehensive Plan. The MSCR District is located adjacent to large infrastructure and a variety of residential and commercial land uses and zoning districts. The MSCR District provides a compatible balance of these features and serves as a transition to the surrounding areas.

Sec. 27-1270. Conditions (MSCR).

Pursuant to Sec. 27-117 of the Code, the following conditions shall apply to the Conditional Main Street Commercial Residential District zoning district:

(a) The Property shall have only one building used as a lodging establishment.

(b) The owner of the Property shall provide for pedestrian access to the existing sidewalk at the intersection of Westbrook Street and the Westbrook Street Extension.

Sec. 27-1271. Permitted uses (MSCR).

(a) Local retail stores, not including gasoline filling stations and outdoor sales, and service; provided, however, that 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, that such facilities may not be open between the hours of 1:00 a.m. and 6:00 a.m.

(f) Lodging establishment, not including trailers or mobile homes; but including, a maximum of two (2) dwelling units for resident operators of the lodging establishment.

(g) Accessory uses, including roof-mounted solar energy systems, small-scale ground-mounted solar energy systems, and 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. 27-1272. Special exceptions (MSCR).

(a) Medium-scale shelter.

(b) Large-scale shelter.

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

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

(e) 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.

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

(g) Charitable and philanthropic organizations.

(h) 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.

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

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

(k) 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.

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

(m) Farmers’ market subject to the provisions of Sec. 27-1580 *et seq*.

(n) Medium- and large-scale ground-mounted solar energy systems.

(o) Controlled environment agriculture subject to performance standards that include, but are not limited to, the design standards in Sec. 27-1572 *et seq*. and the pesticide restrictions in Chapter 32.

(p) Adaptive Reuse subject to the provisions of Sec. 27-1591 *et seq*.

Sec. 27-1273. Space and bulk regulations (MSCR).

Space and bulk standards for this zoning district are as set forth in Sec. 27-403, **Table 4.2** – Conditional Districts, under the corresponding column.

Sec. 27-1274. Off-street parking (MSCR).

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

Sec. 27-1275. Signs (MSCR).

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

Sec. 27-1276. Site plan review (MSCR).

Any use allowed in the Main Street Commercial Residential 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.

(Ord. No. 13-23/24, 2/6/2024 [Fiscal Note: Less than $1000])

Sec. 27-1277 – 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. § 435 et seq., as may be amended.

(Ord. No. 21-22/23, 3/21/2023 [Fiscal Note: Less than $1000])

Sec. 27-1303. Applicability and Conflicts.

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.

(Ord. No. 21-22/23, 3/21/2023 [Fiscal Note: Less than $1000])

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, words are as defined in Sec. 27-201 above.

(Ord. No. 4-14/15, 7/7/14 [Fiscal Note: Less than $1000]; Ord. No. 21-22/23, 3/21/2023 [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.

21. Roof-mounted solar energy systems.

22. Ground-mounted solar energy systems not located in wetlands of special significance and no larger than the size permitted in the underlying zoning district.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1000])

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(R).

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.

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 newly constructed or substantially improved buildings and structures as defined by Chapter 5, Article IV,[1] 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 permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S. § 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 their 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, the elevation of structures consistent with Section 27-303(a)(4), 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, and shoreline stabilization.

1. No more than one structure extending or located below the high-water line of a waterbody or within a wetland is allowed on a single lot.

2. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

3. The location shall not unreasonably interfere with existing developed or natural beach areas.

4. The facility shall be located so as to minimize adverse effects on fisheries.

5. 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.

6. 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 footprint, as thatterm is defined in Sec. 27-201 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.

7. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units.

8. Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

9. 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.

10. Vegetation may be removed in excess of the requirements of Sec. 27-1332(J) below in order to conduct shoreland stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge as determined by the Planning Board.

    (a) When necessary, the removal of vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than twelve (12) feet in width. When the stabilization project is complete, the construction equipment accessway must be restored in accordance with Sec. 27-1322(M).

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(N).

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.

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. §§ 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 twenty thousand (20,000) 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 Harvesting.

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 hazard trees, as described in Sec. 27-1322(K).

   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 and in compliance with this Article.

2. Except in areas as described in subparagraph J (1) above, 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 woody vegetation crown. However, a single footpath not to exceed six (6) feet in width as measured between woody vegetation is allowed for accessing the shoreline 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 are 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.

(vi) 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 must be maintained. If five saplings do not exist, no woody vegetation stems less than two (2) inches in diameter can be removed until five (5) saplings have been recruited into the plot.

For the purposes of this Article, "other natural vegetation" is defined as existing vegetation under three (3) feet in height.

(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, dead or hazard trees results in the

creation of cleared openings, these openings shall be replanted with native tree species, in accordance with Sec. 27-1322(K) below, unless existing new tree growth is present.

(f) In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of this subparagraph J(2).

The provisions contained in this 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 horizontal distances greater than seventy-five (75) feet 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 basal area 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.

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 applies to the portion of a lot within the Shoreland Area Overlay District, but shall not apply to any non-residential and non-mixed use districts 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 woody vegetation shall be regulated under the provisions of this section.

6. Any Tree Removal, as defined in Article XXI (Tree Protection), within the Shoreland Area Overlay District shall comply with the requirements of Article XXI, unless such standards are less-restrictive than the applicable regulations governing the Shoreland Area Overlay District, in which case the more-restrictive standards shall apply.

K. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal.

1. Hazard trees in the Shoreland Area Overlay District may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

(a) Within the shoreline buffer as described in Sec. 27-1322(J)(1) above , if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.

(b) Outside of the shoreline buffer as described in Sec. 27-1322(J)(2) above, when the removal of hazard trees exceeds forty (40) percent of the basal area of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the Shoreland Area Overlay District, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree(s) was/were removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.

(c) The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed.

(d) The Code Enforcement Officer shall require the property owner to submit an evaluation from a Qualified Tree Professional before any hazard tree can be removed within the Shoreland Area Overlay District.

(e) The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter at four and one half (4.5) feet above the ground level if a cleared area is created by the tree removal.

2. Storm-damaged trees in the Shoreland Area Overlay District may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

(a) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:

(i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;

(ii) Stumps from the storm-damaged trees may not be removed;

(iii) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and

(iv) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.

(b) Outside of the shoreline buffer, if the removal of storm-damaged trees exceeds forty (40) percent of the basal area of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceed twenty-five (25) percent of the lot area within the Shoreland Area Overlay District or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-to-one basis.

L. Exemptions to Clearing and Vegetation Removal Requirements.

The following activities are exempt from the clearing and vegetation removal standards set forth in Sec. 27-1322(J), provided that all other applicable requirements of this Article are complied with, and the removal of vegetation is limited to that which is necessary, as set forth below:

1. The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing cleared areas that do not comply with the vegetation standards in this Chapter, such as, but not limited to, cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by Sec. 27-1322(L). If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Sec. 27-1322(J) apply.

2. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of Sec. 27-1322(B) are not applicable.

3. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility.

4. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of Sec. 27-1322(I) are complied with.

5. The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean up

contamination on a site that part of a state or federal brownfields program or a voluntary response action program pursuant to 38 M.R.S. § 343-E, as may be amended, and that is located along:

(a) A coastal wetland; or

(b) A river that does not flow into a great pond classified as GPA pursuant to 38 M.R.S. § 465-A, as may be amended.

6. The removal of non-native invasive vegetation species, provided the following minimum requirements are met:

(a) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the normal high-water line, except that wheeled or tracked equipment may be operated or stored on existing non-vegetated surfaces, such as pavement or gravel.

(b) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the normal high-water line occurs via hand tools; and

(c) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

7. The removal of vegetation associated with emergency response activities conducted by or in collaboration with the Maine Department of Environmental Protection, the U.S. Environmental Protection Agency, the Federal Emergency Management Agency, the U.S. Coast Guard, and their agents.

M. Revegetation Requirements.

When revegetation is required pursuant to this Article:

1. The property owner must submit a revegetation plan, prepared with and signed by a Qualified Tree Professional that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.

2. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation. Where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed.

3. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not

completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.

4. Revegetation activities must meet the following requirements for trees and saplings:

   (a) All trees and saplings removed must be replaced with native noninvasive species;

   (b) Replacement vegetation must at a minimum consist of saplings;

   (c) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;

   (d) No one species shall make up fifty (50) percent or more of the number of trees and saplings planted;

   (e) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or saplings must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and

   (f) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) year period. A performance guarantee similar to the type required under Sec. 27-1431 or some alternative arrangement acceptable to the Code Enforcement Officer shall be used to ensure compliance with this survival rate.

5. Revegetation activities must meet the following requirements vegetation under three (3) feet in height:

   (a) All vegetation under three (3) feet in height must be replaced with native noninvasive species of vegetation under three (3) feet in height as applicable;

   (b) Vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

   (c) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;

   (d) No one species shall make up fifty (50) percent or more of the number of planted woody vegetation plants; and

   (e) Survival of vegetation under three (3) feet in height must be sufficient to remain in compliance with the standards contained within this Article for a minimum of five (5) years. A performance guarantee similar to the type required under Sec. 27-1431 or some alternative arrangement acceptable to the Code Enforcement Officer shall be used to ensure compliance with this survival rate.

6. Revegetation activities must meet the following requirements for ground vegetation:

   (a) All ground vegetation removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

   (b) Where necessary due to lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and

(c) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this Chapter for a minimum of five (5) years. A performance guarantee similar to the type required under Sec. 27-1431 or some alternative arrangement acceptable to the Code Enforcement Officer shall be used to ensure compliance with this survival rate.

N. 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 permit 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.

O. 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.

P. 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.

Q. 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.

R. 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(R)(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(R)(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]; (Ord. No. 21-22/23, 3/21/2023 [Fiscal Note: Less than $1000]; Ord. No. 1-23/24, 8/15/2023 {Fiscal Note: Less than $1000]; Ord. No. 31-24/25, 6/17/2025)

[1] Editor's Note: A comma was added to Sec. 27-1322(B0(2) with Ord. No. 31-24/25 but was neither highlighted nor underlined. This was corrected and presented for the 2nd reading. This is a clerical error only.

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 permit/approval from one of the following review authorities:

1. from the Planning Board for any proposed structure or use extending over or below the normal high-water line or within a wetland under this Article, for any special exception or project subject to site plan review 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.

All applicants for a building permit or approval from the Planning Board for a project proposed to be located in whole or in part within the Shoreland Area Overlay District shall provide, as part of the application, preconstruction photographs of both (i) the development site, and (ii) shoreline vegetation at the time of application and prior to the start of any work under the approval or permit. No later than twenty (20) days after the completion of the work, the applicant shall provide the Code Enforcement Officer with post-construction photographs of (i) the development site, and (ii) shoreline vegetation following completion of the work under the approval or permit.

The reviewing authority shall not approve a proposed structure or use subject to this Article unless the reviewing authority 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 be 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.

F. Activities Involving More Than One (1) Cubic Yard of Soil Disturbance.

When a permitted activity within the Shoreland Area Overlay District requires or will result in more than one (1) cubic yard of soil disturbance, the person responsible for the management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection, as confirmed by the Code Enforcement Officer. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed and until all required erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area

is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This certification and confirmation requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; or to municipal, state, and federal employees engaged in projects associated with that employment.

(Ord. No. 21-22/23, 3/21/2023 [Fiscal Note: Less than $1000])

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, they 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.

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. § 4452, as may be amended, and each day that a violation of this Article continues shall be deemed a separate violation of this Article.

(Ord. No. 21-22/23, 3/21/2023 [Fiscal Note: Less than $1000])

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. § 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.

(Ord. No. 21-22/23, 3/21/2023 [Fiscal Note: Less than $1000])

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. § 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.

(Ord. No. 21-22/23, 3/21/2023 [Fiscal Note: Less than $1000])

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. In comparing the project site with other locations, the unique physical and natural characteristics of the project site shall be considered, including impacts to natural resources and significant habitat on the project site.

(Ord. No. 5-20/21, 10/6/2020 [Fiscal Note: Less than $1000])

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 two (2) years 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 a single, one (1) year extension of said time may be granted by the Board if the facts constituting the basis of the decision have not materially changed. No special exception approval for Affordable Housing Developments, as defined in 27-2202, shall be valid for a period longer than four (4) years unless the special exception use has commenced or the Start of Construction on the proposed use is actually begun within that period provided. 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.

(Ord. No. 15-25/26, 1/20/2026 [Fiscal Note: Less than $1000])

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) Three or more Stationary Vending Units on one property. For purposes of site plan review, a Stationary Vending Unit may be either a principal or an accessory use. Applications involving one or two Stationary Vending Units on a private property shall be reviewed by the Code Enforcement Director, subject to the applicable standards of this Chapter, including but not limited to the standards of Section 27-1522.

(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, they have the right to receive a Planning Board public hearing following the minor amendment site plan review procedures.

(9) Medium- and large-scale ground-mounted solar energy systems. Roof-mounted systems and small-scale ground-mounted systems are not subject to site plan review except as may be required if special exception approval is needed.

(10) Medical and adult use marijuana establishments.

(Ord. No. 12-16/17, 2/6/17 (Fiscal Note: Less than $1000]; Ord. No. 9-20/21, 11/17/2020 [Fiscal Note: Less than $1000]; Ord. No. 26-22/23, 4/18/2023 [Fiscal Note: Less than $1000; Ord. No. 5-25/26, 7/15/2025 [Fiscal Note: Less than $1000])

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 Plan approval 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 approval.

(Ord. No. 3-25/26, 7/9/2025 [Fiscal Note: Less than $1000])

Sec. 27-1424. Application.

(a) Application for a Site Plan approval 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) Each application for a Site Plan approval shall consist of the following, unless waived by the Planning Director when it is not pertinent to the scope of the proposed project. However, the Planning Board, during its public hearing review of the project, may require items that were waived by the Planning Director with a statement as to the pertinence of the waived item to the Board's review:

(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; including any roof or building mounted solar energy systems that meet the requirements of Sec. 27-1801 et seq.

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, 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.

p. A description of the trees that may be affected by the proposed development and that addresses the requirements of Article XXI (Tree Protection).

(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, including trees within the area of disturbance with a 10 inch DBH or greater, or an aggregate DBH of 30 inches or greater for multi-stemmed trees, as well as the dripline of all such trees within the disturbed area, 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 with the following:

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 and number of employee parking spaces;

j. Location of all existing and proposed easements and rights-of-way;

k. Location and dimension of pedestrian access ways;

l. Location and size of existing and proposed utilities;

m. Location of exterior lighting;

n. Location of natural features such as watercourses, marshes, rock outcroppings and stands of trees with a 10 inch DBH or greater, or an aggregate DBH of 30 inches or greater for multi-stemmed trees, as well as the dripline of all such trees within the project's disturbed area;

o. Landscaping and screening, including replacement trees and plantings to account for proposed tree removal;

p. A description of any right-of-way, or open space the applicant proposes to designate as public;

q. 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;

r. A Stormwater Management Plan meeting the requirements of Sec. 27-1536, Performance Standards with Respect to Stormwater Management.

s. Drawings which are numbered and dated with space provided for dates of any revisions.

t. The project disturbance area, to include the area of work as well as areas disturbed due to construction staging and operations.

(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 approval, 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 applications and adopt modified application forms appropriate for such

development. Minor Site Plan applications 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 complete 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]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000], (Ord. No. 5-20/21, 10/6/2020 [Fiscal Note: Less than $1000]; Ord. No.3-22/23, 10/6/2022 [Fiscal Note: Less than $1000]; Ord. No. 1-23/24, 8/15/2023 {Fiscal Note: Less than $1000]; Ord. No. 15-24/25, 1/21/25 [Fiscal Note: Less than $1000]; Ord. No. 3-25/26, 7/9/2025 [Fiscal Note: Less than $1000]; Ord. No. 5-25/26, 7/15/2025 [Fiscal Note: Less than $1000]; Ord. No. 25-25/26, 6/2/2026 [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; natural vegetation in relation to water quality; 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 Water Resource Protection Director 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 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, EV-charging 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 undue 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 plan of the proposed development shall document the project disturbance area, which includes the proposed structures or improvements as well as construction staging areas and anticipate construction activity that will disturb the site. Within the disturbance area, the plan shall identify the drip line of Protected Trees, as defined in Article XXI (Tree Protection), and demonstrate compliance with the requirements of Article XXI. The site plan and landscape plan for the project shall be developed in such a manner as to minimize tree and soil removal, retain existing vegetation where feasible and keep any grade changes in character with the general appearance of landscape and neighboring areas. Preservation of trees of 10 inch DBH or greater, or 30 inch DBH or greater for multi-stemmed trees, shall be considered in the location of the structures. The site and landscaping plan shall include all required project reductions and tree mitigation measures as required by Article XXI (Tree Protection). Landscaping shall be used to complement the architecture, enhance the human scale, reinforce circulation paths, highlight entrances, provide shade, provide new or mitigate for lost significant habitat and natural resources, and add color and seasonal interest.

(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. Natural vegetation shall be preserved as a buffer between properties to the maximum extent feasible and appropriate given the structure, species, and quality of the natural landscaping.

(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 and the physical and natural features of the site;

(2) The area of freshwater wetlands that is altered will be limited to the minimum amount necessary;

(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 the project shall preserve, to the maximum extent possible, trees located within the upland buffer; 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.

(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, and the physical and natural features of the site. 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], (Ord. No. 5-20/21, 10/6/2020 [Fiscal Note: Less than $1000]; Ord. No. 1-23/24, 8/15/2023 [Fiscal Note: Less than $1000]; Ord. No. 15-24/25, 1/21/25 [Fiscal Note: Less than $1000]; Ord. No. 25-25/26, 6/2/2026 [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 Planning Director, 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.

(Ord. No. 15-24/25, 1/21/25 [Fiscal Note: Less than $1000]; Ord. No. 15-25/26, 1/20/2026 [Fiscal Note: Less than $1000])

Sec. 27-1428. Time limitations.

(a) No site plan approval shall be valid for a period longer than 2 (2) years 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. No site plan approval for Affordable Housing Developments, as defined in 27-2202, shall be valid for a period longer than four (4) years unless Start of Construction is actually begun within that period provided.

If the approval is deemed to have expired, 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 Start of Construction on the site plan development.

(Ord. No. 12/19-20, 11/7/19 [Fiscal Note: Less than $1000]; Ord. No. 15-25/26, 1/20/2026 [Fiscal Note: Less than $1000])

Sec. 27-1429. Performance Guarantee — Public Improvements.

(a) No construction shall begin on a development that has received Planning Board approval until the applicant has tendered a public improvements performance guarantee in an amount adequate to insure the completion and proper installation of all improvements on the site that include site preparation; grading and impervious areas construction; storm drain systems; sanitary systems; water main systems; underground utilities otherwise; site surface restoration; and other improvements as may be required by the

Planning Board such as access improvements or improvements on current or proposed City property. Performance guarantees for public improvements shall take into account the duration of construction and the effect of inflation upon costs.

(b) The performance guarantee shall be in a form acceptable to the Planning Director, or their designee in consultation with the Finance Director and Corporation Counsel. The performance guarantee shall be valid for the duration of time required for completion of the guaranteed improvements. 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 Planning Director in consultation with other municipal departments as required. 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 to the City Manager. The City Manager may affirm, modify or reverse the disputed decision, reduce the amount required or increase the amount required.

(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. Permits for approved phases of a project may be issued prior to securing guarantees for subsequent phases.

(d) The Planning Director must approve the release of any portion of a performance guarantee and shall report the release of any performance guarantees on the next Planning Board agenda following the decision for information sharing purposes. The Planning Director has discretion to release portions of a guarantee for work completed, and to retain guarantees for work remaining. Performance guarantees shall not be released by the Planning Director 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 Code Enforcement Officer and Planning Director, in consultation with other City staff as may be necessary;

(2) For releases of guarantees associated with surveying and property boundary establishment, the applicant has furnished to the Planning Director a written statement or plan from a Maine licensed land surveyor that all pertinent bounds or monuments have been accurately installed; and

(3) For releases of guarantees associated with utilities and stormwater management, the applicant has furnished to the Planning Director an accurate record plan 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.

(Ord. No. 12/19-20, 11/7/19 [Fiscal Note: Less than $1000]; Ord. No. 26-22/23, 4/18/2023 [Fiscal Note: Less than $1000]; Ord. No. 15-24/25, 1/21/25 [Fiscal Note: Less than $1000])

Sec. 27-1430. Performance Guarantee — Erosion control.

(a) No construction shall begin on a development that has received Planning Board approval, until the applicant has tendered a performance guarantee in an amount adequate to cover the total costs of all soil erosion and sedimentation control improvements on the site.

(b) The performance guarantee shall be in a form acceptable to the Planning Director, or their designee in consultation with the Finance Director and Corporation Counsel. The guarantee shall be valid for the duration of time required for completion of the applicable soil erosion and sedimentation control plan. The amount of the performance guarantee shall be equal to the cost of installing and maintaining temporary and permanent erosion and sedimentation controls required by the Code and the approved site plan which amount shall be determined by the Planning Director in consultation with other municipal departments as required. 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 to the City Manager. The City Manager may affirm, modify or reverse the disputed decision, reduce the amount required or increase the amount required.

(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. Permits for approved phases of a project may be issued prior to securing performance guarantees for subsequent, approved phases.

(d) The Planning Director must approve the release of any portion of a performance guarantee and shall report the release of any performance guarantees on the next Planning Board agenda following the decision for information sharing purposes. The Planning Director has discretion to release portions of a performance guarantee for work completed, and to retain guarantees for work remaining. Except as authorized in subsection (e), performance guarantees for soil erosion control shall not be released by the Planning Director until all affected areas of the project site and other properties have been inspected and found satisfactory by the Department of Water Resource Protection Director or their designee.

(e) Any development approved by the Planning Board requiring erosion control measures shall also require field monitoring and inspection by the City of its erosion control measures. Such monitoring and inspections may be conducted through third-party inspectors to the City, and any associated fees shall be paid for by the developer in advance through an escrow account held by the City. The fee shall be 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.

(Ord. No. 12/19-20, 11/7/19 [Fiscal Note: Less than $1000]; Ord. No. 26-22/23, 4/185/2023 [Fiscal Note: Less than $1000]; Ord. No. 15-24/25, 1/21/25 [Fiscal Note: Less than $1000])

Sec. 27-1431. Performance Guarantee — Landscaping.

(a) No construction shall begin on a development that has received Planning Board approval before the applicant tenders a performance guarantee in an amount adequate to cover the cost of all plantings and installation thereof required by the approval. The amount of the landscaping performance guarantee shall be determined by the Planning Director in consultation with other municipal departments as required. 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 City Manager. The City Manager, after three days' due notice to the appellant, investigation, and for good cause shown, may affirm, modify or reverse the disputed decision, reduce the amount required or increase the amount required.

(c) The performance guarantee shall be in a form acceptable to the Planning Director, or their designee, in consultation with the Finance Director and Corporation Counsel.

The performance guarantee shall be valid and binding for a period of at least three years following the installation of the landscaping 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 guarantee.

(d) The Planning Director must approve the release of any portion of a performance guarantee and shall report the release of any guarantees on the next Planning Board agenda following the decision for information sharing purposes. The performance guarantee for landscaping may not be released by the Planning Director within the three-year period pursuant to subsection (c) above, but may be released by the Planning Director 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 Planning Director, or their designee, in consultation with a third-party consultant serving the City, or the City Arborist or their designee.

(Ord. No. 12/19-20, 11/7/19 [Fiscal Note: Less than $1000]; Ord. No. 5-20/21, 10/6/2020 [Fiscal Note: Less than $1000]; Ord. No. 26-22/23, 4/18/2023 [Fiscal Note: Less than $1000]; Ord. No. 15-24/25, 1/21/25 [Fiscal Note: Less than $1000])

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, pursuant to 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) 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 subdivision approval where necessary to protect adjacent properties or uses, or to preserve significant habitat.

(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 to maximize the amount of contiguous open space and 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.

(Ord. No. 5-20/21, 10/6/2020 [Fiscal Note: Less than $1000]; Ord. No. 7, 11/15/2023 [Fiscal Note: Less than $1000])

Secs. 27-1503 – 27-1510. Reserved.

BUFFER AREAS

Sec. 27-1511. Buffer areas – nonresidential uses abutting a residential use.

No building or structure shall be erected or any use permitted in nonresidential districts unless the following side and rear yard requirements are satisfied:

(a) All such side and rear yards abutting properties with residential uses in existence at the time of application to erect the structure or establish the use shall maintain the property boundary in either its natural state or with additional and enhanced native landscaping to provide a visual screen between the nonresidential uses and abutting properties with existing residential use properties.

(b) Where no natural buffering is available to be maintained all such side and rear yards abutting properties with residential uses in existence at the time of application to erect the structure or establish the use shall be landscaped to provide a visual screen between the nonresidential uses and abutting properties with existing residential uses. Natural vegetation as buffers are encouraged as the primary means of buffering properties, however due to varying site conditions landscaping for the purposes of this section may also include hedges, fencing, walling and combinations thereof. In no case however, shall said buffer strip be less than six (6) feet in width for vegetative buffers, nor shall any required buffers be less than six (6) feet in height.

(Ord. No. 5-20/21, 10/6/2020 [Fiscal Note: Less than $1000]; Ord. No. 26-22/23, 4/18/2023 [Fiscal Note: Less than $1000])

Sec. 27-1512. Buffer area – tobacco retailer separation from sensitive uses.

Except as provided in subsection (f) below, the amendments to this ordinance evidenced by Ordinance #9-19/20 shall not apply to any use involving the sale of tobacco products by a tobacco retailer at a location for which a valid State of Maine retail tobacco license was held for that specific location in the City as of September 3, 2019. A list of those locations shall be maintained in the City Clerk's Office.

(a) No tobacco retailer shall be sited within one thousand (1,000) feet of the lot lines of a school.

(b) No tobacco retailer shall be sited within three hundred (300) feet of the lot lines of a child care facility, community center, higher educational facility, large public outdoor recreational facility, church, synagogue or other house of religious worship.

(c) Measurements. The distance cited in this section shall be measured between the lot line of the proposed site for the tobacco retailer and the lot line of the site of the use listed in subsections (a) and (b) above at their closest points. For purposes of this measurement, if a tobacco retailer is to be located on a site that is leased from an unrelated third party, such a tobacco retailer establishment's lot line shall be determined as follows:

(i) If the establishment leases an entire parcel of land, the lot line of such establishment shall be the lot line of the parcel;

(ii) If the establishment leases a freestanding building or buildings which is or are part of a larger parcel containing other free standing buildings, the lot line of such establishment shall be the outer wall of the building(s) being leased by the establishment; and

(iii) If the establishment leases a room or suite of rooms within a building, including, without limitation, individual units within a shopping plaza or shopping mall, the lot line of such establishment shall be the outer wall of the building within which such room or suite of rooms is located.

(d) Any applicant for a building permit, land use approval and/or certificate of occupancy involving a proposed use involving the sale of tobacco products shall submit with the application (i) a map of properties within 1,000 feet of the proposed use and a list of the uses of those surrounding properties, each in such format as may reasonably be required by the Planning Department; and (ii) a map of properties within 300 feet of the proposed use and a list of the uses of those surrounding properties, each in such format as may reasonably be required by the Planning Department. The City will only verify the distance of the proposed use from existing uses listed in subsection (a) or (b) above; once all of the City-required licenses, permits and approvals are issued, the City will not preclude a sensitive use listed in subsection (a) or (b) above from opening at a location within the applicable buffer zones.

(e) A tobacco retailer may continue to operate in its present location as a pre-existing use if a sensitive use as listed in subsection (a) or (b) above later locates within the applicable buffer zone; however, the tobacco retailer does so at its own risk, and City-issued licenses, permits or approvals provide no protection or indemnification against enforcement of federal, State or other applicable laws that may prohibit operation of a tobacco retailer near a sensitive use listed in subsection (a) or (b) above.

(f) Protected Sales.

(i) The sale of tobacco products by a tobacco retailer at a location for which a valid State of Maine retail tobacco license was held for that specific location in the City as of September 3, 2019 ("Protected Sales") may continue at that location without regard to the applicable buffer zone as listed in subsection (a) or (b) above, subject to the following:

A. Protected Sales may continue at a location so long as a valid State of Maine retail tobacco license for that location is continuously maintained without a final lapse or final revocation.

B. Protected Sales may continue at a location if the license (or any interest in the license) for the location is sold, transferred, assigned or otherwise subjected to control by any person other than said licensee, but only if said sale, transfer, assignment or change of control is completed in compliance with State law, 22 M.R.S. § 1553, as may be amended.

(i) Notwithstanding any other provision of this ordinance to the contrary, Protected Sales do not constitute a nonconforming use within the meaning of this ordinance; the sale of tobacco products by a tobacco retailer at a location for which a valid State of Maine retail tobacco license was held for that specific location in the City as of September 3, 2019 that is not in compliance with the requirements of this subsection (f) does not constitute Protected Sales and must comply with the then-current separation distances for the sensitive uses listed in subsections (a) and (b) above.

(g) Definitions.

(i) For purposes of this section, the term "school" means a "public school" as that term is defined in 20-A M.R.S. § 1(24), as may be amended; a "private school" as that term is defined in 20-A M.R.S. § 1(22), as may be amended; and/or a "public preschool program" as that term is defined in 20-A M.R.S. § 1(23-A), as may be amended.

(ii) For purposes of this section, the term "child care facility" means a "child care facility" as that term is defined in 22 M.R.S. § 8301-A(1-A)(B), as may be 4 amended, and/or a "family child care provider" as that term is defined in 22 M.R.S. § 8301-A(1-A)(C), as may be amended.

(iii) For purposes of this section, the term "community center" means a building used to provide before- or after-school care to children age 18 or younger that is owned and operated by a municipality or a non-profit corporation.

(iv) For purposes of this section, the term "higher education facility" means a community college, college or university authorized by the State of Maine to award associate, baccalaureate or higher degrees.

(v) For purposes of this section, the term "large public outdoor recreational facility" means a place designed and used for athletic fields that is at least 50 acres in size and is owned and operated by a governmental agency.

(Ord. No. 9-19/20, 10/15/19 [Fiscal Note: Less than $1000]; Ord. No. 7, 11/15/2023 [Fiscal Note: Less than $1000])

27-1513 – 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 and Mobile Home Parks..

The following standards apply to Manufactured Housing and Mobile Home Parks:

(a) Manufactured Housing, including such Housing within Mobile Home Parks shall meet the following criteria:

(1) The Manufactured Housing must be placed on a permanent foundation that complies with the City's Building Code;

(2) The hitch, axles and wheels must be removed;

(3) Must meet all applicable fire, safety, health, plumbing, electrical, and building code requirements; and

(4) All fuel oil supply systems shall be constructed and installed pursuant to the State Manufactured Housing Board Regulations. Outdoor fuel storage tanks shall be screened from view, but accessible for refueling.

(5) No Manufactured Home or any part thereof shall be installed within 5 feet of any traveled way.

(6) All new Manufactured Housing proposals shall provide evidence that sales tax has been paid. If a Manufactured Housing applicant is not a dealer licensed by the State with a sales tax certificate, the applicant shall provide evidence of sales tax payment pursuant to 30-A M.R.S. § 4358(4).

(b) Mobile Home Parks shall meet the following criteria:

(1) Mobile Home Parks require site plan approval pursuant to Section 27-1421 et seq., as well as subdivision review pursuant to Chapter 24, Subdivisions. In the event of a conflict between the performance standards of this Section 27-1520, and other standards of the Code of Ordinances, the more restrictive standard shall control unless the less restrictive standard is applicable under federal or state laws, rules or regulations.

(2) Mobile Home Park Lots shall be designated on a Mobile Home Park Plan;

(3) The minimum size of any Mobile Home Park Lot served by either a public sewer system, or a central on-site subsurface waste water disposal system approved by the Department of Health and Human Services, shall be the smaller of six thousand five hundred (5,000) square feet; or the minimum lot size of the smallest residential lot permitted by the City;

(4) The minimum size of any Mobile Home Park Lot served by an individual on-site subsurface waste water disposal shall be 20,000 square feet;

(5) The minimum lot size for a property on which a Mobile Home Park is proposed, shall be the combined area of:

i. Mobile Home Park Lots within the Park;
ii. Road rights-of-way within the Park;
iii. Buffer strips along the perimeter of the property that are required to comply with subsection 27-1520(c)(6);
iv. For Mobile Home Parks served by a public sewer, the area required to provide open space equivalent to at least 10% of the combined area of the individual Mobile Home Park Lots within the Park; and
v. Any setback areas required under M.R.S. Title 38; Article XIII, Shoreland Overlay Districts; or Section 27-1526, Performance Standards – Freshwater Wetlands, of this Chapter.

(6) Private roads within a Mobile Home Park shall:
i. Be built according to acceptable engineering standards and with a professional engineer's seal as required by the Street Construction Standards adopted by the State Manufactured Housing Board and published in the Department of Professional and Financial Regulation, Section 385, Chapter 850, as may be amended; and
ii. Have a right-of-way of 23 feet in width within which at least 20 feet shall be paved.

(7) Roads that will be offered to the City for acceptance shall be constructed to meet the public street standards of the Code of Ordinances, Chapter 24, Subdivisions, and Chapter 23, Streets and Sidewalks.

(8) All roads within a Mobile Home Park, whether private or intended for acceptance by the City, shall be constructed and maintained so as to afford adequate access by emergency vehicles and essential services, as determined by the Fire Department.

(9) A buffer strip with a minimum width of 30 feet, but not exceeding 50 feet when combined with individual Mobile Home Park lot setbacks, shall be provided along the entirety of a front, side, or rear property boundary when that Mobile Home Park boundary:
i. Abuts land that contains an approved dwelling unit at the time of submitting an application to the Planning Board for approval of the Mobile Home Park; and
ii. The per-acre density of homes in the Mobile Home Parks is at least 2 times greater than the maximum net residential density permitted on the parcels abutting the applicable front, side, or rear Mobile Home Park property boundary.

When a buffer strip is required, no structures, streets or utilities may be placed in the buffer strip, except that utilities may cross a buffer strip underground or in air space above the buffer strip to provide services to a Mobile Home Park, and streets may cross a buffer strip at the designated points of ingress to and egress from the Mobile Home Park.

(Ord. No. 23-23/24, 3/7/2024 [Fiscal Note: Less than $1000])

Sec. 27-1521. Accessory wind energy generation facilities.

(a) 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]; Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000])

Sec. 27-1522 Performance Standards for Mobile and Stationary Vending Units

(a) The following standards shall apply to Mobile and Stationary Vending Units:

(1) **Zoning Approvals.** Zoning Permit approval is required for Mobile Vending Units on City property and all Stationary Vending Units. The review authority for Zoning Permit applications of Mobile or Stationary vending units shall be the Code Enforcement Director if Planning Board review is not applicable, the Planning Director for applications subject to De Minimis Change review, or the Planning Board for applications associated with projects that otherwise trigger Planning Board review or as required in Article XIV of this Chapter. Mobile Vending Unit applications on City right-of-ways do not require Zoning Permit approval and shall only be required to secure a license from the City Council pursuant to Chapter 14 of the Code of Ordinances.

(2) **License Required.** All Stationary and Mobile Vending units shall require a license from the City pursuant to Chapter 14 of the Code of Ordinances. Stationary Vending Units may be approved by the review authority with the condition that the applicant shall secure a license from the City before operating.

(3) **Food Processing.** If food will be served in the unit, the applicant shall provide evidence to the City that the unit has access to a licensed food preparation and production facility, such as a commissary or a licensed restaurant, that meets all State and local health standards. The Mobile or Stationary Vending Unit itself may serve as such a facility if it is so licensed and approved.

(4) **Parking.** All units must provide sufficient parking at the operating location. Sufficient parking shall mean that the following are met:

(A) At least three (3) spaces are dedicated to the Mobile or Stationary Vending Unit on the property where the unit is operating or within 300 feet of its operating location, or at least five (5) spaces are provided within 300 feet of the operating location as either shared-use spaces on private property or public parking spaces; and

(B) For units that are not vending food or other goods for sale, and are providing services lasting longer than 15 minutes per session, one (1) dedicated parking space for each client that may be served when the service offered at the unit is operating at full capacity; or one-and-a-half (1.5) spaces as either shared-use parking spaces on private property or public parking spaces. Parking spaces provided pursuant to Section 27-1522(a)(3)(A) may be counted towards this requirement.

(b) The following standards shall apply to Stationary Vending Units:

(1) **Hours-Food Vending.** Stationary Vending Units that serve food shall comply with any hours of operation restrictions that apply to the "Restaurant and Entertainment" land use category as shown in the land use tables of Section 27-404 for the applicable zoning district. In the event that more than one restriction is used in the zoning district for such uses, the most restrictive hours of operation shall apply.

(2) **Hours-Retail and Service Vending.** Stationary Vending Units that sell goods or services shall comply with any hours of operation restrictions that apply to the "Retail" or "Services" land use categories as shown in the land use tables of Section 27-404 for the applicable zoning district. In the event that more than one restriction is used in the zoning district for such uses, the most restrictive hours of operation shall apply to Stationary Vending Units that sell goods or services regardless of whether the restriction is applied to the "Retail" or "Services" land uses category in the zone.

(3) **Setbacks.** Stationary Vending Units shall be subject to the zoning district setback standards that apply to primary structures or uses, including when the Stationary Vending Units are proposed as accessory uses on a site.

(4) **Buffers.** Stationary Vending Units shall be subject to the buffer standards of the zoning district, if applicable, and Section 27-1522.

(5) **Utilities other than Power.** The unit shall demonstrate access to sufficient water and wastewater capacity to operate. If wastewater will not be managed on site, the rights to off-site discharge must be provided.

(6) **Power.** Power to the Stationary Vending Unit shall be provided through a direct connection to a permanent power source at the site, except that a Stationary Vending Unit may source its power from an inverter generator for the first twelve months of operation at any one property. If an inverter generator is used, the unit must be placed or operate at a volume such that the noise detectable at the property boundaries does not exceed the Maximum Allowable Sound Level in the

zoning district that applies to the abutting properties as provided in Chapter 30, Control of Noise from New Development, Section 30-5.

(Ord. No. 5-25-26, 8/5/2025 [Fiscal Note: Less than $1000])

Sec. 27-1523. Prohibition of Coal Storage.

(a) Definitions. For purposes of this section, the following terms have the following meaning:

(1) Coal means any sedimentary deposit of mined carbon-based fuel and including anthracite, bituminous, subbituminous and lignite coal.
(2) Delivery means transportation by means of marine vessel, truck, trailer or rail from an outside source to the destination within South Portland, Maine.
(3) Handling means manipulating a coal pile by truck, tractor, or shovel, including driving on a coal pile, moving the coal, depositing the coal for delivery, transferring the coal and treating the coal with natural or synthetic materials or liquids. Handling also includes moving coal from one place to another including, but not limited to, dropping it by shovel from a marine vessel or pile into a hopper, truck, or open train car.
(4) Storage means maintaining a pile of coal in place for greater than one day's duration.

(b) Prohibition. As of the effective date of this Section, to limit the risk or surface and groundwater contamination from leachate, eliminate the risk of oxidation and creation of localized carbon monoxide or other air pollutants, reduce the risk of spontaneous combustion, minimize greenhouse gas emissions, and avoid the mishandling of contaminated solid waste, no coal delivery, handling or storage in excess of 1 ton is permitted in any zoning district in the City.

(Ord. No. 16-25/26, 1/20/2026 [Fiscal Note: Less than $1000]; Ord. No. 16-25/26, 2/3/2026 [Fiscal Note: Less than $1000])

Secs. 27-1524--27-1525. 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 increase the amount of impervious surface area by more than five thousand (5,000) square feet, the construction of a new principal building or structure, and the construction of accessory dwelling units, 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.

(4) All development projects that are subject to the requirements of this section must 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 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.

(d) soil characteristics and groundwater conditions are suitable for the stormwater design to function as intended.

(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 "additional controls" 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 new impervious surfaces on the site, and 0.2 inches of runoff from 70% of other disturbed areas of the site using stormwater best management practices, or LID design practices and techniques determined by the Planning Board to be appropriate for the site. In addition, the project must meet the "additional controls" 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 Stormwater Manual adopted by the Planning Board. The Planning Board may approve the use of alternative treatment, as described in DEP Chapter 500 Section 4(C), provided 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. For disturbed areas defined as "Redevelopment", the Planning Board may apply the DEP Chapter 500 Redevelopment Standards of Section 4 of the DEP Chapter 500 rules.

(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, their 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 their 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 their 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 the following:

(a) The "basic" standard of Section 4 of DEP Chapter 500 Rules and the "additional controls" of Section 5, if applicable, of DEP Chapter 500 Rules and shall comply with the practices described in the DEP Stormwater Manual; and

(b) Provide for the treatment of 0.5 inches of runoff from ninety percent (90%) of the new impervious surfaces on the project area, and 0.2 inches of runoff from 70% of other disturbed areas of the site using stormwater best management practices, or LID design practices and techniques determined by the Planning Board to be appropriate to the project area. 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 Stormwater Manual adopted by the Planning Board. The Planning Board may approve alternative treatment, as described in DEP Chapter 500 Section 4(C), provided 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. For disturbed areas defined as "Redevelopment", the Planning Board may apply the DEP

Chapter 500 Redevelopment Standards of Section 4 of the DEP Chapter 500 rules.

(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 stormwater management after construction of 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, their 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 shall make adequate provisions for the management of stormwater generated by the activity through a Drainage Plan that captures 0.5 inches of runoff from ninety percent (90%) of the new impervious surfaces. Alternatively, the Review Authority may approve a drainage plan that utilizes stormwater best management practices (BMP) or 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 Stormwater Manual adopted by the Planning Board.

(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 stormwater best management practices and/or 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 and spot elevations identifying proposed finished grade elevations at building corners, driveways, building finished floor or top of foundations at entrances and building corners.

(c) The location and area measurements of existing and proposed 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.
(f) Identification of any sump pump or foundation drain outlets on the property.
(g) Identification and characteristics of site soils if stormwater infiltration is proposed.

(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 their 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) Modification of the Standards and Requirements.

(1) The review authority may modify or waive any of the submission requirements for a Post-Construction Stormwater Management Plan, a Basic Stormwater Management Plan, or a Drainage Plan if it finds that, due to the unique physical characteristics of the site or the scale of the proposed activity, the information is not required to determine if the applicable stormwater management standards are met.

(2) The review authority may approve a Post-Construction Stormwater Management Plan that does not comply with the detailed requirements of subsection (c), a Basic Stormwater Management Plan that does not comply with the detailed requirements of subsection (d), or a Drainage

Plan that does not comply with the detailed requirement subsection (e) if it 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.

(h) 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 new impervious surfaces and 0.4 inches of runoff from other disturbed areas through the use of LID or 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 or 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 Stormwater Manual adopted by the Planning Board.

(a) Any building located in a combined sewer area shall not have a basement, unless the Planning Board finds that one of the following conditions is met:

1. The finished floor elevation of the basement slab is a minimum of 12" above the seasonal high groundwater elevation, hydraulically restrictive horizon or bedrock as defined by the State of Maine Subsurface Wastewater Disposal Rules. The determination of the limiting factors shall be based on a soil profile description, prepared by a Maine-licensed site evaluator, for a minimum of two 92) test pits excavated within the

footprint of the proposed building. The soil profile shall be documented on a standardized application form issued by the Maine Department of Health and Human Services (*i.e.*, HHE-200 form, as may be amended from time to time). Submitted documentation to support the basement request shall include an elevation reference mark for verification. The soil profile and condition used for the determination of the limiting factor elevation shall be representative of the most limiting conditions beneath the foundation of the building.

Or

2. The applicant demonstrates sufficient right, title or interest, reviewed and approved as to legal sufficiency by the Corporation Counsel, to discharge runoff from building foundation drain(s) or sump pump(s) onto to across downgradient properties. Such rights shall include any required downgradient areas along the flow path of the discharge from the project site to a natural stream or the City's public separated storm drainage system.

(i) 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.

(Ord. No. 10-18/19, 3/12/19 [Fiscal Note: Less than $1000]; Ord. No. 26-22/23, 4/18/2023 [Fiscal Note: Less than $1000]; Ord. No. 15-24/25, 1/21/25 [Fiscal Note: Less than $1000]; Ord. No. 3-25/26, 7/9/2025 [Fiscal Note: Less than $1000]; Ord. No. 15-25/26, 1/20/2026 [Fiscal Note: Less than $1000](Ord. No. 25-25/26, 6/2/2026 [Fiscal Note: Less than $1000])
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Secs. 27-1537 – 27-1540. Reserved.

Sec. 27-1541. Reserved.

(Ord. No. 2-10/11, 7/19/10 [Fiscal Note: Less than $1000]; Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000])Editor's Note: Ord. No. 25-25/26 did not address the removal of an errant reference to DEP Chapter 500 Rules regarding "other applicable standards".

PERFORMANCE STANDARDS – SHELTERS

Sec. 27-1542. Performance standards for small-scale shelters.

Small-scale shelters are a community home use, and a community home use of property is to be treated as a single family use of property for purposes of this Chapter. The total number of persons for whom sleeping accommodations are to be provided by a small-scale shelter shall not exceed the total number of persons for whom sleeping accommodations are licensed by the City under Chapter 14.

Sec. 27-1543. Performance standards for medium-scale and large-scale shelters.

All medium-scale and large-scale shelters are principal uses regardless of the amount of space they may occupy within a building or on a site. Medium-scale and large-scale shelters may be part of a mixed use within a building or on a site. No person shall operate the same facility as both a lodging establishment and a medium-scale or large-scale shelter, and so no person shall seek or obtain land use approvals for the same facility as both a lodging establishment and a medium-scale or large-scale shelter. Shelters are special exception uses and require site plan review and approval from the Planning Board pursuant to Sec. 27-1421 through Sec. 27-1432 prior to the issuance of any building permit or certificate of occupancy. The following performance standards are to be used by the Planning Board in reviewing site plan applications and compliance with the same shall serve as requirements for approval of such site plans.

(a) **Indoor Facility.** A shelter shall be located within indoor, conditioned space that is not designed for temporary use. The shelter shall maintain a centralized shelter operations office on each level providing sight lines to sleeping areas. The shelter shall provide adequate space for conducting security searches and other assessments. The shelter shall provide adequate indoor space that is available to all occupants during daytime hours.

(b) **Shelter Capacity Limit.** The maximum number of persons for whom sleeping accommodations are to be provided shall be stated in the application. The total number of persons for whom sleeping accommodations are to be provided shall not exceed the number licensed by the City under Chapter 14 for a medium-scale shelter or a large-scale shelter, as applicable. The number of sleeping accommodations per room shall comply with all applicable building and life safety codes.

(c) **Bed Size and Spacing.** The spacing between beds must be at least three (3) feet. Beds shall provide at least 30 square feet of sleeping space for each person, or 20 square feet of sleeping space for each person if serving two co-sleeping occupants. The size and spacing of beds shall comply with all applicable building and life safety codes.

(d) **Private Entry.** Private, dedicated entry to sleeping quarters or facilities is not required.

(e) **Personal Space.** A minimum of 40 square feet of demarcated unobstructed personal space shall be provided adjacent to each sleeping area. Personal spaces may be delineated in any manner that is perceptible to all occupants of the shelter, including those with visual impairment.

(f) **Storage Areas.** Each occupant shall have access to at least 120 cubic feet of personal and secure storage. This may be provided in a common storage area, or adjacent to personal spaces. The storage areas shall not count toward the minimum required personal space for each occupant.

(g) **Food Delivery and Provision.** All facilities associated with food production, handling and distribution of food to occupants in the shelter must be clearly shown on a plan of the site.

(h) **Sanitary and Laundry Facilities.** Sanitary and laundry facilities must

be provided, either as private facilities, communal facilities for designated rooms and spaces, or fully communal for the shelter, in accordance with applicable building and plumbing codes. Showers shall be provided at a minimum of one shower station for every 20 persons for whom sleeping accommodations are provided in the shelter.

(i) **Designated Smoking Areas.** The shelter shall identify designated smoking areas on the site plan.

(j) **Designated Pet Areas.** If pets are to be allowed, the shelter shall provide adequate facilities that ensure the safety and well-being of pets in the shelter and shall identify the areas where pets will be kept and cared for on the application.

(k) **Outdoor Area.** The shelter shall provide an outdoor area for occupants use on-site with adequate screening to protect privacy of occupants. The application shall specify the hours that outdoor areas will be accessible to shelter occupants.

(l) **Magnet Areas in the Vicinity.** The application shall identify site-specific magnet areas (*e.g.*, parks, trails, libraries, transit facilities) in the vicinity of the shelter.

(m) **Security Measures.** Sufficient and appropriate security measures to deter and prevent unauthorized persons from entry into the shelter shall be provided at all times. The application shall identify restricted access areas and safety and security facilities and improvements.

(n) **Support Services.** The shelter shall identify in the application the dedicated space to be used to provide on-site services to support occupants, such as case management, life skills training, counseling, employment and educational services, housing assistance, or other programs. The application shall specify the maximum number of support service employees on site while the shelter is operating and the number and anticipated frequency of any outside support service providers being present on-site.

(o) **Lighting.** Exterior lighting shall be provided at the shelter in all areas accessible to occupants of the shelter, and lighting shall be consistent with the standards of Section 27-1590 *et seq*.

(p) **Fencing.** Non-transparent perimeter fencing at the property line where the shelter is located shall be provided.

(q) **Bicycle Parking.** One secure bicycle parking station shall be provided for every four persons for whom sleeping accommodations are provided in the shelter. Bicycle parking stations do not need to be covered or enclosed, but shall allow bicycle owners to secure their bicycle from theft.

(r) **Parking Plan.** A plan depicting the management of parking areas to ensure safe access and navigation for vehicles and pedestrians is required. The plan must depict all delineated walkways, outdoor gathering areas, security, lighting, loading and unloading, fire or emergency access, and navigational signage associated with the parking and access areas.

(s) **Winter Conditions Preparation.** The application must document measures to ensure safe and functional winter operations, including snow removal, backup power, and heating systems.

(t) **Waste Management.** A plan shall be provided that outlines solid waste management facilities, waste facility locations, service providers and frequency of service, security for waste facilities, as well as hazardous materials management.

(a) **Access to Transportation.** A shelter shall provide adequate access to and from public transportation or offer comparable transportation service to occupants.

(Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000])

Secs. 27-1544 – 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 be in an amount acceptable to the Planning Director or their duly designated person. The Planning Director or designee may consult with an independent third-party at the applicant's expense to validate the amount proposed by the contractor in accordance with Section 27-138.

   (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 Planning Director.

   (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 licensed 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 their 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 be provided to the Planning Director or other duly designated person within 30 days of its receipt by the tower

owner. The Planning Director or designee may consult with an independent third-party at the applicant's expense to review and approve the inspection results in accordance with Section 27-138. Based upon results of the inspection, the City may require repairs or modifications to the communication tower.

(Ord. No. 7, 11/15/2023 [Fiscal Note: Less than $1000; Ord. No. 15-24/25, 1/21/25 [Fiscal Note: Less than $1000])

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.

(b) Minimum parking dimensions.

Parking Angle	Stall Width	Stall Depth to Curb	Aisle Width	
			1-Way	2-Way
90°	9 feet	18 feet	24 feet	
60°	9 feet	21 feet	16 feet	N/A
45°	9 feet	19.5 feet	12 feet	N/A
90° ADA	8 feet with 5-foot aisle beside	18 feet	24 feet	
Parallel	8 feet	22 feet parallel to curb	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.

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 designated for "compact car" parking by appropriate signage.

When a property in a non-residential use or a mixed use zoning district is required to provide more than forty (40) parking spaces, the property owner may meet up to two and a half percent (2.5%) of the required parking spaces (or one space per forty required spaces) with designated motorcycle, scooter, e-bike, or bicycle parking spaces. Any parking spaces for such alternative

modes of transportation must be appropriately signed and must meet the following minimum size:

(1) Motorcycle – four (4) feet by eight (8) feet.
(2) Scooter – three (3) feet by five (5) feet.
(3) E-Bike or Bicycle – two (2) feet by five (5) feet or space on a bike rack or other facility for locking up the bike.

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.

(c) Required Minimum Off-Street 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 Village Commercial zoning district, the minimum number of required off-street parking spaces for office retail, service, and restaurant uses shall be 50% of the amount otherwise indicated. In addition, the Planning Board may reduce the required off-street parking as provided in (1) or (2) below:

(1) 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.

(2) The Planning Board may reduce the minimum number of required off-street parking spaces for office, retail, service, and restaurant uses by up to 50% of the amount otherwise required for uses in the Village Extension District and the Mill Creek Core District if the applicant demonstrates that the reduced 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.

(3) For residential structures within a Designated Growth Area, one (1) parking space per dwelling unit or as specified below, whichever is less. For all other residential structures:

a. Single-family detached: Two (2) parking spaces.

b. [Reserved].

c. Two-family and multi-family (non-elderly): One and one-half (1 1/2) parking spaces per dwelling unit for units with more than one bedroom or more than eight hundred (800) square feet of floor area.

d. Two-family and multi-family (non-elderly): One (1) parking space per dwelling unit for units with one bedroom or units with more than four hundred (400) square feet of floor area but less than eight hundred (800) square feet of floor area.

e. Two-family and multi-family (non-elderly): Three quarters or seventy-five percent (75%) of a parking space per dwelling unit for units that do not have a separate bedroom or units with less than four hundred (400) square feet of floor area.

f. Two-family and multi-family (elderly): one-half parking spaces per dwelling unit.

(4) For small-scale lodging establishments, 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 meeting room, conference, or assembly space that is available to the public.

(5) For large-scale lodging establishments, 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 meeting room, conference, or assembly space that is available to the public.

(6) For general retail:

a. Personal services: Five (5) spaces per one thousand (1,000) square feet floor area.

b. General retail, including marijuana stores and medical marijuana stores: 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.

(7) 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.

(8) 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.

(9) For industrial uses, including marijuana cultivation facilities, medical marijuana cultivation facilities, marijuana products manufacturing facilities medical marijuana products, manufacturing facilities, and controlled environment agriculture, 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.

(10) 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.

(11) For theaters, one parking space for each six (6) seats plus one space for each two (2) employees.

(12) 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.

(13) 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.

(14) 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.

(15) For medical or dental offices and medical marijuana dispensaries, one space per two hundred fifty (250) square feet total floor area, plus one additional space for every two (2) employees.

(16) 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.

(17) 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.

(18) 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.

(19) For dance halls, one space for each one hundred (100) square feet of dance floor area plus one space for each two (2) employees.

(20) For bowling alleys, three (3) parking spaces for each alley, plus one space for each two (2) employees.

(21) 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.

(22) For marijuana testing facilities or medical marijuana testing facilities, one and one-half (1½) spaces per one thousand (1,000) square feet floor area.

(23) For medium-scale and large-scale shelters, a minimum of one parking space per on-duty employee, and one space for every 6 persons for whom sleeping accommodations are provided in the shelter. A parking reserve may be provided to meet the parking requirements for non-employee parking spaces in accordance with this Section.

(24) For child, adult, or combined daycare facilities, a minimum of one space for every 6 enrolled children/attendees and one space per employee, except that Family Child Care Providers and Small Child Care Facilities, as defined in 22 M.R.S. § 8301-A, a minimum of two spaces.

(25) 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.

(d) Required off-street parking must be provided on the same lot as the principal building or use except that the review authority may authorize off-street parking within one thousand five hundred (1,500) feet of the lot on which the principal use is located, measured along lines of public access. Such parking areas shall be held under the same ownership, lease, or similar long term agreement as the uses served and evidence of such control shall be required. Where off-street parking cannot be provided within these limits, the Planning Board may permit such off-street parking to be located a reasonable distance at the Board's sole discretion from the principal building or use.

(e) [RESERVED]

(f) Required off-street parking 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 land use in question and shall take into consideration the needs of other land uses with existing demands or rights upon the use of 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, unless the substitute parking is included in a lease or other agreement consistent with subsection (d) above for the use of off-street public parking facilities.

(g) Where off-street parking for more than six (6) vehicles is provided, the following requirements shall be met:

(1) Where vehicles are to be parked within ten (10) feet of a property boundary, a continuous guard shall be provided and maintained to prevent a vehicle from rolling onto adjacent property.

(2) Where such off-street parking abuts a lot in residential use, appropriate landscaping or other buffering shall be provided to prevent nuisance from headlights on the abutting property.

(h) [Reserved].

(i) 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.

(j) 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.

(k) The Board of Appeals, or the Planning Board for project that require Planning Board review, 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.

(l) 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) 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) [RESERVED]

(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.

(m) When semi-truck parking will be required on site, the location of the parking spaces must be identified on the plans and the application must demonstrate the safety and efficient movement of vehicles designed to occupy the site. Compliance with a recognized design standard, such as the latest adopted U.S. Department of Transportation Federal Highway Administration Truck Parking Development Handbook, can satisfy this requirement.

(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] Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]; Ord. No. 9-20/21, 11/17/2020 [Fiscal Note: Less than $1000]; Ord. No. 18-22/23, 2/21/23 [Fiscal Note: Less than $1000]; Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 15-24/25, 1/21/25 [Fiscal Note: Less than $1000];Ord. No. 3-25/26, 7/9/2025 [Fiscal Note: Less than $1000]; Ord. No. 15-25/26, 1/20/2026 [Fiscal Note: Less than $1000]; (Ord. No. 25-25/26, 6/2/2026 [Fiscal Note: Less than $1000])

Sec. 27-1557 (Reserved)

Sec. 27-1558. Electric vehicle charging infrastructure requirements.

Electric vehicle (EV) charging infrastructure shall be installed in accordance with Table 1. The requirements of this section shall not add to the overall parking requirements as defined in Sec. 27-1556 of this Chapter if those standards require fewer parking spaces than this section or if the Planning Board grants a waiver to parking standards consistent with this Chapter.

Table 1 – EV Parking Requirements

Land Use		EV-ready parking spaces	EV-installed parking spaces
Newly Constructed residential units with dedicated parking located within 25 feet of the residential structure.		1 per unit	-
Residential Units with shared parking, or dedicated parking located more than 25 feet from the residential structure[1,2]		-	5%, up to 10 spaces
Lodging[1,2]		-	5%, up to 10 spaces
Non-Residential, Non-Employee Parking[1,2]		-	5%, up to 10 spaces
Employee Parking[1,2]		-	5%, up to 10 spaces
Note 1: These requirements apply to new or reconstructed parking structures or lots when 25 or more parking spaces are constructed or reconstructed. Only the new parking spaces added or the parking spaces impacted by reconstruction shall be counted towards this requirement. **Note 2:** When calculating the number of EV-ready or EV-installed parking spaces, any fraction of a parking space shall be rounded up to the nearest whole number.			

(a) Any project requiring 5 or more EV-installed parking spaces shall provide a minimum of 1 EV-installed parking space adjacent to an accessible parking space to provide access to the EV charging station.

(b) Exemptions and Reductions of Requirements.

(1) Requirements for projects where at least 33% of the total dwelling units are designated affordable housing through an affordability covenant of at least 30 years, as defined in Sec.

27-2202(a)(1)(b) or Sec. 27-2202(a)(1)(c) cannot exceed two (2) EV-installed parking spaces.

(2) An applicant may request to replace the required Level 2 EV-installed parking spaces with Level 3 EVCS at a ratio of 1 Level 3 EVCS for every 2 Level 2 EVCS.

(3) Projects of 5 or more new EV-installed parking spaces may use power-sharing technology to reduce the overall electrical panel requirement to no less than 1.4 kW per EV-installed parking space.

(4) Accessory dwelling units, as defined in Sec. 27-201 of this Chapter, are exempt from the requirements of this Sec. 27-1558.

(5) Dedicated motorcycle or moped parking spaces are exempt from the requirements of this Sec. 27-1558.

(6) The Planning Board may grant a waiver to eliminate or reduce the number of required EV-installed parking spaces on reconstructed parking structures or lots if the reason for the reconstruction of the parking structure or lot is to incorporate stormwater treatment or detention capacity on a site that is within an urban impaired watershed or within the drainage catchment of a combined sewer overflow area.

(7) In the event that an applicant, upon written request specifically setting forth the reasons, can demonstrate to the Planning Board that (i) it is experiencing current supply chain constraints including the availability or timing of delivery for the EV chargers that is unique to the EV charging infrastructure required herein; and (ii) those current supply chain constraints present a disproportionate hardship economically or for the project to be completed as compared to similar land use applications that do not require such EV charging infrastructure, then the Planning Board may delay or waive some or all of the requirements of this section without the need for a variance from the Board of Appeals, provided that any such delay or waiver is narrowly tailored to the applicant's specific situation.

(c) Off-Site EVCS installation and in-lieu fees.

(1) An applicant may request a waiver to provide the requisite EV-installed infrastructure off-site subject to the following conditions:

i. The number of EV-installed spaces off-site must meet the on-site requirement;

ii. The parking area is located in South Portland;

iii. Existing EV-installed spaces cannot be counted toward meeting the required number of EV-installed spaces for the project;

iv. The applicant must provide sufficient right, title, and interest to install the EV-installed spaces at the off-site location; and

v. A covenant shall be recorded against the off-site property to ensure the number of EV-installed spaces are maintained for at least three (3) years.

(2) Applicants may choose to pay an in-lieu fee to the City of South Portland, as provided in the City's fee schedule, instead of installing the required EV-installed infrastructure.

(3) EV Charging Infrastructure in-lieu fees that are collected by the City shall be deposited into the Electric Vehicle Charging Infrastructure Fund, which is a separate designated funding source from the City's general revenue.

(4) EV charging infrastructure in-lieu fees collected shall be used in accordance with City's Code of Ordinances, Chapter 2 (Administration and Legislation), Sec. 2-221 Electric Vehicle Charging Infrastructure Fund.

(d) General EVCS Standards.
(1) Plugs per Space. At least one EV charging plug is required per EV-installed parking space.
(2) Size of Parking Space. Electric vehicle parking spaces must meet minimum parking stall sizes as defined in Sec. 27-1556 of this Chapter, including provisions for compact spaces.
(3) Plug Type. EVCS must be equipped with a standard EV charging plug type.
(4) Cord Length. EV charging plugs must be joined to the EVCS by a cord of less than or equal to 25 feet.
(5) Clearance. EVCS equipment must be a minimum of 12 inches clear from the face of the curb, unless protected by bollards. EVCS equipment shall be designed and located to not impede pedestrian travel or create trip hazards or reduce the ADA compliance of the site.
(6) EVCS Equipment Protection. When EVCS equipment is located at-grade with the EV-installed parking space, adequate equipment protection, such as wheel stops or concrete-filled steel bollards, shall be used.
(7) Signage. EVCS shall post the following on signage adjacent to the EVCS or on the EVCS units:
a. Identify voltage and amperage levels; and
b. Define all time restrictions, fees, or safety information.
(8) Lighting. EVCS are subject to General Standards for Exterior Lighting of Sec. 27-1590 of this Chapter.
(e) Miscellaneous EVCS Requirements and Exemptions.
(1) EV-installed parking spaces shall be included in the calculation for both the number of minimum and maximum parking spaces required, as defined in Sec. 27-1556 of this Chapter.
(2) Level 1, Level 2, and Level 3 EVCS are permitted in every zoning district.

(Ord. No. 15-24/25, 1/21/25 [Fiscal Note: Less than $1000]; Ord. No. 9-25/26, 10/6/2025 [Fiscal Note: Less than $1000]; Ord. No. 15-25/26, 1/20/2026 [Fiscal Note: Less than $1000])

Secs. 27-1559 – 27-1560. Reserved.

(Ord. No. 3-22/23, 9/6/2022 [Fiscal Note: Less than $1000])

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 them 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 they are 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. Signs in the Shoreland Overlay District.

The provisions of Secs. 27-1561 – 27-1564 shall govern the use and placement of signs in the Shoreland Area Overlay District, except that the following provisions shall govern the use of signs in the Shoreland Resource Protection Overlay Subdistrict:

(a) 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.

(b) 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.

(c) 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.

(d) 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.

(e) Signs relating to public safety shall be permitted without restriction.

(f) No sign shall extend higher than twenty (20) feet above the ground.

(g) Signs may be illuminated only by shielded, non-flashing lights.

(Ord. No. 21-22/23, 3/21/2023 [Fiscal Note: Less than $1000])

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 E Street. In addition, lots in the Village Commercial VC zoning district with frontage on Waterman Drive.

Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]

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.)

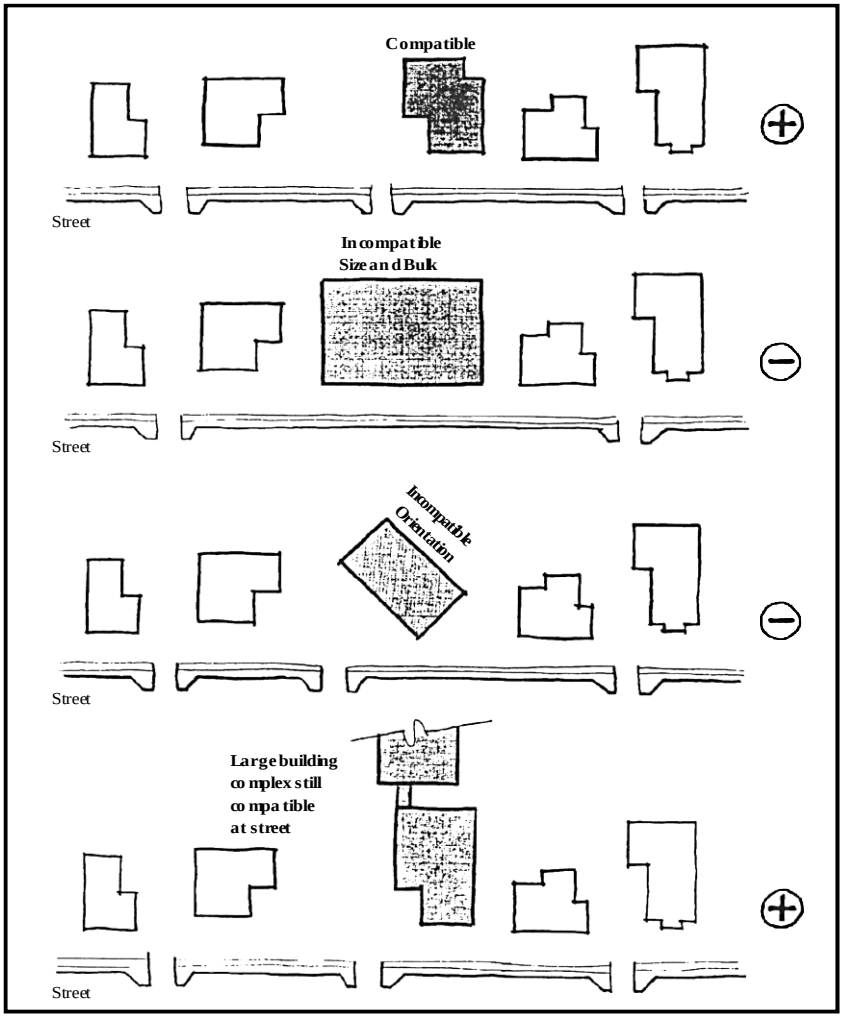


Figure 1—Footprint and Orientation

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.)

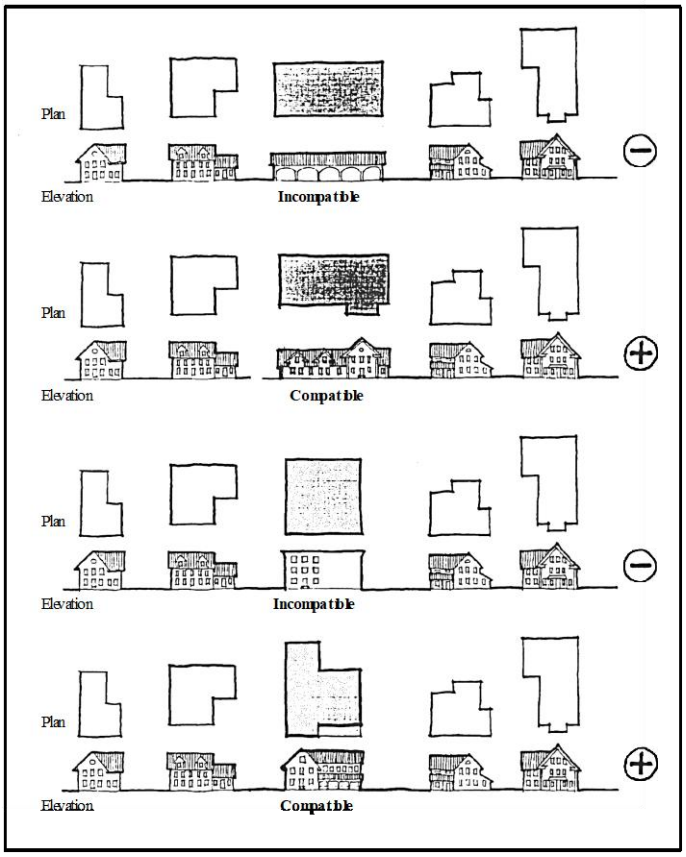


Figure 2—Scale

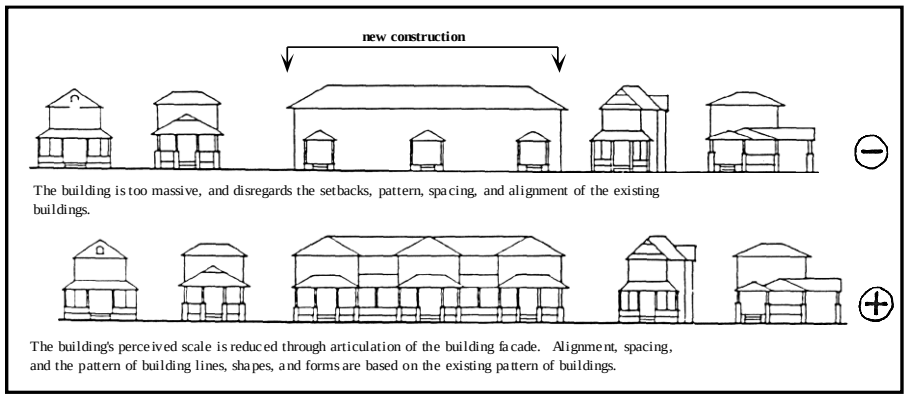


Figure 3—Scale and Articulation

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.)

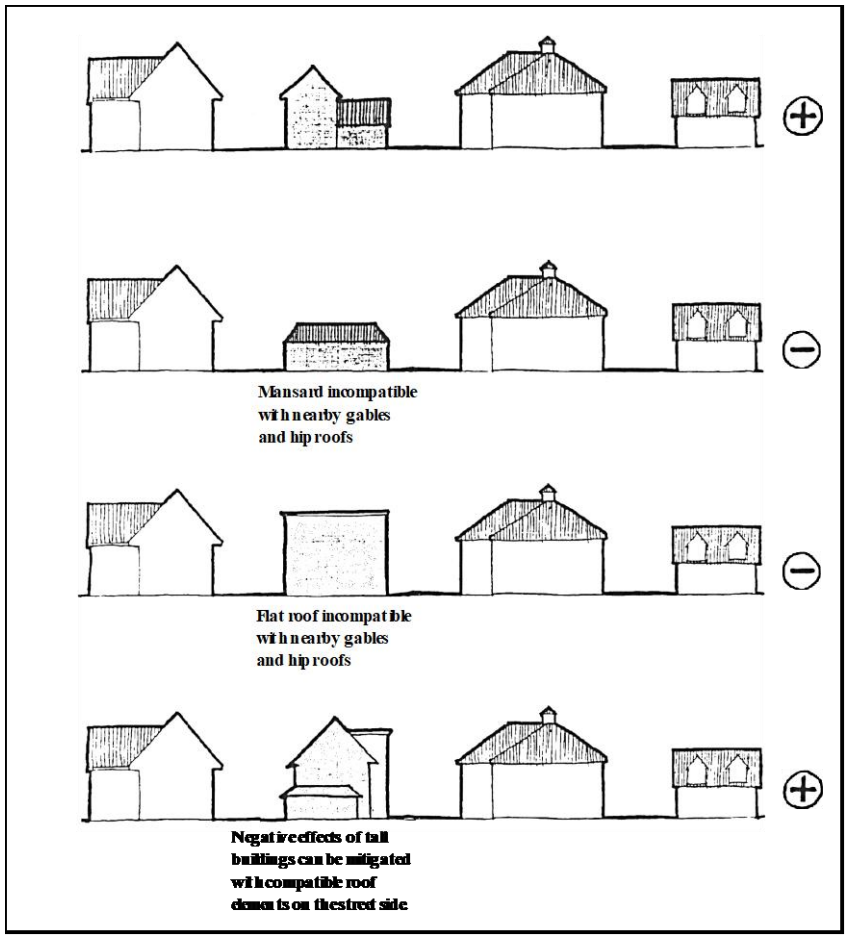


Figure 4—Roof Shape

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.)

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

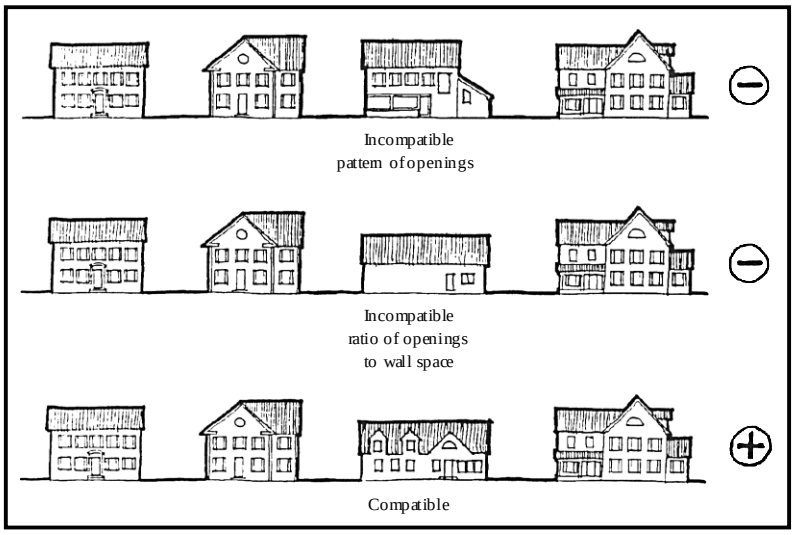


Figure 5—Openings

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.)

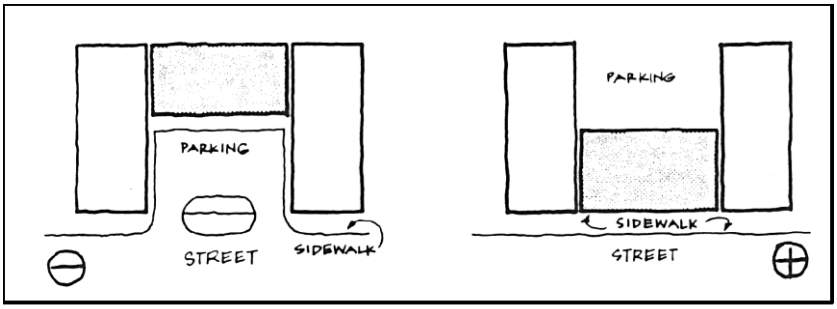


Figure 6—Relationship of Street Facades

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.)

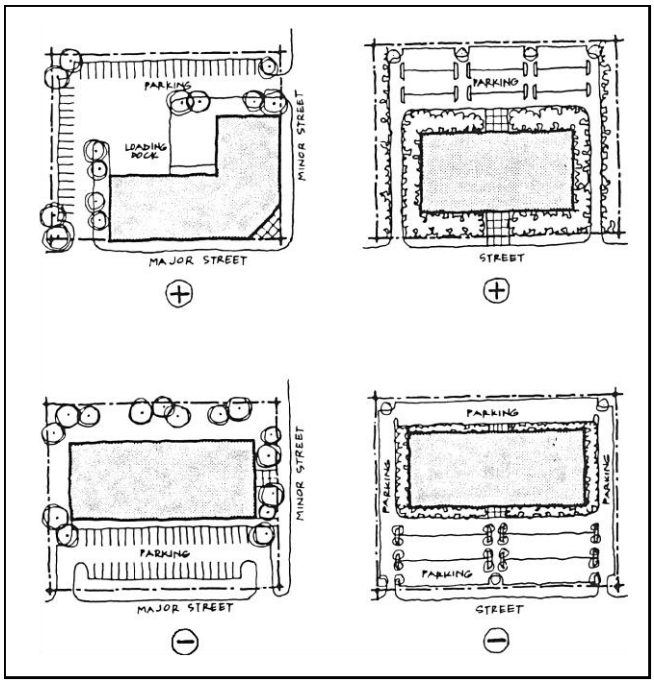


Figure 7—Parking (general)

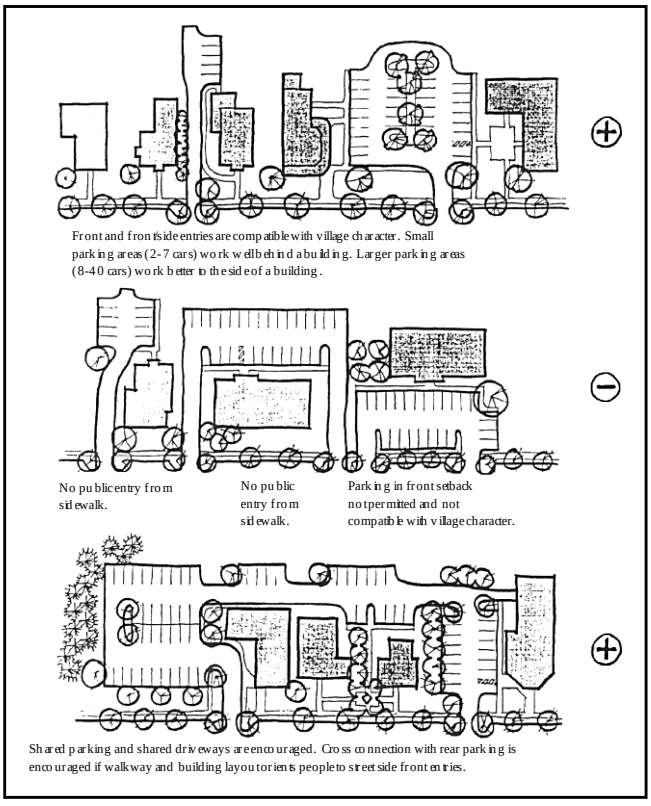


Figure 8—Parking (detailed)

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.)

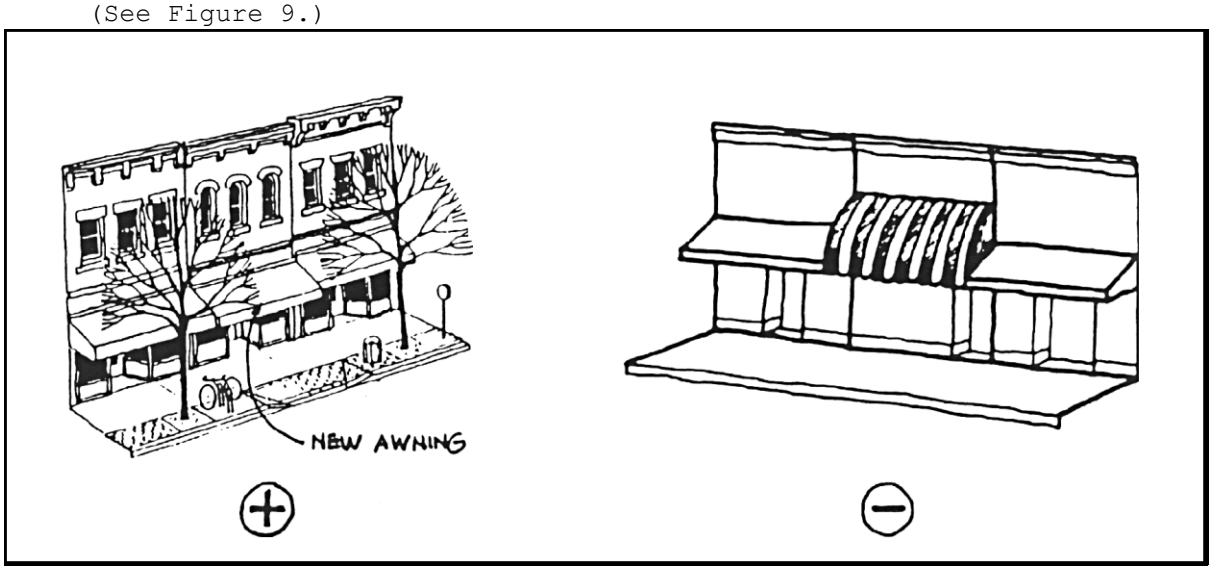


Figure 9—Awnings

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)

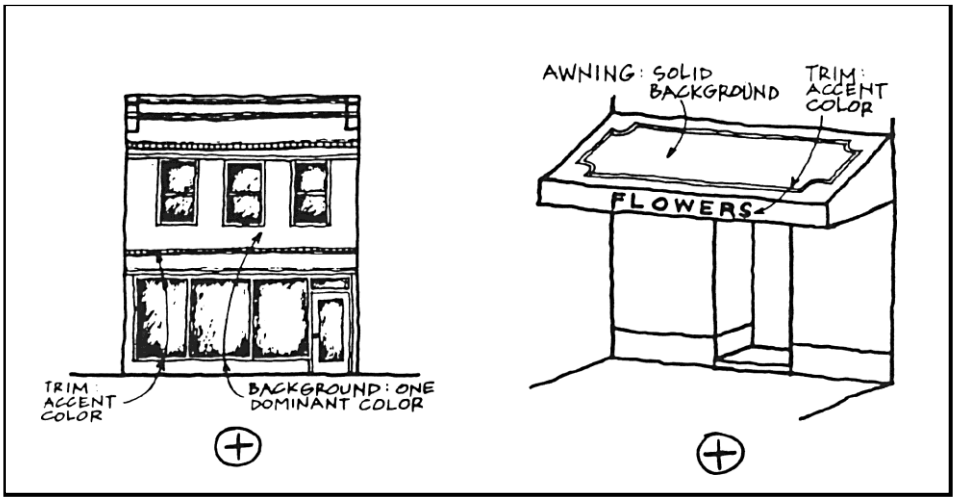


Figure 11—Building Materials (color)

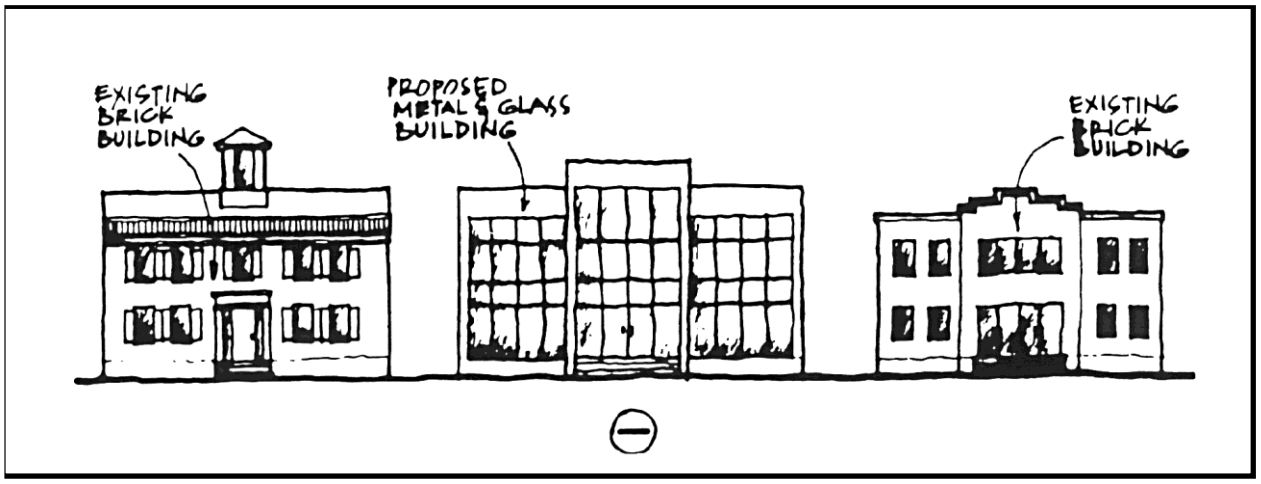


Figure 12—Building Materials (context)

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.)

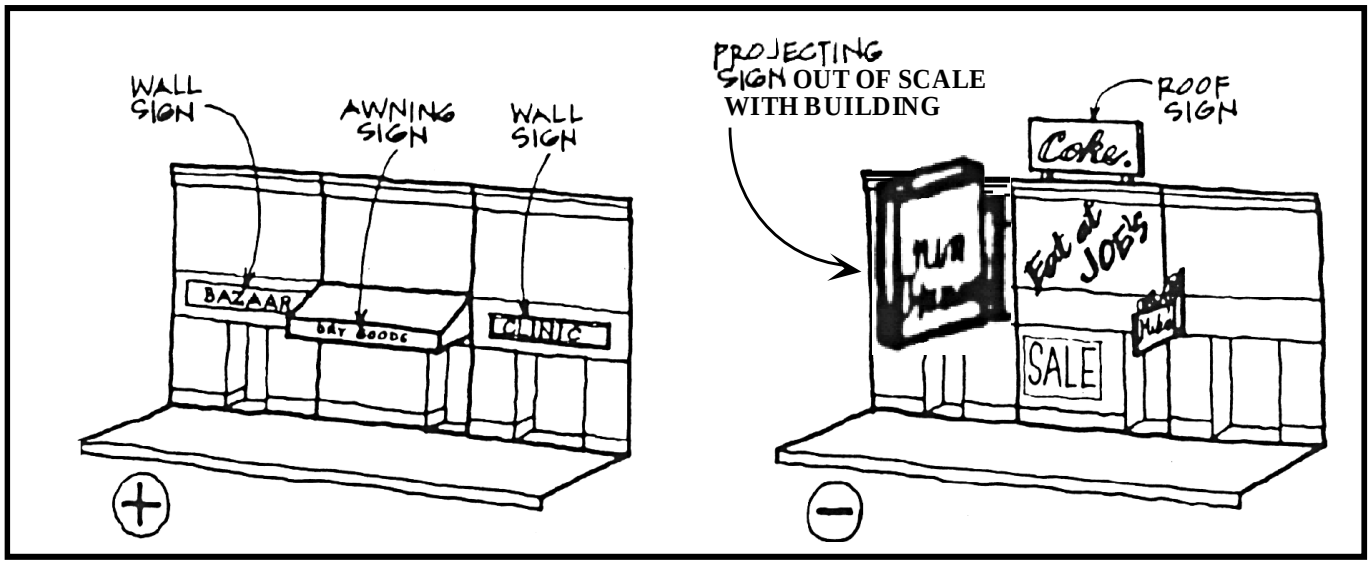


Figure 13—Signs (general)



Figure 14 – Signs (multistory)

Secs. 27-1569 - 27-1571. Reserved.

DESIGN STANDARDS FOR COMMERCIAL AND 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.

(Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000])

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
- The Village Extension VE Zoning District
- The Broadway Corridor BC Zoning District
- The Suburban Commercial CS Zoning District
- West End Residential WR Zoning District
- West End Neighborhood Center WNC Zoning District
- Western Avenue Commercial Corridor WACC Zoning District

In addition, all building construction or remodeling projects affecting the exterior of buildings in the Mill Creek Core (MCC) Zoning District that require a special exception, site plan, or subdivision approval

and/or a non-single family dwelling unit building permit that are not being done under the Planned Development requirements are subject to these design standards. While projects in the MCC District that are done under the Planned Development requirements are not subject to the provisions, it is required that these provisions be incorporated into the Master Development Plan for the Planned Development as appropriate.

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, except that modifications to the existing structure are required as necessary to achieve a harmonious integration of design with the new construction in terms of building materials, exterior colors, and architectural features. The old and new elements do not have to be the same but must be combined in a way that supports a unified design for the building as a whole.

(Ord. No. 14-13/14, 5/5/14 [Fiscal Note: Less than $1000] Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000] (Ord. No. 16-16/17, 4/19/17 [Fiscal Note: Less than $1,000])

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 a zoning district where these standards apply 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.

(g) 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.

(Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]; (Ord. No. 12/19-20, 11/7/19 [Fiscal Note: Less than $1000])

Sec. 27-1575. Review Standards.

Construction activities subject to the Commercial and Neighborhood Activity Center design requirements 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] Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000])

Sec. 27-1575-A. Review Standards for Midrise Buildings.

In addition to the standards of Sec. 27-1575, construction activities involving midrise buildings with four (4) or more habitable stories shall conform to the following design standards:

(a) Mid-rise buildings can appear more solid than transparent due to structural requirements, cost factors, and the need for privacy in certain portions of the building. The massing and façades should strike a balance between solid and transparent treatment. The material and detailing choices shall support the overall style being proposed. Highly reflective or very dark glass curtain wall systems or fenestration are not permitted.

(b) The massing and design of mid-rise buildings shall be sensitive to the scale of nearby buildings and carefully address the transition to lower height structures that may exist or be anticipated on the same block or on adjacent blocks.

(c) Mixed-use buildings should differentiate architecturally between their ground-floor activities and the uses on upper floors. For example, fenestration and exterior materials could be different for a ground-floor retail use than for hotel, residential or office uses above.

(d) Projects shall integrate transit amenities such as bus shelters and seating as appropriate.

(e) The exterior of buildings shall incorporate a base, middle, and cap described as follows:

(1) The base portion of the exterior shall include an entryway with transparent windows and a molding or reveal placed between the first and second stories or over the second story. The molding or reveal shall have a depth of at least 2 inches and a height of at least 4 inches.

(2) The middle portion of the exterior may include windows and/or balconies. Balconies shall be transparent and composed of either metal railing or glass guardrail systems.

(3) The cap shall include the area from the top floor to the roof of the building and shall include a cornice or roof

overhang.

(f) Sec. 27-1575(d)(3) notwithstanding, acceptable materials include architectural concrete or precast concrete panels, stone, curtain wall and heavy gauge metal panel, and brick. Concrete masonry units shall have a ground face and be burnished and/or honed so that the aggregate is visible.

(g) All street-level retail uses with sidewalk frontage shall be provided with an individual entrance and direct pedestrian access to the sidewalk in addition to any other pedestrian access that may be provided.

(Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000]; Ord. No. 26-22/23, 4/18/2023 [Fiscal Note: Less than $1000])

ACCESSORY DWELLING UNITS

Sec. 27-1576. Purpose.

The purpose of these standards is to authorize the creation of legal accessory dwelling units ("ADUs") to provide infill housing opportunities in a manner that enhances and compliments residential neighborhoods and helps meet the City's housing needs.

(Ord. No.4-22/23, 10/18/2022 [Fiscal Note: Less than $1000])

Sec. 27-1577. Applicability and Application Requirements for ADUs.

(a) Accessory dwelling units (ADUs) require permit approval by the Code Enforcement Officer. ADU applications on a property with an existing Site Plan approved by the Planning Board shall require a minor amendment pursuant to Sec. 27-142. ADU applications in conjunction with other projects that require Planning Board approval may be reviewed by the Planning Board as one application. The Code Enforcement Officer, or Planning Board, shall ensure ADU applications meet the standards of this Chapter, and all applicable codes, standards, and regulations.

(b) Notwithstanding the provisions of 1 M.R.S. § 302 or any other law to the contrary, commencing on the enactment date of the amendments to this Chapter as evidenced by Ordinance #4-22/23, no accessory dwelling unit reviewed and approved pursuant to an application to the Code Enforcement Officer under this section and Sec. 27-1578 shall be used, occupied or registered as a short-term rental for short-term rental guests, as those terms are defined in Chapter 14, Article XVII, Sec. 14-801 of the Code, as may be amended.

(c) Applications for accessory dwelling units 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. This requirement may be waived by the Code Enforcement Officer if the proposed construction is entirely internal to an existing structure on the subject property.

(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 with the property address and assessor's map and lot identification; 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. This requirement may be waived by the Code Enforcement Officer if the proposed construction and site disturbance associated with the ADU do not create new impervious area.

(v) A narrative describing how the design, orientation, and placement of the ADU satisfy the standards set forth in Sec. 27-1578.

(vi) Certifications by the property owner(s) relating to short-term rental prohibitions as follows:

1. A certification by the property owner(s) that they understand that an ADU reviewed and approved pursuant to an application to the Code Enforcement Officer on or after the enactment date of the amendments to this Chapter as evidenced by Ordinance #4-22/23 shall not be used, occupied or registered as a short-term rental for short-term rental guests, as those terms are defined in Chapter 14, Article XVII, Sec. 14-801 of the Code, as may be amended.

2. In the case of a property comprised of a single-family dwelling unit and an ADU, a certification by the property owner(s) that they understand that neither the single-family dwelling nor the ADU reviewed and approved pursuant to an application to the Code Enforcement Officer on or after the enactment date of the amendments to this Chapter as evidenced by Ordinance #4-22/23 shall be used, occupied, or registered as a short-term rental for short-term rental guests, as those terms are

defined in Chapter 14, Article XVII, Sec. 14-801 of the Code, as may be amended.

3. In the case of a property comprised of a multi-unit structure with up to three dwelling units and an ADU, a certification by the property owner(s) that they understand that neither the dwelling units nor the ADU reviewed and approved pursuant to an application to the Code Enforcement Officer on or after the enactment date of the amendments to this Chapter as evidenced by Ordinance #4-22/23 shall be used, occupied or registered as a short-term rental for short-term rental guests, as those terms are defined in Chapter 14, Article XVII, Sec. 14-801 of the Code, as may be amended.

(Ord. No.4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 7-23/34, 11/15/2023 [Fiscal Note: Less than $1000]Ord. No. 15-25/26, 1/20/2026 [Fiscal Note: Less than $1000])

Sec. 27-1578. Standards for ADUs.

(a) An accessory dwelling unit may be created in one of the following ways:

(i) Using space within an existing dwelling;

(ii) 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; or

(iii) Incorporating an ADU into a new structure or constructing a detached ADU structure, subject to the following:

1. Above-ground, exterior mechanical equipment associated with the ADU cannot be located within the setback area/other applicable setback for a lawfully existing structure or within 10 feet of a property boundary, whichever is greater;
2. No transparent openings associated with the ADU, other than openings on the roof of the structure, shall be located within 5 feet of the property boundary;
3. The primary entrance for the ADU shall not be located within 10 feet of a property boundary unless the entrance is an existing access on a structure existing as of September 1, 2022;
4. The creation of an ADU within or attached to a lawfully existing nonconforming structure is permitted providing it meets all other relevant requirements of this Chapter, including the following:
   i. Notwithstanding the provisions contained in Article III, Sections 27-303(a)(4) and 27-303(a)(3)(c) regarding vertical enlargements for nonconforming structures encroaching within a property setback, an ADU may increase the height of an existing detached nonconforming structure to establish a new roof compliant with building code. Windows and openings, other than those attached to roofs, that are connected to living space associated with the ADU shall not be created on a second story within a setback area.
   ii. An ADU cannot be constructed within a lawfully existing

nonconforming structure if the ADU will be located within 12 feet of an inhabited structure on an adjacent property.

iii. An ADU cannot be constructed within a structure that is a lawfully existing nonconforming structure with respect to shoreland zoning provisions, unless expressly permitted under Article XIII, shoreland overlay zone provisions.

(b) All accessory dwelling units shall comply with the following size limitations:

(i) The modified floor area for ADUs on parcels under 10,890 sq. ft. shall not exceed 800 square feet or 90% of the primary dwelling modified floor area, whichever is smaller;

(ii) The modified floor area of ADUs on parcels of 10,890 sq. ft. or larger shall not exceed 10% of the parcel area, 1,200 sq. ft., or 90% of the primary dwelling unit modified floor area, whichever is smaller.

(iii) No ADU shall have less than 190 square feet of modified floor area.

(iv) On properties with two or three dwelling units, the ADU must be no larger than 90% of the modified floor area of the largest legal unit existing on the property at the time of the application for the ADU.

(c) New building coverage that is created to construct all or part of a ground-floor ADU shall not exceed 800 sq. ft. for the portion of the building in which the ADU is located.

(d) 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 or building coverage requirements for the zoning district in which it is located, except as provided in Section 27-1578(a).

(e) Only one ADU is permitted per lot.

(f) The dwellings on the property and the ADU must be held by a common ownership in part or in whole. An ADU may not be sold such that the owner or owners of the principal dwelling no longer maintain partial or full ownership of the ADU.

(g) [RESERVED]

(h) Design features associated with ADUs must maintain or complement the prevailing architecture of the neighborhood. The following standards shall apply to ensure that the prevailing architecture is maintained or complemented:

(i) 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. This can be achieved by

1. Exaggerating or architecturally accenting the primary entrance relative to the ADU entrance through features that include but are not limited to awnings, porticos, and pergolas; sidelights on doorways; decorative millwork such as corbels, louvers, mouldings, columns, and trim; glass paneling; and entry steps, walkways, and landscaping;
2. Setting back the ADU entrance at least five (5) feet from the primary unit entrance relative to the front property line;
3. Screening the ADU entrance with landscaping or architectural features such as privacy screens;
4. Rotating or angling the ADU entrance to not be parallel to the property frontage; or
5. Locating the ADU entrance where it is not visible from the property frontage.

(ii) Demonstrate clear relationship between the roof design of the ADU and the primary structure or neighborhood by maintaining an equivalent pitch and utilizing equivalent materials and color.

(iii) The orientation of the proposed ADU shall maintain the privacy of residents within the interior living rooms, dining rooms, bedrooms, and bathrooms of the ADU and the same rooms or spaces in adjoining dwellings. Privacy may be maintained through landscape screening, fencing, and the location of windows and doors. If landscaping is used to maintain privacy, plantings must provide the necessary privacy screening within 2 years of installation.

(iv) If the ADU is constructed as a detached structure from the primary dwelling, the maximum height of the detached structure shall not exceed 28 feet.

(v) A safe path of travel shall be provided from the ADU to the nearest public sidewalk or right-of-way. Walkways must be a minimum of 3 feet wide and distinct from vehicular areas except as a shared drive/walk space along an exterior edge of a driving surface.

(vi) The Code Enforcement Officer may waive any of these design standards if the proposed construction is entirely internal to an existing structure on the subject property and the design standard is determined to be not applicable.

(i) No additional parking spaces shall be required for an ADU.

(j) An ADU shall not be counted as a unit when calculating density, minimum lot area per family, or units per acre.

(k) Any building permit issued in conjunction with an ADU reviewed and approved pursuant to an application to the Code Enforcement Officer on or after the enactment date of the amendments to this Chapter as evidenced by Ordinance #4-22/23 shall contain the following condition: "The accessory dwelling unit to be constructed pursuant to this building permit shall not be used, occupied or registered as a short-term rental for short-term rental guests, as those terms are defined in

Chapter 14, Article XVII, Sec. 14-801 of the Code, as may be amended."

(l) A certificate of occupancy issued for an ADU reviewed and approved pursuant to an application to the Code Enforcement Officer on or after the enactment date of the amendments to this Chapter as evidenced by Ordinance #4-22/23 shall contain the following condition: "This accessory dwelling unit shall not be used, occupied or registered as a short-term rental for short-term rental guests, as those terms are defined in Chapter 14, Article XVII, Sec. 14-801 of the Code, as may be amended. The Code Enforcement Officer shall have the right to inspect the ADU with reasonable advance notice to the occupant to ensure compliance with this condition. This restriction shall run with the property and be binding on and inure to the benefit of the property owner, their heirs, successors and assigns, as a condition of continued use. Any use of the ADU in violation of this restriction is in violation of the City's Zoning Ordinance absent an amended approval from the City. The failure to maintain the ADU in compliance with this restriction may result in the suspension or revocation of the certificate of occupancy for the ADU."

(m) Unless Start of Construction on an ADU that has received an ADU approval from the Code Enforcement Officer shall have commenced within three (3) years of said ADU approval or within such other time as may have been fixed by the Code Enforcement Officer, the ADU approval shall be deemed to have lapsed, any building permits issued in reliance thereon shall become null and void, and the Code Enforcement Officer shall make the determination as to whether Start of Construction has commenced on the ADU approval. One or more extensions of the ADU approval may be granted by the Code Enforcement Officer for good cause shown by the approval holder if the facts constituting the basis of the ADU approval have not materially changed since the initial date of approval.

(Ord. No. 4-22/23, 10/18/2022 [Fiscal Note: Less than $1000]; Ord. No. 26-22/23, 4/18/2023 [Fiscal Note: Less than $1000] Editor's Note: Sec. 27-1578-4(b)(ii) is all new text pursuant to Ord. No. 26-22/23, 4/18/2023; Ord. No. 7-23/24, 11/15/2023 [Fiscal Note: Less than $1000]; Ord. No. 15-25/26, 1/20/2026 [Fiscal Note: Less than $1000];(Ord. No. 25-25/26, 6/2/2026 [Fiscal Note: Less than $1000])

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])

Sec. 27-1582-1589. Reserved

EXTERIOR LIGHTING

Sec. 27-1590. General Standards for Exterior Lighting

(a) Effective August 1, 2016, all new or revised outdoor lighting that are part of projects requiring Planning Board approval must be designed to provide only the minimum lighting necessary to ensure adequate vision, safety, and comfort and may not cause glare beyond the limits of the property boundaries including the street rights-of-way.

(b) Lighting fixtures mounted on masts or poles must be full cut-off fixtures except for period or historical fixtures meeting the provisions of subsection (g).

(c) Flood lighting or other directional lighting may be used for supplemental illumination of sales or storage areas provided that the flood lights are installed no higher than fifteen (15) feet above ground level, are aimed to avoid the source of the light being seen from adjacent streets

or properties, and meet the illumination standards of this section. The Code Enforcement Officer or their designee has the right to inspect the completed lighting installation and, if flood lights are used, to require that the flood lights be re-aimed or fitted with face louvers if necessary to control direct brightness or glare.

(d) Except for ornamental lighting fixtures that utilize lamps with initial lumen ratings of 8,500 lumens or less, wall mounted building lights must include full face shielding consisting of either a solid panel or full face louvers. Exposed lamps, reflectors or refractors may not be visible from any part of the fixture except the bottom, light emitting surface.

(e) Lighting fixtures located on or within canopies must be full cut-off luminaires or be mounted so that the luminaire or lens, whichever is lower, does not project below the bottom of the canopy surface. The lighting installed beneath the canopy must be pointed downward and be substantially confined to the ground surface directly under the canopy. The level of lighting beyond the perimeter of the canopy must be consistent with the standards for parking areas. The sides and top of the canopy shall not be illuminated.

(f) Lighting fixtures must be mounted at the lowest level that allows reasonable compliance with IESNA recommended practices and the provisions of this section. The maximum light fixture height shall be twenty-four (24) feet in the MCC and VE Districts.

(g) Period or historical fixtures that do not meet the requirements of this section may be used as an alternative to cutoff fixtures provided the maximum initial lumens generated by each fixture does not exceed 2,000. The maximum initial lumens for metal halide lamps may be increased to 8,500 if the lamp is internally recessed within the fixture or is shielded by internal louvers or refractors. The mounting height of period or historical fixtures may not exceed twelve (12) feet above the adjacent ground.

(h) Parking lot or other freestanding site lighting in the MCC District or VE District shall be visually compatible with the City’s standard street lighting fixture for the Mill Creek and Knightville neighborhoods.

(i) An average to minimum illumination uniformity ratio of 6:1 or better must be maintained for parking lots and pedestrian areas. In other areas, the uniformity ration must be consistent with IESNA recommended practices and be compatible with the overall lighting of the project and be specifically approved by the Planning Board.

(j) Average lighting levels must not exceed the following standards. For areas not listed, the Planning Board shall determine the appropriate standard based on IESNA recommended practices:

Location	Footcandles
At building entries	5.0
At loading areas for a commercial or industrial use	10.0
In parking areas for a multifamily residential use	3.0
In parking areas for a nonresidential use	5.0
Along sidewalks and other pedestrian facilities and areas	3.0
Under service station canopies	10.0
In general storage areas for commercial and industrial uses	8.0
In vehicle sales and display areas	10.0

(k) Lighting in all parking areas and along sidewalks and other pedestrian walkways must meet or exceed the following minimum color rendering index:

District	Minimum CRI
Residential and Conditional/Contract Residential Districts	60
Mixed-Use and Conditional/Contract Mixed Use Districts including LB, VC, VCW, SP, PO, MSCC, VE, BC, and MCC	60
Commercial and Conditional/Contract Commercial Districts including CS, CG, CCRT, CCR, and C	20
Industrial and Conditional/Contract Industrial Districts	20

(Ord. No. 6-16/17, 11/7/16 [Fiscal Note: Less than $1000])

ADAPTIVE REUSE

Sec. 27-1591. Purpose.

The City recognizes that there are historic resources located in residential zoning districts that should be preserved as important features in South Portland. The City also recognizes that many of these structures cannot reasonably accommodate a permitted use within the existing structure. The purpose of these Adaptive Reuse requirements is to allow for a limited number of additional uses as special exceptions for historic resources as an incentive to stimulate investment in the structure and allow for the long-term maintenance and upkeep of the property without significantly altering the predominantly residential nature of the zoning district.

Sec. 27-1592. Uses

The following uses shall qualify as an Adaptive Reuse as identified in any given zoning district and for the purposes of this selection:

(a) Assisted living facility.
(b) Independent living facility.
(c) Community home.
(d) Congregate housing or congregate care facility.
(e) Nursing home.
(f) Lodging establishments, small-scale and large-scale.
(g) Multi-family dwellings.
(h) Museums and art galleries.
(i) Charitable and philanthropic organizations.
(j) Public and private educational facilities including child, adult or combined day care centers.
(k) Other low-intensity use(s) determined by the Planning Board to be compatible with the existing permitted and special exception uses in the zoning district and with the surrounding natural and built environment.

Uses that are already listed as a permitted use or special exception within the zoning district shall not be required to obtain approval from the Planning Board as an Adaptive Reuse.

(Ord. No. 15-24/25, 1/21/25 [Fiscal Note: Less than $1000])

Sec. 27-1593. Application.

A pre-application meeting is required. The special exception application shall be accompanied by the following documentation:

(i) All necessary documentation as required for site plan review under Sec. 27-1424; and
(ii) If exterior work is proposed on the historic resource, scaled elevations of the existing and proposed building or structure indicating areas of work and material specifications are required.

Sec. 27-1594. Standards.

In addition to the requirements of Sec. 27-1405, the following standards shall be applicable to any Adaptive Reuse:

(a) Eligibility. The historic resource within which the Adaptive Reuse will be located must be listed on the South Portland Inventory of Archaeological and Historic Resources.

(b) Use Limitation. The Planning Board approval shall list the specific uses approved for the project. Any combination of uses listed in Sec. 27-1592 may be approved on a property. Additions to the historic resource or accessory structures may be added in accordance with Sec. 27-1594(C), provided that they are supportive of the approved Adaptive Reuse(s).

(c) Historic Preservation. Notwithstanding the provisions of subsection (k), any alterations to the exterior of the historic resource shall be generally in accordance with the Secretary of the Interior' s Standards for the Rehabilitation of Historic Buildings, as determined by the Planning Board with a recommendation from the South Portland Historic Preservation Committee.

(d) Parking. If the requirements of Sec. 27-1556 are not feasible due to site constraints or would otherwise require alterations to the historic resource, either or both as determined by the Planning Board in its sole and exclusive judgment, the number of off-street parking spaces may be reduced to the amount that may be reasonably accommodated on-site notwithstanding the requirements of Sec. 27-1556. The applicant shall demonstrate 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 services or other alternative transportation that reduces the demand for on-site parking.

(e) Signs. Signs shall be regulated in accordance with the requirements of Sec. 27-1561 *et seq.* of this Chapter, except that one additional sign not to exceed four (4) square feet is permitted in zoning districts AA, A, G and RF. Electronic message signs and signs with internal illumination are prohibited.

(f) Buffering. Where an Adaptive Reuse is located adjacent to a residential use, appropriate landscaping or other buffering shall be provided and maintained in accordance with Sec. 27-1511, but only for the area on site between any off-street parking or improved yard or rooftop area (such as a dining patio or pool) and the lot line adjacent to the residential use.

(g) Site Access. No additional vehicular access points to the site shall be permitted as a result of the proposed use, unless otherwise required to create safe access for fire and other emergency vehicles.

(h) Lighting. All proposed lighting shall be in accordance with Sec. 27-1590 with the exception that flood lighting or other directional lighting is prohibited.

(i) Hours of Operation. The hours of operation shall be limited to between 7 AM and 9 PM. For uses that offer sleeping accommodations, hours of operation shall mean use of dining facilities, organized activities on-site, outdoor recreation, or use of improved yard or rooftop areas (such as a dining patio or pool). After hours check-in/out is permitted.

(j) Energy Efficiency. Upgrades to the building or structure that improve energy efficiency should be incorporated where feasible. The visual impacts of such upgrades shall be limited so as not to obscure the historic character of the building or structure. Replacement of doors and windows to achieve energy efficiency shall be permitted provided that they retain a similar appearance to the historic elements. Any solar energy systems shall be in compliance with the requirements of Sec. 27-1801 *et seq.*

(k) Residential Density. For a low-intensity use determined by the Planning Board to be compatible with the existing permitted and special exception uses in the zoning district and with the surrounding natural and built environment under Sec. 27-1592(k) above, and notwithstanding any other provision of this ordinance to the contrary, in the event of a conflict between maximum number of units that may be built due to the calculation of Maximum Residential Density, Minimum Lot Area, or Minimum Area Per Family standards applicable to the use, the least restrictive standard shall control the number of dwelling units that are permissible.

(Ord. No. 7-20/21, 10/27/2020 [Fiscal Note: Less than $1000]; Ord. No. 12-23/24, 2/6/24 [Fiscal Note: Less than $1000])

Secs. 27-1595 – 27-1600. Reserved.

(Ord. No. 1-19/20, 7/2/19 [Fiscal Note: Less than $1000])

ARTICLE XVI RESERVED.

(Ord. No. 8-16/17, 12/19/16 [Fiscal Note: Less than $1000])

ARTICLE XVII. RESERVED

Secs. 27-1701 – 27-1800. Reserved.

(Ord. No. 5-21/22, 9/7/2021 [Fiscal Note: Less than $1000])

ARTICLE XVIII. SOLAR ENERGY SYSTEMS

Sec. 27-1801. Purpose.

(a) Solar energy is a renewable and non-polluting energy resource that can prevent fossil fuel emissions and reduce energy load. Energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is generated.

(b) The use of solar energy equipment for the purpose of providing electricity and energy for heating and/or cooling is a priority and is a necessary component of the City's current and long-term sustainability agenda.

(c) The standards that follow enable the accommodation of solar energy systems and equipment in a safe manner with minimal impacts on the quiet enjoyment of property.

Sec. 27-1802. Definitions.

The following definitions pertain to terms used in this Article:

Building-Integrated Photovoltaic (BIPV) Systems. A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the façade and which does not alter the relief of the roof.

Electricity Generation (production, output). The amount of electric energy produced by transforming other forms of energy, commonly expressed in kilowatt-hours (kWh) or megawatt-hours (MWh).

Electrical Equipment. Any device associated with a solar energy system, such as an outdoor electrical unit/control box, that transfers the energy from the solar energy system to the intended location.

Mounting. The manner in which a solar PV system is affixed to the roof or ground (i.e., roof mount, ground mount, pole mount).

Photovoltaic (PV) System. A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells, which generate electricity when exposed to sunlight. A PV system may be roof-mounted, ground-mounted, or pole-mounted.

Pole-Mount System. A solar energy system that is directly installed on specialized solar racking systems, which are attached to pole, which is anchored and firmly affixed to a foundation in the ground, and wired underground to an attachment point at the building's meter. Pole-mounted systems can be designed to track the sun (with single-axis or dual-axis tracking motors) and maximize solar output throughout the year.

Power. The rate at which work is performed (the rate of producing, transferring, or using energy). Power is measured in Watts (W), kilowatts (kW), Megawatts (MW), etc.

Solar Array. Multiple solar panels combined together to create one system.

Solar Collector. A solar PV cell, panel, or array, or solar thermal collector device, that relies upon solar radiation as an energy source for the generation electricity or transfer of stored heat.

Solar Energy System. See Sec. 27-201.

Solar Energy System, Active. See Sec. 27-201.

Solar Energy System, Grid-Intertie. A photovoltaic system that is connected to an electric circuit served by an electric utility.

Solar Energy System, Ground-Mounted. See Sec. 27-201.

Solar Energy System, Large-Scale. See Sec. 27-201.

Solar Energy System, Medium-Scale. See Sec. 27-201.

Solar Energy System, Roof-Mounted. See Sec. 27-201.

Solar Energy System, Small-Scale. See Sec. 27-201.

Solar Glare: The potential for solar panels to reflect sunlight, with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

Solar Photovoltaic (Solar PV) System. Solar systems consisting of photovoltaic cells, made with semiconducting materials, that produce electricity (in the form of direct current (DC)) when they are exposed to sunlight. A typical PV system consist of PV panels (or modules) that combine to form an array; other system components may include mountain racks and hardware, wiring for electrical connections, power conditioning equipment, such as an inverter and/or batteries.

Solar Panel (or module). A device for the direct conversion of sunlight into useable solar energy (including electricity or heat).

Solar Thermal System (Solar Hot Water or Solar Heating Systems). A solar energy system that directly heats water or other liquid, or air, using sunlight.

Tilt. The angle of the solar panels and/or solar collector relative to horizontal. The optimal tilt to maximize solar production is perpendicular, or 90 degrees, to the sun's rays at true solar noon. True solar noon is when the sun is at its highest during its daily east-west path across the sky (this is also known as 0° Azimuth). Solar energy systems can be manually or automatically adjusted throughout the year. Alternatively, fixed-tilt systems remain at a static tilt year-round

Sec. 27-1803. Applicability.

(a) Notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, the requirements of this Article shall apply to all roof-mounted,

small-, medium-, and large-scale ground-mounted solar energy systems modified or installed after January 1, 2017.

(b) All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and standards. The maximum height of a roof-mounted solar energy system may, at the discretion of the review authority, exceed the maximum building height of the applicable zoning district by no more than 18 inches.

(c) Any upgrade, modification or structural change that materially alters the size, placement or output of an existing solar energy system shall comply with the provisions of this Article.

(d) For purposes of this Article, the City's zoning districts are categorized as follows:

(1) ***Residential Zoning Districts***. Residential zoning districts include: RF, AA, A, G, VR, RT, WR, RC, P, OS, A-1, S-1, G-1, G-2, G-3, G-4, G-5, G-6, G-7, SCH-1, and O'NEIL.

(2) ***Mixed-Use Zoning Districts***. Mixed-use zoning districts include: LB, VC, VCW, SP, CS, PO, MSCC, VE, BC, MCC, WNC, WACC, and MHCC.

(3) ***Non-Residential Commercial/Industrial Zoning Districts***. Non-residential commercial/industrial districts include: C, I, CG, CCRT, CCR, S, IL, INR, CAZ, INR-MSW-1, and INR-EDF-1.

(Ord. No. 7, 11/15/2023, [Fiscal Note: Less than $1000]; Ord. No. 3-25/26, 7/9/2025 [Fiscal Note: Less than $1000])

Sec. 27-1804. Permitting.

(a) No solar energy system or device shall be installed or operated in the City except in compliance with this Article Ordinance.

(b) Solar-thermal, building-integrated, roof-mounted, and small-scale ground-mounted solar energy systems are permitted in all zoning districts subject to the dimensional standards of Sec. 27-1805. All such systems must obtain building permits.

(c) Medium- and large-scale ground-mounted solar energy systems are permitted or special exception uses in some of the City's zoning districts, as found in the regulations for the individual zoning districts, subject to the requirements of this Article.

Sec. 27-1805. Dimensional Standards.

(a) Height

(1) In residential zoning districts, building integrated and roof-mounted solar energy systems shall be included in the building height measurement, and the height of the building shall not exceed the maximum building height. In mixed-use and non-residential commercial/industrial zones, notwithstanding and other provision of this ordinance to the contrary, building integrated and roof-

mounted solar energy systems shall not be included in the building height measurement.

(2) Ground-mounted solar energy systems in residential and mixed-use zoning districts shall not exceed twelve (12) feet in height when oriented at maximum tilt, except that the maximum height is twenty (20) feet for systems set back at least thirty (30) feet from any property line. Ground-mounted solar energy systems in all other zoning districts shall conform to the building height requirements of the zoning districts in which they are located.

(b) Setbacks for Ground-Mounted Solar Energy Systems

Notwithstanding any other provision in this Ordinance to the contrary, the setbacks for ground-mounted solar energy systems shall be as follows:

Minimum front yard: In residential zoning districts, one hundred (100) feet. In mixed use and non-residential zoning districts, whatever the front yard setback is for that zoning district, but in no event less than thirty (30) feet.

Minimum rear yard: Whatever the rear yard setback is for accessory buildings in that zoning district.

Minimum side yard: Thirty (30) feet.

(c) Lot Coverage

Only the paved or otherwise impervious areas of sites on which ground-mounted solar energy systems are installed shall be counted in the lot coverage calculation.

(Ord. No. 14 16/17, 3/6/17 [Fiscal Note: Less than $1,000])

Sec. 27-1806. Standards for Roof-Mounted and Small-Scale Ground-Mounted Solar Energy Systems.

(a) Roof-mounted and building-mounted solar energy systems and equipment shall be permitted only if they are determined by the Code Enforcement Officer, with input from the Fire Chief, not to present any unreasonable safety risks, including, but not limited to, the following:

(1) Weight load;
(2) Wind resistance;
(3) Ingress or egress in the event of fire or other emergency; and
(4) Proximity of a ground-mounted system relative to buildings.

(b) All solar energy system installations shall be installed in compliance with the photovoltaic systems standards of the latest edition of National Fire Protection Association (NFPA) 1, Fire Prevention Code.

(c) All wiring shall be installed in compliance with the photovoltaic systems standards of the latest edition of the National Electrical Code (NFPA 70).

(d) Prior to operation, electrical connections must be inspected and approved by the Electrical Inspector.

(e) Any connection to the public utility grid must be inspected and approved by the appropriate public utility.

(f) Notwithstanding any other provision of this Article to the contrary, any solar energy system installation on non-residential or multi-family properties completed prior to January 1, 2017 shall be required to comply with the photovoltaic system "marking" requirements contained in the latest edition of NFPA 1, Fire Prevention Code, on or before April 1, 2018. The Code Enforcement Officer shall endeavor to notify all affected property owners of this requirement on or before April 1, 2017, but failure of an affected property owner to receive such notice shall not relieve the property owner from compliance with this subsection.

(g) If a solar collector ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment by no later than 90 days after the end of the twelve-month period.

(h) Each solar energy installation shall be maintained as necessary to ensure that it is operating safely and as designed over its useful lifetime.

(Ord. No. 15-24/25, 1/21/25 [Fiscal Note: Less than $1000])

Sec. 27-1807. Additional Standards for Medium- and Large-Scale Ground-Mounted Solar Energy Systems.

In addition to the standards in Sec. 27-1806, medium- and large-scale ground-mounted solar energy systems shall comply with the following:

(a) Plan drawings for medium- and large-scale ground-mounted solar energy systems shall be signed by a Professional Engineer licensed to practice in the State of Maine. The plans must show the layout of the system, the distance between the solar collectors and all property lines, existing structures on the property in the vicinity of the solar energy system, and the tallest finished height of the solar collector.

(b) All major system components to be used in the solar system shall be shown on the submitted plans, including the panels, mounting system, and inverter(s). For grid-interactive photovoltaic systems, the applicant shall provide evidence that the project meets the local electric utility's transmission and distribution interconnection requirements for generation. Compliance with the grid interconnection requirements can be a Site Plan Condition of Approval if evidence is provided that the necessary application has been accepted for review by the utility.

(c) Utility Connections – Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

(d) Safety – The solar system owner shall provide a copy of the site plan review application to the Fire Chief for review and comment. The Fire Chief shall base any recommendation for approval or denial of the application upon review of the fire safety of the proposed system.

(e) Visual Impact – Reasonable efforts, as determined by the Planning Board, shall be made to minimize visual impacts by preserving natural vegetation, screening abutting properties, or other appropriate measures.

(f) Glare - Solar panels are designed to absorb (not reflect) sunlight; and, as such, solar panels are generally less reflective than other varnished or glass exterior housing pieces. However, solar panel placement should be prioritized to minimize or negate any solar glare onto nearby properties or roadways, to the extent practical.

(g) Additional Standards for Large-Scale Solar Energy Systems

(1) Operations & Maintenance Plan – the project proponent shall submit a plan for the operation and maintenance of the large-scale ground-mounted solar energy system, which shall include measures for maintaining safe access to the installation as well as other general procedures for operational maintenance of the installation.

(2) Signage – Signs on large-scale ground-mounted solar energy systems shall comply with the regulations in Sec. 27-1561 *et. seq.* of this Chapter. A sign meeting those regulations shall be required to identify the owner and provide a 24-hour emergency contact phone number.

(3) Emergency Services – The large-scale ground-mounted solar energy system owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. Upon request the owner or operator shall cooperate with the Fire Department in developing an emergency response plan. All means of shutting down the system shall be clearly marked. The owner or operator shall provide to the Code Enforcement Officer the name and contact information of a responsible person for public inquiries throughout the life of the installation.

(4) Installation Conditions – The large-scale ground-mounted solar energy system owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Fire Chief. The owner or operator shall be responsible for the cost of maintaining the solar energy system and any access road(s), unless accepted as a public way.

(5) Removal – Any large-scale ground-mounted solar energy system which has reached the end of its useful life or has been abandoned consistent with this ordinance shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Code Enforcement Officer by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

(a) Physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site.

(b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

(c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Code Enforcement Officer may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

(6) Abandonment, Guarantee.

(a) Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, a large-scale ground-mounted solar energy system shall be considered abandoned when it fails to operate for more than one year without having first obtained the written consent of the Code Enforcement Officer.

(b) At the time of approval, the applicant for a new large-scale ground-mounted solar energy system shall submit to the City an evergreen performance guarantee, to be approved by Corporation Counsel, in the amount of 150% of the estimated demolition cost of the system, such cost to be determined by the City Engineer or other duly designated person. The owner may apply to the Planning Board for release of the guarantee at such time that it or its assigns remove the system and associated abandoned structures, and such completed removal is found to be satisfactory by the City Engineer.

(c) If the owner or operator of the solar energy system fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the City retains the right to use the performance guarantee and all other available means to cause an abandoned, hazardous, or decommissioned large-scale ground-mounted solar energy system to be removed.

(Ord. No. 12-16/17, 2/6/17 [Fiscal Note: Less than $1,000]; Ord. No. 3-25/26, 7/9/2025 [Fiscal Note: Less than $1000])

Secs. 27-1808 – 27-1900. Reserved.

ARTICLE XIX. MEDICAL AND ADULT USE MARIJUANA PERFORMANCE STANDARDS

Sec. 27-1901. Performance standards for home cultivation of marijuana for personal adult use.

The total number of mature plants that may be cultivated on any one parcel or tract of land located within the City is limited to 3 mature marijuana plants, 12 immature marijuana plants and an unlimited number of seedlings by each person 21 years of age or older who is domiciled at that parcel or tract of land.

(Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000])

Sec. 27-1902. Performance standards for marijuana establishments and medical marijuana establishments.

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 marijuana establishment or medical marijuana establishment for which an application has not been submitted and acted on by the Planning Board prior to January 1, 2017. 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 #9-20/21, when enacted, shall govern any proposed marijuana establishment application or medical marijuana establishment application for which the Planning and Development Department has not, prior to November 1, 2020, conducted a pre-application meeting with the applicant and for which the applicant has not, prior to January 31, 2021, filed an actual application with the Planning and Development Department.

All marijuana establishments and medical marijuana establishments are principal uses regardless of the amount of space they may occupy within a building. Except as provided in Sec. 27-1902(k)(1), all marijuana establishments and medical marijuana establishments require site plan review and approval from the Planning Board pursuant to Sec. 27-1421 through Sec. 27-1432 prior to the issuance of any building permit or certificate of occupancy. The following performance standards are to be used by the Planning Board in reviewing site plan applications and compliance with the same shall serve as requirements for approval of such site plans.

(a) Separation from sensitive uses.

(1) No marijuana store, medical marijuana retail store or medical marijuana dispensary shall be sited within one thousand (1,000) feet of the lot lines of a school, child care facility, community center, higher educational facility, large public outdoor recreational facility, church, synagogue or other house of religious worship, and no marijuana store, medical marijuana retail store or medical marijuana dispensary shall be sited within three hundred (300) feet of the lot lines of a minor-oriented business or mental

or social health services business. These uses are collectively referred to as "sensitive uses".

(2) The distance cited in this subsection shall be measured as the shortest straight line distance between the primary public building entrance of the proposed marijuana store, medical marijuana retail store or medical marijuana dispensary and the lot line of the site of the sensitive use listed above at their closest points.

(3) The following procedures are for the purpose of providing notice to owners and occupants of properties neighboring the proposed project site so that sensitive uses may be identified and resolved as early as possible during the review of all marijuana store, medical marijuana retail store and medical marijuana dispensary site plan applications.

(i) Prior to the filing of an application, the applicant shall attend a pre-application meeting with the Planning and Development Department in order 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. In addition, the applicant may request a pre-application meeting with the Planning Board. This meeting is intended to allow the applicant an opportunity to familiarize the Planning Board with the proposed development as well as to assist the applicant in identifying any sensitive uses in the area surrounding the proposed development. If a pre-application meeting with the Planning Board is requested by the applicant, at least seven (7) days in advance of the meeting, the Planning Board shall notify by mail the owners of all property within one thousand (1,000) feet of the property involved of the nature of the potential application and of the time and place of the public meeting thereon; identifying the list of sensitive uses under these performance standards; identifying the separation distance for each sensitive use; requesting any sensitive use located in the vicinity of the project site to identify themselves to the Planning and Development Department; and providing the contact information of the Planning and Development Department. The Planning Board shall allow public comment at the pre-application meeting.

(ii) After the pre-application meeting held with the Planning and Development Department and, if applicable, with the Planning Board as described in (i) above, and at least 10 days prior to the filing of the site plan application, the applicant shall, in a size and form approved by the Planning and Development Department, post and maintain a notice on the property in question in a conspicuous location describing the specific proposed use of the property; identifying the intent of the applicant to submit the site plan application to the Planning Board and the anticipated submittal date thereof; identifying the list of sensitive uses under these performance standards; identifying the separation distance for each sensitive use; requesting any sensitive use located in the vicinity of the project site to identify themselves to both the applicant and the Planning and Development Department; and providing the

contact information of both the applicant and the Planning and Development Department. This notice of proposed use of the property must remain posted in the conspicuous location on the property until the earlier of (i) the date the Planning Board conducts a public hearing and renders a decision on the application, or (ii) the date the application is withdrawn.

(iii) An applicant is well-advised to use its best efforts to identify sensitive uses within the separation distance early in the Planning Board review process through methods beyond just a review of City GIS/assessment records, since some properties are not owner-occupied. If the Planning Board desires more information on whether a particular property is being used as a sensitive use within the meaning of this Sec. 27-1902, it shall postpone action on the site plan application and refer the matter to the Code Enforcement Officer for further investigation prior to Planning Board action on the site plan application.

(4) The City will only verify distance of the proposed premises from existing uses listed in above as sensitive uses; once all of the City-required licenses, permits and approvals are issued, the City will not preclude a sensitive use listed in above from opening at a location within the applicable buffer zones.

(5) A marijuana store, medical marijuana retail store or medical marijuana dispensary may continue to operate in its present location as a pre-existing use if a sensitive use as listed above later locates within the applicable buffer zone; however, the marijuana store, medical marijuana retail store or medical marijuana dispensary does so at its own risk, and City-issued licenses, permits or approvals provide no protection or indemnification against enforcement of federal or other applicable laws that may prohibit operation of a marijuana store, medical marijuana retail store or medical marijuana dispensary near a sensitive use listed above.

(6) For the purpose of determining a separation distance described in this section, the following definitions shall apply:

For purposes of this section, the term "school" means a "public school" as that term is defined in 20-A M.R.S § 1(24), as may be amended; a "private school" as that term is defined in 20-A M.R.S. § 1(22), as may be amended; and/or a "public preschool program" as that term is defined in 20-A M.R.S. § 1(23-A), as may be amended.

For purposes of this section, the term "child care facility" means a "child care facility" as that term is defined in 22 M.R.S. § 8301-A(1-A)(B), as may be amended, and/or a "family child care provider" as that term is defined in 22 M.R.S. § 8301-A(1-A)(C), as may be amended.

For purposes of this section, the term "community center" means a building used to provide before or after care to children age 18 or younger that is owned and operated by a municipality or a non-profit corporation.

For purposes of this section, the term "higher education facility" means a community college, college or university authorized by the State of Maine to award associate, baccalaureate or higher degrees.

For purposes of this section, the term "large public outdoor recreational facility" means a place designed and used for athletic fields that is at least 50 acres in size and is owned and operated by a governmental agency.

For purposes of this section, the term "minor-oriented business" means businesses, facilities or operations that are assigned the following coding under the North American Industry Classification System (most recent edition):

- 448130: Children's and Infants' Clothing Stores
- 451120: Hobby, Toy, and Game Stores
- 519120: Libraries and Archives
- 611610: Fine Arts Schools
- 611620: Sports and Recreation Instruction
- 712110: Museums
- 7131: Amusement Parks and Arcades

For purposes of this section, the term "mental or social health services business" means businesses, facilities or operations that are assigned the following coding under the North American Industry Classification System (most recent edition):

- 623220: Residential Mental Health and Substance Abuse Facilities
- 624110: Child and Youth Services
- 624190: Other Individual and Family Services

(b) Hours of operation. Marijuana stores, medical marijuana retail stores and medical marijuana dispensaries are limited to the same hours of operation as those for establishments serving or selling alcoholic beverages or products as may be set forth in State statute or in the zoning district regulations for the zone in which the store is located. When there is a conflict between statute and local zoning, the more restrictive hours of operation shall apply.

(c) Size limitation. The plant canopy of a marijuana cultivation facility or medical marijuana cultivation facility shall not exceed ten thousand (10,000) square feet in area.

(d) Separation of marijuana stores, medical marijuana retail stores and medical marijuana dispensaries. Except as provided in Section 27-1902(k), no marijuana store, medical marijuana retail store or medical marijuana dispensary shall be sited within two thousand (2,000) feet of another marijuana store, medical marijuana retail store or medical marijuana dispensary. The distance cited in this subsection shall be measured as the shortest straight line distance from the primary public building entrance from one establishment to the other. If there are multiple public building entrances at an establishment, the shortest measurement between the two establishments shall be considered the separation distance for purposes of this subsection.

(e) Area of activities; control of odors and emissions; sealed walls; disposal plan; security.

(1) All activities of marijuana establishments and medical marijuana establishments, including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors and not in any building that also contains a dwelling unit or other residential use. Marijuana establishments and medical marijuana establishments are not permitted to conduct outdoor sales or services of any kind. Any common areas, including, but not limited to storage areas and building facilities, shared with another marijuana establishment and/or medical marijuana establishment must be clearly identified as such on the site plan application.

(2) Odor management. For all marijuana establishments and medical marijuana establishments, the odor of marijuana must not be detected offsite, i.e., must not be detected at premises that are not under the custody or control of the establishment. To prevent and control marijuana odors, an odor control plan prepared by a Maine licensed air handling engineer shall be submitted as part of the site plan application describing the odor(s) originating or anticipated to originate at the premises and the control technologies to be used to prevent such odor(s) from leaving the premises. The odor control plan shall, at a minimum, include the following:

(a) A facility floor plan that identifies the locations of all odor-emitting activities and sources. The plan shall also identify the location of doors, windows, vents, HVAC systems, odor control systems and other relevant information.

(b) A list of specific odor-emitting activities and sources, and a description of the processes that will take place at the facility, including, but not limited to, vegetative flowering, processing and storage.

(c) For each odor-emitting activity or source, a description of the administrative procedures as well as the engineering processes, technologies, and equipment the facility will use.

(i) Administrative controls shall include, at a minimum: management practices to isolate odor activities and sources, use of standard operating procedures, employee training, regular equipment inspections and maintenance of inspection logs.

(ii) Engineering controls shall include, at a minimum, building design features; use of equipment and technology to address each specific odor-emitting activity or source; a systems and equipment maintenance and replacement schedule; and evidence that proposed equipment and technology are sufficiently capable and appropriately sized consistent with marijuana industry best practices for control technologies designed to effectively mitigate odors.

Marijuana cultivation facilities and medical marijuana cultivation facilities must implement appropriate ventilation and filtration systems to satisfy the odor standard contained herein. Marijuana stores, medical marijuana retail stores, marijuana product manufacturing facilities,

medical marijuana product manufacturing facilities, marijuana testing facilities, and medical marijuana testing facilities are not required to install filtration equipment on the licensed premises but must satisfy the same odor standard contained herein. While the City does not mandate any particular equipment specifications with regard to filtration, all marijuana establishments and medical marijuana establishments are strongly encouraged to adopt best management practices with regard to implementing state-of-the-art technologies in mitigating marijuana odor, such as air scrubbers and charcoal filtration systems.

(3) Noxious gases and fumes. Marijuana product manufacturing facilities, medical marijuana product manufacturing facilities, marijuana testing facilities, and medical marijuana testing facilities shall include appropriate ventilation systems to mitigate noxious gases or other fumes used or created as part of the production.

(4) Sufficient measures and means of preventing smoke, debris, dust, fluids and other substances from exiting a marijuana establishment or medical marijuana establishment must be provided at all times.

(5) All marijuana establishments and medical marijuana establishments shall have in place an operational plan for proper disposal of marijuana and related byproducts in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations. Dumpsters and trash containers must not be overflowing, and the surrounding area must be kept free of litter and trash. All dumpsters and containers shall be screened from public view. All trash receptacles on the premises used to discard adult use marijuana products must have a metal cover or lid that is locked at all times when the receptacle is unattended and security cameras must be installed to record activities in the area of such trash receptacles.

(6) Sufficient and appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana must be provided at all times. Security measures shall include, at a minimum, the following:

(a) 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;

(b) 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 order;

(c) a locking safe or its functional equivalent permanently affixed to the premises that is suitable for storage of all adult use marijuana product, medical marijuana product and cash stored overnight on the premises;

(d) exterior lighting that illuminates the exterior walls of the premises and complies with applicable provisions of the Code of Ordinances; and

(e) deadbolt locks on all exterior doors to the building and all entrances to the establishment if separate from the building entrances, and locks or bars on any other access points to the establishment (*e.g.*, windows). If building entrances are shared with other tenants, the establishment shall ensure that security measures do not prevent or restrict building access by other tenants.

All security recordings shall be preserved for at least seventy-two (72) hours. All marijuana establishments and medical marijuana establishments shall provide the Police Chief or their 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 establishment.

(f) Sale of edible products. No food products shall be sold, prepared, produced or assembled by a marijuana establishment or medical marijuana establishment 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.

(g) Drive-through and home delivery. Marijuana stores, medical marijuana retail stores and medical marijuana dispensaries are prohibited from having drive-through pick-up facilities. Marijuana stores and medical marijuana retail stores are prohibited from providing home delivery services; provided, however, that medical marijuana registered caregivers (and not medical marijuana assistants unless they are also medical marijuana registered caregivers) may provide home delivery services. Adult use marijuana customers may only purchase and obtain adult use marijuana products from within a marijuana store.

(h) In accordance with Sec. 32-4(A) of the Code of Ordinances, as may be amended from time to time, relating to allowed and prohibited pesticides, the only pesticides allowed to be used in marijuana establishments or medical marijuana establishments are non-synthetic substances, unless specifically listed as "prohibited" on the National List, and pesticides determined to be "minimum risk pesticides" pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and listed in 40 C.F.R. § 152.25(f)(1) or (2), as may be amended from time to time.

(i) Manufacture of marijuana. Any medical marijuana qualifying patient, medical marijuana caregiver or medical marijuana dispensary that intends to manufacture marijuana shall only do so if such activity is located in a zoning district where medical marijuana products manufacturing and/or medical marijuana products manufacturing is a permitted or special exception use. The extraction of marijuana using inherently dangerous substances is prohibited unless (a) the person has sought and obtained a registration to do so with the State of Maine, and (b) such activity is located in a zoning district where marijuana products manufacturing and/or medical marijuana products manufacturing is a permitted or special exception use.

(j) Inspections. The Code Enforcement Officer or their designee will inspect all marijuana establishments and medical marijuana establishments prior to issuance of a Certificate of Occupancy, to verify that the facilities are constructed and can be operated in accordance with the application submitted, the land use approval(s) issued and the requirements of this Ordinance, local and state building codes and electrical codes. The Fire Chief or their designee will inspect all marijuana establishments and medical marijuana establishments prior to issuance of a Certificate of Occupancy, to verify that the facilities are constructed and can be operated in accordance with the requirements of Chapter 8 of the Code of Ordinances and all applicable fire codes. The initial inspection shall occur after the establishment is ready for operation. But no marijuana, marijuana products or medical marijuana products will be allowed on the premises until the inspection is complete and a Certificate of Occupancy has been issued. Nothing herein shall prevent the Fire Chief or their designee from inspecting marijuana establishments and medical marijuana establishments at random intervals and without advance notice provided that the inspection is during normal business hours of the establishment.

(k) Change of use/addition of use. If any type of marijuana establishment or medical marijuana establishment seeks to change to another type of establishment or to add another type of marijuana establishment or medical marijuana establishment to its existing operations, such change of use or additional use must be reviewed and approved as follows:

(1) *Change of use from an equivalent medical to adult-use facility, or vice versa*. Any Planning Board-approved marijuana store, testing facility, or cultivation facility that wants to change to a medical marijuana store, medical marijuana testing facility, or medical marijuana cultivation facility at the same location, or vice versa, may do so without the need to meet the then-current separation distances listed in Sec. 27-1902 as applicable, or the then-current use limitations of the zoning district, provided, however, that

(a) Code Division Approval. The applicant must first submit an application to the Code Enforcement Officer for a change of use on such form as prescribed by the City and that includes a

narrative addressing how all of the performance standards for the new use will be met.

(b) Planning Consultation. Prior to the issuance of any new certificate of occupancy, the Code Enforcement Officer shall, after consultation with the Planning and Development Department, consider the establishment's compliance with the performance standards from prior years, and based upon that review, may either

(i) approve the change of use application and cause a new certificate of occupancy to be issued, or
(ii) elect to defer action on the change of use application and refer the matter to the Planning Board for a public hearing and action on whether the performance standards for the new use will be met. The Planning Board may request such additional information as it deems necessary and appropriate to make such a determination on the change of use application. If the Planning Board approves the change of use application, the Code Enforcement Officer shall cause a new certificate of occupancy to be issued.

(2) *Conversion of space within an approved marijuana storefront to create additional storefronts within the same footprint*. Any Planning Board-approved marijuana store, medical marijuana store, or marijuana dispensary, seeking to convert some of its Planning Board-approved facility to additional medical marijuana store, marijuana store, or marijuana dispensary may do so without the need to meet the then-current separation distances in Sec. 27-1902(a), as applicable, or the then-current use limitations of the zoning district, provided that the following requirements are met:

(a) Code Division Approval. The applicant must first submit an application to the Code Enforcement Officer for a change/addition of use on such form as prescribed by the City and that includes a narrative addressing how the new use meets all applicable performance standards.
(b) Common License. The Licensee of each marijuana store, medical marijuana store, or marijuana dispensary must (i) share common owners, (ii) have consistent branding in compliance with applicable State regulatory interpretation: and (iii) be appropriately licensed by the State to operate as permitted by this subsection.
(c) Common Storefront. All marijuana establishments operating within a prior Planning Board-approved establishment must share signage on the property, subject to compliance with applicable State regulatory interpretation.
(d) Planning Consultation. Prior to the issuance of any new certificate of occupancy, the Code Enforcement Officer shall, after consultation with the Planning and Development Department,

consider the establishment's compliance with the performance standards from prior years, and based upon that review, may either:

i. approve the change/addition of use application and cause a new certificate of occupancy to be issued, or

ii. elect to defer action on the change of use application and refer the matter to the Planning Board for a public hearing and action on whether the performance standards for the new use will be met. The Planning Board may request such additional information as it deems necessary and appropriate to make such a determination on the change of use application, the Code Enforcement Officer shall cause a new certificate of occupancy to be issued.

(3) *Change of marijuana use other than as set forth in subsection (k)(1) or (k)(2) above*. Any marijuana establishment or medical marijuana establishment seeking to change to another type of marijuana establishment other than as set forth in subsection (k) above, must first seek and obtain Planning Board site plan approval for the marijuana use, including, without limitation, complying with the then-current use limitations of the zoning district, the then-current separation distances for the sensitive uses listed in Sec. 27-1902(a), and the then-current separation distances for marijuana stores, medical marijuana retail stores or medical marijuana dispensaries listed in Sec. 27-1902(d), as applicable.

(l) Any marijuana establishment or medical marijuana establishment that requires a license pursuant to Chapter 14 of the Code of Ordinances in order to operate as such an establishment must continuously maintain such local license for the location once operations commence. If the necessary local license for the location either lapses or is finally adjudicated as revoked, the establishment must, prior to re-commencing operations, seek and obtain Planning Board site plan approval for the marijuana use, including, without limitation, complying with the then-current use limitations of the zoning district, the then-current separation distances for the sensitive uses listed in Sec. 27-1902(a), and the then-current separation distances for marijuana stores, medical marijuana retail stores or medical marijuana dispensaries listed in Sec. 27-1902(d), as applicable.

For any marijuana establishment or medical marijuana establishment (i) with whom the Planning and Development Department conducted a pre-application meeting prior to November 1, 2020; (ii) for which an actual application was filed with the Planning and Development Department prior to January 31, 2021; and (iii) for which site plan approval was subsequently granted by the Planning Board, then so long as the necessary local license for the location is maintained in good standing, said marijuana establishment or medical marijuana establishment shall be considered a conforming use.

(m) Marijuana social clubs are prohibited in all zoning districts.

(n) Other laws remain applicable. A marijuana establishment 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 adult use marijuana and/or marijuana establishments, the stricter law or regulation shall control.

(Ord. No. 8-17/18, 10/2/17 [Fiscal Note: Less than $1000]; Ord. No. 2-18/19, 8/21/18 [Fiscal Note: Less than $1000]; Ord. No. 9-20/21, 11/17/2020 [Fiscal Note: Less than $1000]; Ord. No. 26-22/23, 4/18/2023 [Fiscal Note: Less than $1000]; Ord. No. 3-25/26, 7/9/2025 [Fiscal Note: Less than $1000]; Ord. No. 19-25/26, 4/7/2026 [Fiscal Note: Less than $1000])

ARTICLE XX. IMPACT FEES

Sec. 27-2001. Purpose.

The purpose of this Article is to ensure that new development in South Portland will be accomplished in a safe and healthful manner and that such development will bear a proportional or reasonably related share of the cost of new, expanded, or modified infrastructure necessary to service the development through: (1) the payment of impact fees that shall be dedicated to paying for the needed improvements; or (2) the construction of appropriate improvements as provided for herein.

(Ord. No. 11-22/23, 11/1/2022 [Fiscal Note: Less than $1000])

Sec. 27-2002. Authority.

This Article is adopted by the City under the authority of 30-A M.R.S. § 4354 and its statutory and constitutional home rule provisions.

(Ord. No. 11-22/23, 11/1/2022 [Fiscal Note: Less than $1000])

Sec. 27-2003. Payment of impact fees.

(a) The impact fees provided for under this Article shall be determined in accordance with the provisions for calculation of each impact fee as established by the City Council and set forth below. Where there is uncertainty as to the amount of the impact fee required to be paid by any development, the amount of the fee shall be determined by the Planning Board based upon the fee calculation methodology for that fee and the recommendation of the Planning Director.

(b) The impact fee shall be paid to the City of South Portland in care of the Planning Division. The fee shall be paid prior to the issuance of any building, plumbing, or other permit for the development subject to the fee. The City Council may approve the payment of impact fees over time in accordance with an approved payment schedule provided that appropriate arrangements are in place to guarantee collection of the fees.

(Ord. No. 11-22/23, 11/1/2022 [Fiscal Note: Less than $1000])

Sec. 27-2004. Impact fee accounts.

All impact fees collected under the provisions of this Article shall be segregated and accounted for in separate impact fee accounts designated for the particular improvements in question. The impact fee accounts are as follows:

[RESERVED]

Sec. 27-2005. Use of impact fees.

(a) Impact fees collected under the provisions of this Article shall be used only to pay for the capital cost of the infrastructure improvements specifically associated with each impact fee as described below. No portion of the fee shall be used for routine maintenance or operation activities.

(b) The following costs may be included in the capital cost of the infrastructure improvement:

(1) Engineering, surveying, and environmental assessment services directly related to the design, construction, and oversight of the improvement;

(2) The actual construction of the improvement including, without limitation, property acquisition costs, demolition costs, clearing and grading of the land, and necessary capital equipment;

(3) Mitigation costs;

(4) Legal and administrative costs associated with construction of the improvement including any borrowing necessary to finance the project;

(5) Debt service costs, including interest, if the City borrows for the construction of the improvement;

(6) Relocation costs; and

(7) Similar costs that are directly related to the project.

(Ord. No. 11-22/23, 11/1/2022 [Fiscal Note: Less than $1000])

Sec. 27-2006. Refund of impact fees.

(a) If a building permit is surrendered or lapses without commencement of construction, the developer shall be entitled to a refund, without interest, of any impact fee paid in conjunction with that project. A request for a refund shall be made in writing to the Planning Director and shall occur within ninety (90) days of the lapse or expiration of the permit.

(b) Any fees collected that are not spent or obligated by contract for the specified improvement within a twenty (20) year period for the specific impact fee account by the end of the calendar quarter shall be returned to the developer or its designee without interest.

Sec. 27-2007. Waiver of impact fees.

The City Council may, by formal vote following a public hearing, waive the payment of a required impact fee, in whole or in part, if it finds that:

(a) The developer voluntarily agrees to construct the improvement for which the impact fee would be collected;

(b) The developer is required, as part of a development approval by the City or a state or federal agency, to make or to pay for infrastructure improvements that are of the same nature as the improvement to be funded by the impact fee; or

(c) The infrastructure that the impact fee relates to has been created to attract industry and the fee would be charged to an industrial use.

(Ord. No. 11-22/23, 11/1/2022 [Fiscal Note: Less than $1000])

Sec. 27-2008. Review and revision.

The City Council shall periodically review each impact fee established under this Article at least once every five (5) years. If the City Council finds that the anticipated cost of the improvement has changed or that the identification of developments subject to the fee is no longer appropriate, the City Council may propose changes in the impact fee. Any changes adopted as a result of such review shall apply to all future development but shall not be applied retroactively to projects that have already paid an impact fee.

(Ord. No. 11-22/23, 11/1/2022 [Fiscal Note: Less than $1000])

ARTICLE XXI. TREE PROTECTION

Sec. 27-2101. Purpose.

The purpose of this Article is to protect and preserve trees and wooded ecosystems within the City ("Tree Resources"), and if Tree Resources are impacted through the orderly development of the community, to provide commensurate and reasonable mitigation to the City. In protecting, preserving, and mitigating for the loss of Tree Resources, this Article recognizes the value that Tree Resources provide with respect to enhancing quality of life and the environment in the City; protecting air quality; reducing excessive glare and heat; reducing noise nuisances; reducing topsoil erosion and stormwater runoff; preserving and enhancing habitat areas for significant wildlife; protecting and increasing property values; combating climate change through carbon sequestration; supporting privacy between neighboring properties; enhancing overall neighborhood aesthetics; protecting culturally and historically significant trees; and acknowledging the intrinsic value of mature trees in our community.

Sec. 27-2102. Definitions.

For purposes of this Article, the following terms shall have the following meanings:

(a) Affordable Housing Projects.

Projects proposing 3 or more dwelling units, where at least 50% of the dwelling units are decent, safe, sanitary, and affordable as follows:

(1) For rental housing, a dwelling unit is affordable if a household whose income does not exceed 80% of the local area median income (*i.e.*, the "Portland, ME HUD Metro Fair Market Rent Area" as defined by the U.S. Department of Housing and Urban Development under the U.S. Housing Act of 1937, as amended), can afford to lease the dwelling unit without spending more than 30% of the household's monthly income on housing costs. For a rental unit, housing costs include the cost of rent; any utilities (electric, heat, water, sewer, and/or trash); and any other contractual service costs or costs that are otherwise required to be paid by a tenant household through a lease or rental agreement with the landlord in order for the tenant household to occupy the rental unit.

(2) For owned housing, a dwelling unit is affordable if a household whose income does not exceed 120% of the local area median income (*i.e.*, the "Portland, ME HUD Metro Fair Market Rent Area" as defined by the U.S. Department of Housing and Urban Development under the U.S. Housing Act of 1937, as amended), can afford to purchase the dwelling unit without spending more than 30% of the household's monthly income on housing costs. For an ownership unit, housing costs include the cost of mortgage principal and interest, real estate taxes, private mortgage insurance, homeowner's insurance, condominium fees, and homeowners' association fees.

(b) Caliper.

A measurement of the tree trunk diameter used when purchasing tree plantings measured at 12 inches above the ground.

(c) Crown Cover.

The proportion of the ground covered by the crowns of live trees. This term is synonymous with the drip line of the tree.

(d) DBH (Diameter at Breast Height).

This term shall have the same meaning as set forth in Sec. 27-201. For multi-stemmed trees, DBH is the aggregate diameter of the trunks.

(e) Environmental Management Organizations.

Organizations whose mission and purpose is the long term preservation and conservation of open space and natural resources, and that include, but are not limited to, the following: The City's Parks, Recreation and Waterfront Department; land trusts; land conservation entities; State and federal environmental management agencies; and watershed management agencies.

(f) On-site Replacement.

Planting trees as a mitigation measure for Tree Removal on the property where the Tree Removal occurred, or on a contiguous parcel under the same ownership as the property where the Tree Removal occurred.

(g) Off-site Replacement.

Planting trees as a mitigation measure for Tree Removal on property that is not considered On-Site Replacement.

(h) Project Reductions or Modifications.

Project Reductions or Modifications refer to modifications in the scope, scale, design, and extent of a project such that Tree Removal of Protected Trees is avoided. Project Reductions or Modifications include altering the following project parameters below the maximum that is otherwise allowable based on the applicable standards and regulations in the City's Code of Ordinances to avoid Tree Removal:

1) Decrease square feet of lot coverage, as defined in Sec. 27-201, if the project proposes to develop at 75% or more of the maximum allowable lot coverage on the property.

2) Decrease square feet of impervious surface area, as defined in Sec. 27-201, if the project proposes to develop at 75% or more of the maximum allowable impervious surface area on the property.

3) Decrease the area within the project's disturbance area, which includes the area of work as well as areas disturbed due to construction staging and operations, if the project proposes to develop at 75% or more of the maximum allowable lot coverage or impervious area on the property.

4) Decrease the number of dwelling units, as well as associated improvements such parking spaces, to decrease density or net residential density, as defined in Sec. 27-201, if the project proposes to develop at 75% or more of the maximum allowable density or net residential density on the property.

5) Decrease the number of proposed parking spaces if the project is proposing more parking than is required by this Chapter.

6) Modify the location of streets and access ways to avoid Tree Removal. This Project Reduction or Modification shall be measured in terms of linear feet of roadway (but the locations must still be in compliance with all applicable ordinances, including, without limitation, Chapter 23 (Streets and Sidewalks) and Chapter 24 (Subdivisions)).

7) Modify linear feet of lot frontage and/or lot area dimensions in projects that propose new lots (but frontage and lot area still be in compliance with applicable space and bulk requirements).

(i) Protected Trees.

The following are Protected Trees in the City:

1) **Significant Trees.** Significant Trees are trees in the City that meet one of the following criteria:

   (a) The tree has a 10 inches DBH or greater or 30 inches cumulative DBH for a multi-stemmed tree and the tree is not listed on the State of Maine Invasive Species list; or

   (b) The tree is located within the Shoreland Area Overlay District, Shoreland Resource Protection Overlay District, or Stream Protection Overlay Districts.

2) **Heritage Trees.** Trees protected due to their age and size. Any tree that meets at least one of the following criterion is a Heritage Tree:

   (a) The tree is listed on the Register of Big Trees promulgated by the Maine Department of Agriculture, Conservation & Forestry (the "Big Tree List");

   (b) The tree is 90 years or older as determined by a Qualified Tree Professional or scientist qualified in determining the age of trees, such as a botanist; or

   (c) The tree has a DBH of 60 inches or greater.

3) **Historic or Cultural Trees.** Trees protected for their historic or cultural importance in the community as evidenced by their inclusion by the City Council on the South Portland Inventory of Archaeological and Historic Resources due to historical or cultural significance.

4) **Program Trees.** Trees that require long-term preservation because of an agreement or contract approved by the City Council, such as an agreement or contract to receive grant funding that obligates the City to plant and preserve trees. Program Trees must be designated as such by City Council order.

(j) Qualified Tree Professional (QTP).

A Qualified Tree Professional is an individual with relevant education and training in arboriculture or urban forestry who has at least one of the following credentials:

1) International Society of Arboriculture (ISA) Certified Arborist;
2) Tree Risk Assessor Qualification (TRAW);
3) American Society of Consulting Arborists (ASCA) registered Consulting Arborist;
4) Society of American Foresters (SAF) Certified Forester for Forest Management Plans;
5) Arborist License in the State of Maine; or
6) A botany degree from an accredited university, with a specialty in dendrology.

(k) Replacement Trees.

A tree that is proposed for planting to mitigate for proposed Tree Removal in accordance with Sec. 27-2104. Replacement Trees must be at least 24 inch-box sizing at planting, or 1-3 inch caliper and 6-10 feet in height.

(l) Review Authority.

The City official or body responsible for review of and action on Tree Protection Approval applications.

(m) Tree Pruning and Maintenance

Any voluntary change to a Protected Tree that is completed consistent with a recommendation from a Qualified Tree Professional (QTP), which recommended change is intended to ensure that the long term health and structure of the tree will be maintained. In addition, the following activities shall be considered Tree Pruning and Maintenance but do not require a recommendation from a QTP:

1) Removing dangerous branches of 10 inch caliper or less to reduce risk of failure.
2) Removing dead, dying or diseased branches.
3) Lifting lower branches of 3 inch caliper or less.
4) Providing clearance for pedestrian mobility; removing branches obstructing view to traffic; or removing branches rubbing on a structure or other branches.
5) Thinning overgrowth.

(n) Tree Removal.

Any voluntary act involving a Protected Tree that, within two years of the act, results in the death of the Protected Tree, or the necessary removal of the Protected Tree to preserve safety and protect against property damage that may be caused by the tree due to diminished health caused by such act. This includes, but is not limited to the following:

(1) The improper use of machinery on the tree;
(2) The storage of materials in or around the tree;
(3) Soil compaction;
(4) Altering the natural grade to expose the roots or to cover the tree's root system with more than four inches of soil;
(5) Pruning that does not meet the definition of "Tree Pruning and Maintenance" as defined in this Article;
(6) Paving with concrete, asphalt, or other impervious surface within such proximity as to be harmful to the tree or its root system;
(7) Application of poisons, herbicides or defoliates; and
(8) Voluntary tree cutting and removal.

Sec. 27-2103. Applicability.

(a) Tree Protection Approval Not Required.
A Tree Protection Approval shall not be required for the following activities:

1) Tree Removal not involving Protected Trees.

2) Tree Removal that is necessary to, or becomes necessary in the course of providing emergency services or in emergency situations.

3) Tree Removal that is conducted pursuant to 35-A M.R.S. § 2522, as may be amended, for maintenance of utility facilities.

4) Tree Removal conducted by a State or federal Agency on State or federally controlled property, or Tree Removal that conducted pursuant to a State or federal law that preempts this Article.

5) Tree Removal conducted for maintaining safe clearance for aircraft as required by federal law or the establishment of facilities exclusively dedicated to aviation operations by the City of Portland for the Portland International Jetport.

6) Tree Pruning and Maintenance, provided further that for any voluntary change to a Protected Tree that is completed consistent with a recommendation from a QTP, the report prepared by a QTP must be retained and available on site at the request of the Code Enforcement Office to verify that the Tree Removal is associated with a recommendation from a QTP.

7) Pest Management. Tree Removal of a Protected Tree conducted to manage pests and disease affecting the health of trees in the area. A report prepared by a QTP must be retained and available on site at the request of the Code Enforcement Office to verify that the Tree Removal is associated with Pest Management.

8) Compromised Health or Structure. Tree Removal of a Protected Tree that is a Hazard Tree, Storm-Damaged Tree, or Dead Tree as defined in Sec. 27-201. A report prepared by a Qualified Tree Professional documenting the Protected Tree's qualification as a Hazard Tree,

Storm-Damaged Tree, or Dead Tree must be retained and available on site at the request of the Code Enforcement Office to verify that the Tree Removal is associated with trees that have compromised health or structure.

9) **Environmental Projects.** Tree Removal of a Protected Tree for ecological restoration, ecological rehabilitation, parks and open space management, or other natural area management practices, including invasive species management projects. Environmental Projects must be conducted by Environmental Management Organizations.

10) **Structural Preservation.** Tree Removal of a Protected Tree that is required to avoid or remediate damage to an existing structure or to infrastructure, such as utilities, associated with an existing structure. This does not include Tree Removal to prevent potential damage to new structures or expansions and additions to existing structures. A report prepared by a contractor qualified to assess the structural risk must be retained and available on site at the request of the Code Enforcement Office to verify that the Tree Removal is associated with structural preservation.

11) **Infrastructure Projects.** Tree Removal of a Protected Tree involving any of the following infrastructure projects:

   (a) Creation or maintenance of public streets by the City;

   (b) Creation or maintenance of water, sewer, stormwater or other utility work conducted by or on behalf of the City;

   (c) Creation or maintenance of water, sewer, stormwater, telecommunication, gas, electric power or other similar service conducted by or on behalf of a public utility as that term is defined in 35-A M.R.S. § 102(A), as may be amended; and

   (d) Development of public schools and associated improvements.

12) **Accessibility Projects.** Tree Removal of a Protected Tree to create ADA access improvements to existing property.

13) **Cemeteries.** Tree Removal on properties, or portions of properties, containing cemeteries as of August 1, 2023, when the Tree Removal is required to maintain existing grounds for interment, create additional grounds for interment, construct structures and associated improvements for interment, or to construct structures and associated improvements to support administrative or client services associated with managing and operating a cemetery.

14) All other projects and activities involving Tree Removal not listed in Sec. 27-2103(b) below as requiring Tree Protection Approval.

(b) Tree Protection Approval Required.

The following projects shall require a Tree Protection Approval prior to conducting Tree Removal of Protected Trees:

1) Projects subject to Planning Board review. All projects that require Planning Board approval, other than those specifically identified in Sec. 27-2103(a) above, require Tree Protection Approval.

(a) If the project is a subdivision without the construction of structures, the subdivision application shall identify the proposed or future building envelopes. Any Tree Removal of Protected Trees caused by (i) the creation of the subdivision, (ii) the construction of necessary improvements for the subdivision, such as access and utilities, or (iii) the proposed building envelopes associated with the subdivision, shall be subject to review under the separate Tree Protection Approval application.

2) Site Clearing. Projects not subject to Planning Board review, other than those specifically identified in Sec. 27-2103(a)(1)-(5), (7)-(9) & (13) above, that result in the Tree Removal of ten (10) or more Significant Trees, three (3) or more Heritage Trees, one (1) or more Historic or Cultural Trees, or one (1) or more Program Trees, shall require Tree Protection Approval.

(Ord. No. 15-25/26, 1/20/2026 {Fiscal Note: Less than $1000])

Sec. 27-2104. Review Process and Standards for Tree Protection Approval Applications.

(a) Review Authority.
The Planning Board shall have the authority to review and act upon all Tree Protection Approval applications. The requirements of this Article and the associated costs shall be in addition to the requirements and costs associated with any other required Planning Board or other regulatory review.

(b) Notice of Application.
Before taking action on an application, the Planning Board shall provide notice of its public hearing on Tree Protection Approval applications in accordance with the notice requirements for a site plan application, Sec. 27-1425(a)-(c).

(c) Review Standards for Tree Protection Approval Applications.

Before granting a Tree Protection Approval, the Planning Board shall determine that the following standards are met:

1) **Required Reductions.** All projects that result in Tree Removal must incorporate up to a 10% modification into the project scope or design on any or all of the Project Reductions or Modifications listed in Sec. 27-2102 that individually or together avoid Tree Removal of Protected Trees to the maximum extent practicable as determined by the Planning Board.

2) **Mitigation.** If the Tree Removal cannot be avoided after incorporating any required Project Reductions or Modifications as determined by the Planning Board, then the Tree Removal is mitigated as follows:

(a) **Heritage, Historic, or Program Trees.** No Tree Removal of Heritage, Historic or Culturally Significant, or Program Trees is permitted unless Replacement Trees are provided such that the cumulative DBH of the Replacement Trees is

equivalent to the cumulative DBH of the removed Heritage, Historic or Culturally Significant, or Program Trees.

(b) On-site Replacement, at a rate of 1.5 trees for each Protected Tree removed, or at a rate of 5 trees for each Protected Tree removed if the Tree Removal occurred within the Shoreland Area Overlay District, Shoreland Resource Protection Overlay District, or Stream Protection Overlay Districts.

(c) Off-Site Replacement, at a rate of 2 trees for each Protected Tree removed.

(d) Replacement requirements:

1. All replacement requirements shall be rounded up to the nearest whole number.
2. Mitigation with Replacement Trees must plant Protected Tree species.
3. If more than five (5) Replacement Trees are required, no species shall make up more than fifty percent (50%) of the number of trees planted.
4. All Replacement Trees shall be subject to landscaping Performance Guarantees equivalent to at least $500 for each Replacement Tree or a greater amount as determined by the Director of Parks, Recreation, and Waterfront or other duly designated person, and in accordance with the landscape performance guarantee requirements set forth in Sec. 27-1431.

(e) **In-Lieu Payment to Tree Mitigation Fund.** An applicant may request that the Planning Board make a determination that On-site Replacement is not feasible or practicable under the specific circumstances of the project. If the Planning Board makes such a determination, the applicant shall pay an in-lieu compensation fee to the Tree Mitigation Fund established under Article VII (Tree Ordinance) of Chapter 2 of the Code of Ordinances.

1. The in-lieu fee shall be paid per Replacement Tree not provided in an amount as specified in the Schedule of License, Permit, Inspection and Application Fees established by City Council order.
2. Affordable Housing Projects are not required to request that the Planning Board make a determination that On-Site Replacement is infeasible in order to be eligible to pay an in-lieu compensation fee to the Tree Mitigation Fund as mitigation.

Sec. 27-2105. Tree Protection Approval Application Requirements.

(a) Forms and Materials Required.
Application for a Tree Protection Approval shall be made to the Planning Board by submission of a completed written application 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) Application Information.
The application must be accompanied by the following documentation:

1) Evidence of right, title, or interest in the property.

2) An existing conditions plan in accordance with Section 27-1424(2), documenting the location of the Protected Trees proposed for Tree Removal. The plan shall delineate the Project Disturbance Area to show the area of work as well as areas disturbed due to project staging and implementation.

3) A narrative, accompanied by such site plan drawings as may be necessary, explaining in detail how Project Reductions or Modifications cannot prevent Tree Removal.

4) A landscape plan indicating the mitigation plan for the Tree Removal. This may address On-Site and Off-Site Replacement.

5) If Off-Site Replacement is proposed, the applicant must submit documentation from the owner(s) of the off-site property granting approval to plant trees on the property. If Off-Site Replacement is proposed on City-owned or controlled property, a letter from the City Manager or their designee allowing planting on the property shall be included in the application.

6) If On-Site Replacement is not provided as mitigation, a narrative, accompanied by such site plan drawings as may be necessary and appropriate, shall be provided explaining in detail why On-Site Replacement is not feasible or practicable.

Sec. 27-2106. Effective Date; Applicability Date.

This Article XXI (Tree Protection) shall become effective pursuant to Section 225 of the City Charter. In order to allow time for residents and property owners to become familiar with the requirements of this Article, the requirements of this Article shall be phased in and not become applicable until January 1, 2024.

(Ord. No. 1-23/24, 8/15/2023 [Fiscal Note: Less than $1000])

ARTICLE XXII

AFFORDABLE HOUSING INCENTIVE PROGRAM

Sec. 27-2201. Purpose.

The purpose of this Article is to provide incentives and other programs that support the creation of ownership and rental housing units, especially units that are more affordable than market-rate housing units.

Sec. 27-2202. Density Bonus Program.

(a) **Density Bonus.** A residential or mixed-use project shall be permitted to develop to a maximum dwelling unit density of up to 2.5 times the Base Density otherwise permitted in the applicable zoning district; and structures with residential units may exceed the zoning district maximum height limit by 14 feet, except if the exceedance results in building that is greater than 55 feet if the project meets the following eligibility criteria:

1. **Affordability.** The project is an Affordable Housing Development, as follows:
   a. After the completion of the project, more than one-half of the total dwelling units, existing and new, on the same parcel shall be affordable for a period of at least 30 years.
   b. For rental housing, a dwelling unit is affordable if a household whose income does not exceed 80% of the local area median income (*i.e.*, within the area represented by the "Portland, ME HUD Metro Fair Market Rent Area" as defined by the U.S. Department of Housing and Urban Development under the U.S. Housing Act of 1937, as amended), can afford to lease the dwelling unit without spending more than 30% of the household's monthly income on housing costs. For a rental unit, housing costs include the cost of rent; any utilities (electric, heat, water, sewer, and/or trash); and any other contractual service costs or costs that are otherwise required to be paid by a tenant household through a lease or rental agreement with the landlord in order for the tenant household to occupy the rental unit.
   c. For owned housing, a dwelling unit is affordable if a household whose income does not exceed 120% of the local area median income (*i.e.*, within the area represented by the "Portland, ME HUD Metro Fair Market Rent Area" as defined by the U.S. Department of Housing and Urban Development under the U.S. Housing Act of 1937, as amended), can afford to purchase

the dwelling unit without spending more than 30% of the household's monthly income on housing costs. For an ownership unit, housing costs include the cost of mortgage principal and interest, real estate taxes, private mortgage insurance, homeowner's insurance, condominium fees, and homeowners' association fees.

2. **Located in a Growth Area or Served by Sewer.** The project is located in a designated growth area in the Comprehensive Plan, pursuant to 30-A M.R.S. §4349-A(1)(A) or (B); or the project is served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system;
3. **Multi-family Permission.** The project is located in a zoning district in which multi-family dwelling units are a permitted or a special exception use;
4. **Minimum Lot Sizing for Septic.** The subject property complies with minimum lot size requirements in accordance with 12 M.R.S.A § 423-A, as amended, if subsurface waste water disposal is proposed; and
5. **Adequate Utility Capacity.** The project has adequate water and wastewater services.
6. **Long-Term Affordability Covenant.** Prior to granting a certificate of occupancy for any dwelling unit in the project, or in a phase of the project, the applicant shall:
    a. Execute an affordable housing agreement, in such form as shall be approved by the Planning Board pursuant to Planning Board regulation, containing a restrictive covenant relating to the affordability of the dwelling unit, enforceable by a party acceptable to the City, and record the affordable housing agreement in the Cumberland County Registry of Deeds. The affordable housing agreement shall require that for at least thirty (30) years after the issuance of the certificate of occupancy for a dwelling unit in the project:
        (i) For rental housing, occupancy of all the dwelling units designated affordable in the development to qualify for the density bonus, or an equivalent number of affordable dwelling units in the project when specific locations for the affordable units are not specified, will remain limited to households at or below 80% of the local area median income (*i.e.*, within the area represented by the "Portland, ME HUD Metro Fair Market Rent Area" as defined by the U.S. Department of Housing and Urban Development under the U.S. Housing Act of 1937, as amended) from the time of initial occupancy; and
        (ii) For owned housing, occupancy of all the dwelling units designated affordable in the development to qualify for the density bonus will remain limited to households at or below 120% of the local area median income (*i.e.*, within the area represented by the "Portland, ME HUD Metro Fair Market Rent Area" as

defined by the U.S. Department of Housing and Urban Development under the U.S. Housing Act of 1937, as amended) from the time of initial occupancy.

b. For phased projects, the City may issue certificates of occupancy for dwelling units in a phase of a project only if a sufficient number of affordable dwelling units, subject to an affordable housing agreement consistent with subsection (a)(1) above, are included in the phase so that more than one-half of the total number of dwelling units that will be approved for occupancy, as evidenced by certificates of occupancy, at the end of the phase constitute affordable dwelling units.

(b) **Parking Ratio.** Projects that qualify for a density bonus shall be subject to a parking requirement of no more than two (2) off-street vehicle parking spaces for every three (3) dwelling units on the property.

(c) **Additional Density is Optional.** Projects that are eligible for the density bonus program are not required to utilize the density bonus in order to qualify for the parking ratio in subsection (b) above.

(d) **Fractional Density.** If fractional results occur when calculating the density bonus for an eligible project, the number of units is rounded to the nearest whole number.

(e) **Fractional Parking.** If fractional results occur when the number of required vehicle parking spaces is calculated, the required parking spaces shall be rounded up to the nearest whole number.

(f) **Site Plan Review Required.** All projects utilizing the Density Bonus Program shall be subject to a Site Plan review pursuant to Article 14 of this Chapter.

(Ord. No. 32-22/23, 6/6/2023 [Fiscal Note: Less than $1000]; Ord. No. 15-25/26, 1/20/2026 [Fiscal Note: Less than $1000])

ARTICLE XXIII. [RESERVED]

Sec. 27-2301. – 27-2399. [RESERVED]

APPENDIX A TO CHAPTER 27 (ZONING ORDINANCE)

O'NEIL STREET PARK CONTRACT ZONING AGREEMENT

This Agreement dated as of March 12, 2020, by and between the CITY OF SOUTH PORTLAND, a municipal corporation existing under the laws of the State of Maine, located in the County of Cumberland and State of Maine (the "City") with a mailing address of 25 Cottage Road, South Portland, ME 04106, and MEETING HOUSE HILL PARK LLC, a Maine limited liability company located in the County of Cumberland and State of Maine ("MHH Park") with a mailing address of 88 Second Street, South Portland, ME 04106.

WHEREAS, the City owns a certain lot or parcel of land, with the buildings thereon, located at 42 O'Neil Street in South Portland, County of Cumberland, State of Maine, containing approximately 6.0 acres in size as described in a deed dated July 1, 1867 and recorded at the Cumberland County Registry of Deeds ("CCRD") in Book 354, Page 258; a deed dated August 1, 1940 and recorded at the CCRD in Book 1615, Page 272; a deed dated November 10, 1943 and recorded at the CCRD at Book 1730, Page 272; a deed dated January 24, 1955 and recorded at the CCRD in Book 2207, Page 272; and a deed dated November 10, 1969 and recorded at the CCRD in Book 3109, Page 782 (hereinafter the "Property");

WHEREAS, the Property served for many years as the Public Works facility for the City;

WHEREAS, the City wishes to sell the Property, and MHH Park desires to purchase and redevelop the Property;

WHEREAS, the Property is currently located in the A Residential ("A") zoning district under Chapter 27 of the South Portland Code of Ordinances (the "Zoning Ordinance");

WHEREAS, the A zoning district presently allows as permitted uses, or special exception uses, various uses, including, single-family detached dwelling units, churches, schools, libraries, museums, fire stations, municipal buildings, nursing homes, funeral homes , recreational or community buildings and grounds, and commercial greenhouses;

WHEREAS, MHH Park wishes to develop the Property into 38 housing units (with a mix of nine (9) dwelling units in single-family homes, 16 dwelling units in condominium townhomes and 13 dwelling units in apartment townhomes); a park; and community gardens on the Property, along with related infrastructure improvements to the Property, including the extension of O'Neil Street through to Pitt Street (collectively "the Project");

WHEREAS, the land area that comprises the proposed extension of O'Neil Street through to Pitt Street is hereinafter referred to as the "O'Neil Street Extension";

WHEREAS, the number of housing units planned is close to the maximum housing density that is currently allowed in the A zoning district, but if attached housing units are allowed, then more open space can be created and maintained on the Property;

WHEREAS, MHH Park has requested a rezoning of the Property to permit the Project to proceed;

WHEREAS, the Project serves the City's community objective of assuring "that a diversity of people [are] able to continue to live in South Portland" as set forth in Ch. 5, Sec. A (page 5-1) of the Comprehensive Plan;

WHEREAS, the Project serves the City's community policy that "[t]he City's land use regulations should continue to allow for the construction of both single-family and multi-family housing in a variety of locations at densities that are appropriate for the type of housing and the location" as set forth in Ch. 5, Secs. A(2) (page 5-2) and F(2) (page 5-14) of the Comprehensive Plan;

WHEREAS, the Project serves the City's community objectives of "provid[ing] a diversity of housing to meet the needs of a wide range of residents" and "assur[ing] that as new housing is built in the City, there continues to be a supply of affordable housing available to meet the needs of lower- and moderate-income households" as set forth in Ch. 5, Sec. F (page 5-14) of the Comprehensive Plan;

WHEREAS, the Project serves the City's community policy of "promot[ing] the use of 'green building' techniques to improve the energy efficiency of new or renovated housing and [assuring] that the codes and standards do not create obstacles for the use of new technologies" as set forth in Ch. 5, Sec. F(5) (page 5-15) of the Comprehensive Plan;

WHEREAS, the Project serves the City's community objective of "provid[ing] high-quality, well-maintained recreational facilities and open space for residents and visitors" as set forth in Ch. 5, Sec. H (page 5-17) of the Comprehensive Plan;

WHEREAS, the Project serves the City's community policy of "promot[ing] the use of 'green building technologies' " as set forth in Ch. 5, Sec. K(7) (page 5-21) of the Comprehensive Plan;

WHEREAS, the Project serves the City's land use objective of "[e]ncourag[ing] development and redevelopment that expands the City's property tax base in a manner that is consistent with the City's other objectives" as set forth in Ch. 6, Sec. A(1) (page 6-1) of the Comprehensive Plan;

WHEREAS, the Project serves the City's land use objective of "[e]nhancing the livability and walkability of the City's established neighborhoods while allowing infill development that is in character with these neighborhoods" as set forth in Ch. 6, Sec. A(2) (page 6-1) of the Comprehensive Plan;

WHEREAS, the Project serves the City's land use policy of "requir[ing] that all new residential construction, including single-family homes, in established residential neighborhoods be designed and constructed so that they are compatible with the character of the immediate neighborhood where they will be located" as set forth in Ch. 6, Sec. C(4) (page 6-45) of the Comprehensive Plan;

WHEREAS, all of the required public hearings have been duly noticed and conducted in accordance with Maine law;

WHEREAS, the Planning Board, pursuant to Sec. 27-117 of the Zoning Ordinance and 30-A M.R.S. § 4352(8), and after notice and hearing and due deliberation thereon, [recommended] [did not recommend] the rezoning of the Property as aforesaid;

WHEREAS, the City, acting by and through the City Council, is authorized to approve contract zoning agreements pursuant to Sec. 27-117 of the Zoning Ordinance and the provisions of 30-A M.R.S. § 4352(8); and

WHEREAS, the City, acting by and through the City Council, therefore, has determined that said rezoning would be, and is, pursuant to and consistent with the City's local growth management program and Comprehensive Plan adopted pursuant to 30-A M.R.S. § 4321 ***et seq.*** and consistent with the existing and permitted uses within the original zoning district classification and has authorized the execution of this Agreement and amendment of the Zoning Ordinance accordingly.

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. **Zone Change**. The City hereby amends the Zoning Map of the City of South Portland by rezoning the Property from the Residential A zoning district to the O'Neil Street Park Contract Zone zoning district by adopting the zoning map change amendment shown on ***Exhibit A***.

2. **Concept Plan**. The Property shall be developed substantially in accordance with the concept plan entitled "Concept Plan-Exhibit B, O'Neil Street Park Redevelopment" prepared by Acorn Engineering, Inc. last revised August 2, 2019 and shown on ***Exhibit B*** (including the layout of the buildings, pedestrian and vehicular circulation plan, and open space) (hereinafter, the "Concept Plan"); provided, however, that the Project shall be subject to subdivision and site plan review and approval by the Planning Board. Any site plan review applications shall be consistent with the Concept Plan attached as Exhibit B and the application and approval requirements contained in Sec. 27-1421 ***et seq.*** of the Zoning Ordinance, as may be amended from time to time. Any subdivision applications shall be consistent with the Concept Plan attached as Exhibit B and the application and approval requirements contained in Chapter 24 of the South Portland Code of Ordinances (the "Subdivision Ordinance"), as may be amended from time to time. The Planning Board may permit deviations from the Concept Plan, as long as the deviations are consistent with the purposes of this Agreement and as otherwise allowed by law.

3. **Subdivision and Site Plan**. The Property subject to this Agreement shall be developed and used only in accordance with subdivision and site plans approved by the Planning Board. Those subdivision and site plans may be amended from time to time pursuant to the provisions of the Subdivision Ordinance and the Zoning Ordinance, as applicable.

4. **Permits and Approvals Required**. The City shall not issue MHH Park any building permits for the project until MHH Park has received all required federal, State and local permits and land use approvals and MHH Park has posted all applicable performance guarantees, paid any outstanding review escrow account fees and established all applicable construction inspection escrow accounts in such amount(s) as established by the City. Notwithstanding any provision of the Code of Ordinances to the contrary, Certificates of Occupancy may be issued for dwelling units located within Phases I and II of the Project prior to installation of the surface course of pavement on O'Neil Street Extension.

5. **Phasing**. Development of the Project shall be accomplished in four phases as follows:

(a) Phase I shall consist of the demolition of the existing structures (provided, however, that MHH Park shall retain the so-called "horse barn" and the slate/mortar wall at the northeasterly side of the Property, and any fencing or other peripheral structures which removal would disturb the structural integrity of the embankment area); the installation of utility mains and stubs (including a new separated storm drain within O'Neil Street from Pitt Street to Cottage Road); the construction of O'Neil Street Extension, including the installation of the base course of pavement, curbing, sidewalk, monuments, signage, lighting, drainage and storm water facilities within the same; and the construction of the 9 single-family homes identified on the Concept Plan. Unless extended by the

Planning Board for good cause shown, construction of Phase I of the Project shall start within one (1) year after the date of Planning Board subdivision and site plan approval of the Project and shall be substantially completed within two (2) years of that date. Substantial completion of Phase I shall be evidenced by the completion of the following: all utility mains and stubs; the O'Neil Street Extension work referenced in this subsection (a); all single family house lots having poured foundations; and issuance of a Certificate of Occupancy for at least 7 of 9 of the single family houses.

(b) Phase II shall consist of the construction of the 16 dwelling unit condominium townhomes identified as Buildings A and B on the Concept Plan, and -- only after Buildings A and B are constructed -- the installation of the surface course of pavement on O'Neil Street Extension. Unless extended by the Planning Board for good cause shown, construction of Phase II of the Project shall start within two (2) years after the date of Planning Board subdivision and site plan approval of the Project and shall be substantially completed within four (4) years of that date. Substantial completion of Phase II shall be evidenced by the completion of the following: all of the work referenced in this subsection (b); issuance of a Certificate of Occupancy for all 16 dwelling units within this Phase II; and issuance of a Certificate of Occupancy for any remaining single family houses.

(c) Phase III shall consist of the construction and use of a temporary construction entrance off of Pitt Street to serve Phases III and IV of the Project and construction of the 13 dwelling unit apartment townhomes identified as Buildings C and D on the Concept Plan. Unless extended by the Planning Board for good cause shown, construction of Phase III of the Project shall start within three (3) years after the date of Planning Board subdivision and site plan approval of the Project and shall be substantially completed within five (5) years of that date. Substantial completion of Phase III shall be evidenced by the completion of the following: all of the work referenced in this subsection (c); and issuance of a Certificate of Occupancy for all 13 dwelling units within Phase III.

(d) Phase IV shall consist of the construction of the public park and community gardens identified on the Concept Plan and conveyance of the same to the City consistent with Section 7(g) herein, as well as closure of the temporary construction entrance off of Pitt Street. Unless extended by the Planning Board for good cause shown, construction of Phase IV of the Project shall start within three (3) months of the date of issuance of the first Certificate of Occupancy as part of Phase III and shall be completed within one (1) year of that date. Completion of Phase IV shall be evidenced by a Certificate of Completion executed and acknowledged by the City's Director of Parks and Recreation certifying that construction of the public park and community gardens identified on the Concept Plan and conveyance of the same to the City has occurred consistent with Section 7(g) herein.

(e) Unless extended by the City Council by an amendment to this Agreement, all Phases of the Project shall be finally completed within six (6) years of the date of Planning Board subdivision and site plan approval of the Project. Any subsequent amendments to those approvals by the Planning Board shall not extend the final completion date.

6. Conditions and Restrictions. The provisions of this Agreement shall operate as an underlying zoning district known as the "O'Neil Street Park Contract Zone" zoning district with respect to the area shown on ***Exhibit A***. The traditional-zoning type requirements of the O'Neil Street Park Contract Zone are as follows:

(a) Permitted Uses. The uses allowed or permitted on the Property shall be limited to single-family detached dwellings, condominium townhomes, apartment townhomes, public park facilities, community gardens, and accessory uses, including residential storage buildings (sheds and garages) and roof-mounted solar energy systems.

For purposes of this Agreement, "condominium townhome" shall mean a building or portion thereof containing three (3) or more dwelling units arranged, intended, or designed to be occupied by three (3) or more families living independently of each other in a dwelling unit but not containing more than eight (8) dwelling units nor occupied by more than eight (8) families and which dwelling units are individually owned pursuant to the condominium form of ownership. No dwelling unit shall be located on top of another dwelling unit within the building.

For purposes of this Agreement, "apartment townhome" shall mean a building or portion thereof containing three (3) or more dwelling units arranged, intended, or designed to be occupied by three (3) or more families living independently of each other in a dwelling unit but not containing more than seven (7) dwelling units nor occupied by more than seven (7) families. No dwelling unit shall be located on top of another dwelling unit within the building.

(b) **Space and Bulk Regulations**. For purposes of calculating the maximum number of residential dwelling units for the Property, the minimum open space for the Property and the maximum building coverage for the Property, the Property is approximately 6.0 acres in size and as specifically defined above. The parties understand and agree that various portions of the Property will be conveyed to the City and/or to third parties and that any such conveyances shall not cause the Property to be deemed non-compliant with the maximum number of residential dwelling units for the Property, the minimum open space for the Property or the maximum building coverage for the Property.

Maximum Number of Residential Dwelling Units for the Property: 38

Minimum Lot Area: 4,500 square feet (s.f.) if lot is used for single-family dwelling unit or community gardens; otherwise, Minimum Lot Area is 30,000 square feet (s.f)

Minimum Street Frontage: 50 feet

Minimum Front Yards, all buildings: 10 feet

Minimum Rear Yards:
-**principal building**: 10 feet
-**accessory building**: 6 feet

Minimum Side Yards, all buildings: 6 feet

Maximum Single-Family Building Height: 35 feet

Maximum Buildings A, C and D Building Height*: 35 feet
Maximum Building B Building Height*: 45 feet

*Building height shall be as defined in Sec. 27-201 of the Zoning Ordinance, except that for pitched or hip roofs, the height shall be measured to the point midway between the level of eaves and the highest point of the roof.

Minimum Open Space: 40% of the gross lot area of the Property; provided, however, that once the Project is complete, thereafter, the Minimum Open Space for Lots 10 and 11 shown on the

Concept Plan shall not be reduced to less than the Minimum Open Space of each Lot existing as of the date of substantial completion of the Project

Maximum Building Coverage: 35% of the gross lot area of the Property for principal structures; provided, however, that once the Project is complete, thereafter, the Maximum Building Coverage for the single-family house lots shall be 35% of each lot, and the Maximum Building Coverage for Lots 10 and 11 shown on the Concept Plan shall not exceed the Building Coverage of each Lot existing as of the date of substantial completion of the Project

(c) **Off-street Parking**: Off-street parking shall be provided in accordance with requirements of Sec. 27-1556 of the Zoning Ordinance.

(d) **Signs**: Signs shall be regulated in accordance with the requirements of Sec. 27-1561 ***et seq.*** of the Zoning Ordinance, with the following additional restrictions:

i. Each residential development cluster (Buildings A/B and Buildings C/D) may have up to two freestanding permanent signs not exceeding 20 s.f. in surface area per face and 8 feet in height. In addition, two signs no larger than 6 s.f. shall be allowed on each building near its entrance.

ii. Signage for the public park may have up to one permanent freestanding sign and it shall not exceed 30 s.f. in surface area and 8 feet in height.

iii. Signage for the community gardens may have up to one permanent freestanding sign and it shall not exceed 20 s.f. in surface area and 6 feet in height.

iv. No flashing, rotating, or intermittent signs shall be permitted on the Property.

v. No portable or temporary signs shall be permitted on the Property.

(e) **Farm Animals**: The keeping of farm-type animals, including, but not limited to, horses, ponies, cattle, pigs and fowl (except 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.

7. **Other Conditions and Restrictions**. Additional requirements of the O'Neil Street Park Contract Zone related to construction of the Project and use of the Property are as follows:

(a) **Landscaping**: The Property shall comply with the landscape standards in Sec. 27-1426 of the Zoning Ordinance, as may be amended, and the landscaping plan as approved by the Planning Board. The landscaping shall be maintained by MHH Park or its successors-in-interest, except that landscaping on the park or community gardens parcels to be conveyed to the City shall be maintained by the City upon its acceptance of delivery of the deed for the park and community gardens parcels. After the date of approval of this Agreement, there shall be no significant amount of removal of existing trees or other vegetation, except (i) as indicated in an approved site plan; (ii) as otherwise approved by the applicable City authority; or (iii) for safety reasons.

(b) **Exterior design**. The proposed design of the single-family homes and Buildings A, B, C and D shall be visually compatible with the existing character of the neighborhood as determined by the Planning Board, and the Planning Board may, as part of

the subdivision and site plan approval process, request a peer review of the design of the development from an architect or other design professional at MHH Park's sole cost and expense.

(c) **Single-family homes**. The single-family houses shall each include an attached garage or carport for at least one automobile, which garage shall not be closer to the street than the dwelling unit.

(d) **Solar panel arrays**. Solar panel arrays shall be included on the south facing roof areas of all new residential structures, but this requirement may be waived by the Planning Board if an alternative location for the solar panels is proposed by MHH Park, such as the covered parking structure adjacent to Building A, and the Planning Board determines that such alternative location will not result in a net decrease in the minimum solar electricity generated on-site in aggregate. The target amount of electricity generation from the arrays on the residential structures shall be 6,000-8,000 kWh/year per dwelling unit and 228,000 kWh/year in the aggregate. Electricity generation is to be estimated based on the manufacturer's estimated performance as measured in Photovoltaic (PV) Watts. Solar panel installations shall comply with all local and other applicable building and energy codes.

(e) **Energy efficiency**. The Project will be reviewed for energy efficiency by the Planning Board for compliance with the following measurements:

i. **Heating, cooling and ventilation**

The primary source of heating and cooling for all dwelling units shall be from mini-split heat pump technology. Equipment shall have an Energy Star rating and Heating Seasonal Performance Factor (HSPF) of over 10.0. Each dwelling unit shall also have an energy recovery ventilation unit (ERV) to maintain healthy air quality.

ii. **Building envelope**

Building construction techniques and materials shall be selected to maximize energy efficiency, to include rigid closed cell foam and dense pack cellulose. R-value rating (insulation performance) for each building shall meet or exceed the then-current energy code requirements effective as of the date of building permit application for the construction. All exterior doors shall have an Energy Star rating and windows shall have a U-value rating (heat transfer performance) of U=0.2 or less, or as required by Building Code, whichever performance rating is more stringent.

(f) **Grading**. The grading plan for the Project shall add fill along the lower section of the embankment area located on the northeasterly side of the Property between the so-called "horse barn" and Buildings C and D, creating a stepped terrace of sorts, to effectively reduce the grade and provide additional support to the embankment. Additionally, the so-called "horse barn" shall be kept, improved, and maintained to effectively act as a retaining wall. Other retaining walls may be constructed at the recommendation of a structural engineer. The Planning Board shall require MHH Park to submit an assessment of the stability and future structural support needs of the embankment area from a Maine licensed structural engineer as part of the site plan approval process, and the Planning Board shall request a peer review of that assessment at MHH Park's sole cost and expense.

(g) **Open space**: MHH Park shall be responsible for improving and maintaining the public park and community gardens space as shown on the Concept Plan and as may be amended by a site plan approved by the Planning Board and pursuant to a final design plan reviewed and approved in advance by the City's Parks and Recreation Director until conveyance of title to the public park and community gardens space to the City by quitclaim deed with covenant.

As part of the Project, MHH Park shall work with the City on a final design plan for the park and a recreational amenity for the park that is mutually agreed upon by the parties. The City and MHH Park agree to work collaboratively after the execution of this Agreement to create a final design plan for the park and said plan shall be ready for the Parks and Recreation Director's review and approval, which approval shall not be unreasonably withheld, prior to substantial completion of Phase III. The final design plan shall include a recreational amenity that may comprise various equipment, installations, landscaping, sculptures, public art, or other related features. It is further agreed that the baseline budget for such a recreational amenity is approximately $100,000, the cost of which shall be shared equally between MHH Park and the City. The cost of the recreational amenity does not include the cost to create the park and community gardens space, which cost shall be borne entirely by MHH Park. If the City desires a recreational amenity, the cost of which exceeds $100,000, then the City shall be responsible for all costs in excess of that amount. If the City fails to appropriate the funds necessary to complete the recreational amenity, then MHH Park shall only be responsible to convey title to the completed park and community gardens land area to the City by quitclaim deed with covenant, without a recreational amenity, and any plans and specifications for the amenity that have been developed.

Prior to the completion of Phase IV of the Project, MHH Park shall ensure that the public park and community gardens space is: (i) revegetated as soon as practically possible; (ii) disturbed banks therein are sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding; (iii) topsoil is planted with grasses or other vegetation that is maintained until well established; and (iv) a public water supply is provided at locations pre-approved by the Planning Board, in consultation with the City's Parks and Recreation Director or his/her designee.

(h) **Street design standards**. Notwithstanding any other Code of Ordinances provision to the contrary, the street standards for the extension of O'Neil Street, which MHH Park will offer to the City upon its final completion, shall be those for "local" streets as set forth in Sec. 24-42 of the Code of Ordinances, except for the following deviations and/or clarifications:

Minimum total pavement width: 24'

Minimum tangent between curves of reverse alignment: 15'

Minimum Distance Between Side Street Intersections: 175' (same side) from centerlines

Sidewalks: Constructed on one side of the street only

(i) **MHH Park maintenance and use of O'Neil Street Extension and related facilities prior to street acceptance**. Consistent with Sec. 24-28(F) of the Subdivision Ordinance, unless and until the City accepts O'Neil Street Extension as a public way, MHH Park shall be responsible for maintaining all O'Neil Street Extension improvements,

including providing for snowplowing of the street and sidewalk(s), street sweeping, solid waste hauling, and maintaining roadside ditches, roadside culverts and the storm water system. Once the surface course of pavement on O'Neil Street Extension is installed, construction traffic is prohibited from using O'Neil Street Extension and shall use the temporary construction entrance off of Pitt Street to access the Project.

(j) **Affordable housing**. The Project shall provide affordable housing as follows:

MHH Park, its successors and assigns, shall offer for rent and so rent two (2) dwelling units as affordable to households earning 60% or less of the area median income (AMI) as defined and published annually by the U.S. Department of Housing and Urban Development (HUD). These units shall be 2- or 3-bedroom units in Phase III Building D. The City may require certification by the unit owner of compliance with this affordability requirement, from time to time, in its sole discretion.

MHH Park, its successors and assigns, shall offer for sale and so sell two (2) dwelling units to the South Portland Housing Development Corporation (SPHDC), or another third party designated by the City, which intends to offer those units for rent or sale to households eligible under the aforementioned affordability guidelines. These units shall be 2-bedroom units in Phase II Building A, and shall be constructed and finished to the same or comparable standard as other like units in the building. Ownership of these units shall be transferred within three (3) months after receiving a Certificate of Occupancy, but in no case later than six (6) months after substantial completion. MHH Park shall offer these units for sale at a reduced price of $200,000 per unit in order to reach a 10% target of affordable housing in the project. If the SPHDC, or the City's designated third party, does not complete the agreed upon purchase of two units, the offer for sale shall expire six (6) months after substantial completion, MHH Park shall contribute $200,000 to the City's Affordable Housing Trust Fund, and MHH Park shall have no remaining obligation for the sale of these units.

8. **Performance Guarantees**. Performance Guarantees, in the form of a bond, escrow agreement, irrevocable letter of credit, or other surety, shall be provided for the Project as required by Article X of the Subdivision Ordinance and Article XIV of the Zoning Ordinance. The City shall require separate performance guarantees for each phase of the project, upon the commencement of each phase, in a form acceptable to the Corporation Counsel and posted before commencement of any work under the applicable Phase. The amount of such performance guarantees shall be established by the City, in consultation with its outside consulting engineer, based on its reasonable estimate of 125% of the total cost to complete all of the public infrastructure for each phase of the project, including, without limitation, any roadways, curbs, sidewalks, street trees, storm water facilities, sanitary sewer facilities, water supply, street signs, gas mains, electrical conduits, fire hydrants, street lights, landscaping and erosion control. As each phase of the Project (or portion thereof) is completed, performance guarantees will be released as appropriate.

9. **Future Amendments**. The provisions of this Agreement shall be deemed restrictions on the use of the Property except as this Agreement may be amended by future written agreement between the City and MHH Park, or its successors-in-interest, without the need for approval of any other party except as otherwise provided by law.

10. **Agreement Runs with the Land**. The restrictions, provisions and conditions of this Agreement are an essential part of the rezoning, shall run with the Property, shall bind MHH Park, its successors-in-interest and assigns of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the City and its Code Enforcement Officer.

11. **Applicability of Zoning Ordinance**. Except as expressly modified herein, the use and occupancy of the Property shall be governed by and comply with the provisions of the Zoning Ordinance and any applicable amendments thereto or replacement thereof.

12. **Enforcement**. The City shall have the power to enforce all conditions and restrictions of this Agreement, both through an enforcement action pursuant to Sec. 27-131 of the Zoning Ordinance and 30-A M.R.S. § 4452, both as may be amended from time to time, and through legal action for specific performance of this Agreement. In the event that MHH Park or its successors or assigns fail to develop the project in accordance with this Agreement, or in the event of any other breach hereof, and such failure or breach continues for a period of thirty (30) days after written notice of such failure or breach from the City to MHH Park, its successors and assigns, or in the event such failure or breach cannot reasonably be remedied or cured within such thirty (30) day period, if MHH Park, its successors or assigns, fails to commence a cure or to remedy such failure or breach within said thirty (30) day period and thereafter fails to diligently prosecute such cure or remedy to completion in a reasonable time, then this Agreement may be terminated by vote of the City Council. In that event, the Property may then be used only for such uses as otherwise allowed by law.

13. **Recording**. This Agreement shall be duly recorded by MHH Park at the Cumberland County Registry of Deeds within thirty (30) days of the date of this Agreement, with a copy of the recorded instrument contemporaneously provided to the City Manager, or else it is void.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their duly authorized representatives on the day and year first above written.

CITY OF SOUTH PORTLAND

/s/
WITNESS

/s/
By Scott T. Morelli
Its City Manager

MEETING HOUSE HILL PARK LLC

/s/
WITNESS

By: /s/
Edward Rowe
Its Member, duly authorized

STATE OF MAINE
Cumberland, ss. March 12, 2020

Then personally appeared before me the above named Scott T. Morelli, City Manager of said City of South Portland, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said City of South Portland.

/s/
Notary Public/Attorney-at-Law

Mary M. Perry
Print Name

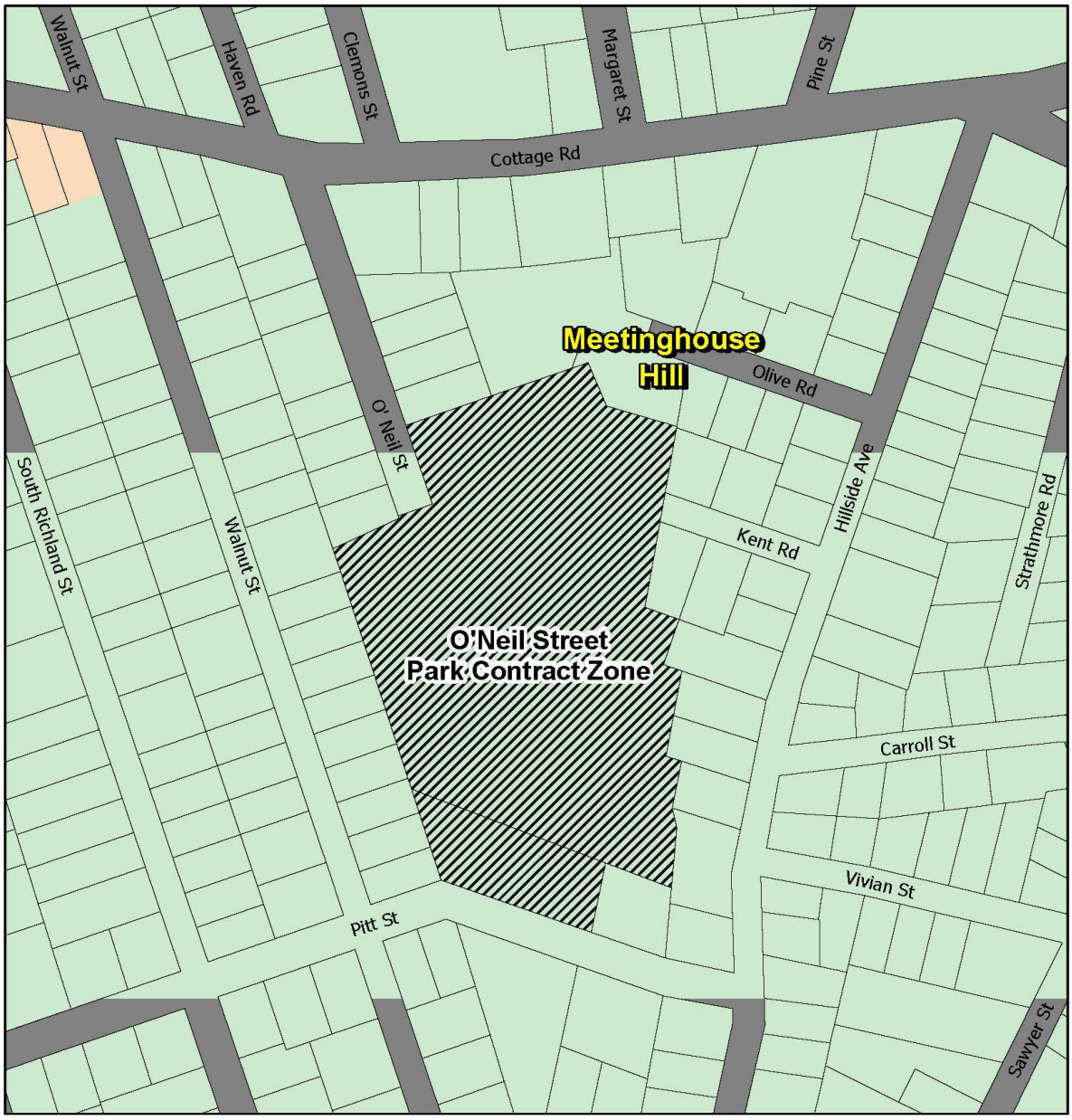
STATE OF MAINE
Cumberland, ss. March 12, 2020

Then personally appeared before me the above named Edward Rowe, Member of said Meeting House Hill Park LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said Meeting House Hill Park LLC.

/s/
Notary Public/Attorney-at-Law

Mary M. Perry
Print Name

EXHIBIT A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Haven Rd
Clemons St
Margaret St
Pine St
Cottage Rd
Meetinghouse Hill
Olive Rd
O' Neil St
South Richland St
Walnut St
Kent Rd
Hillside Ave
Strathmore Rd
O'Neil Street Park Contract Zone
Carroll St
Vivian St
Pitt St
Sawyer St
O'Neil Street Park Contract Zone
Zoning Districts
A
LB
Basemap
Parcels
Rezoning from Residential District A to O'Neil Street Park Contract Zone for the properties located at 42 O'Neil Street (Map 13, Lot 234A) and 33 Pitt Street (Map 13, Lot 234B)
City of South Portland
January 6, 2020
0 35 70 140 210 280
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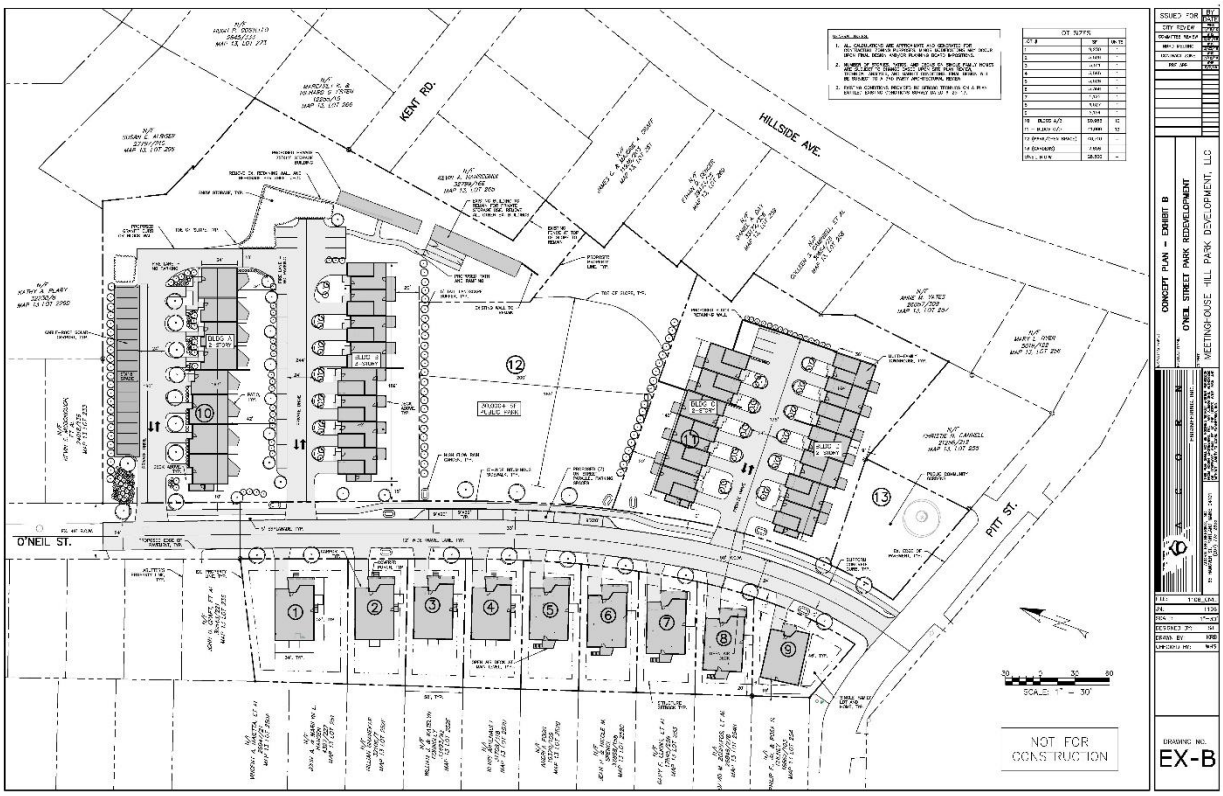

KENT RD.
HILLSIDE AVE.
O'NEIL ST.
PITT ST.
NOT FOR CONSTRUCTION
CONCEPT PLAN – EXHIBIT B
O'NEIL STREET PARK REDEVELOPMENT
WESTBROOKE HILL PARK DEVELOPMENT, LLC
DRAWING NO.
EX-B

APPENDIX B TO CHAPTER 27

FIRST AMENDMENT TO O'NEIL STREET PARK CONTRACT ZONING AGREEMENT

THIS FIRST AMENDMENT to O'Neil Street Park Contract Zoning Agreement (the "First Amendment") is made this 22nd day of March, 2021, by and between the CITY OF SOUTH PORTLAND, a municipal corporation existing under the laws of the State of Maine, located in the County of Cumberland and State of Maine (the "City") with a mailing address of 25 Cottage Road, South Portland, ME 04106, and MEETING HOUSE HILL PARK LLC, a Maine limited liability company located in the County of Cumberland and State of Maine ("MHH Park") with a mailing address of 88 Second Street, South Portland, ME 04106.

WHEREAS, the City and MHH Park are parties to the O'Neil Street Park Contract Zoning Agreement dated March 12, 2020 and recorded in the Cumberland County Registry of Deeds in Book 36542, Page 325 (the "Agreement") relating to the certain lot or parcel of land, with the buildings thereon, located at 42 O'Neil Street in South Portland, Maine, containing approximately 6.0 acres in size (the "Property");

WHEREAS, MHH Park now wishes to amend the Agreement and associated Concept Plan ("Exhibit B") to develop the Property into 43 housing units (with a mix of 9 dwelling units in single-family homes, 21 dwelling units in condominium townhomes and 13 dwelling units in apartment townhomes); a park; and community gardens on the Property, along with related infrastructure improvements to the Property, including the extension of O'Neil Street through to Pitt Street (collectively "the Project");

WHEREAS, the Project continues to serve community objectives and policies as articulated in the City's Comprehensive Plan;

WHEREAS, all of the required public hearings related to the First Amendment have been duly noticed and conducted in accordance with Maine law;

WHEREAS, the Planning Board, pursuant to Sec. 27-117 of the Zoning Ordinance and 30-A M.R.S. § 4352(8), and after notice and hearing and due deliberation thereon, recommended the First Amendment;

WHEREAS, the City, acting by and through the City Council, is authorized to approve contract zoning agreements and amendments thereto pursuant to Sec. 27-117 of the Zoning Ordinance and the provisions of 30-A M.R.S. § 4352(8); and

WHEREAS, the City, acting by and through the City Council, therefore, has determined that said First Amendment would be, and is, pursuant to and consistent with the City's local growth management program and Comprehensive Plan adopted pursuant to 30-A M.R.S. § 4321 ***et seq.*** and consistent with the existing and permitted uses within

the original zoning district classification and has authorized the execution of this First Amendment and amendment of the Zoning Ordinance accordingly.

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

A. Substitute the sixth recital clause of the Agreement with the following recital clause:

> WHEREAS, MHH Park wishes to develop the Property into 43 housing units (with a mix of 9 dwelling units in single-family homes, 21 dwelling units in condominium townhomes and 13 dwelling units in apartment townhomes); a park; and community gardens on the Property, along with related infrastructure improvements to the Property, including the extension of O'Neil Street through to Pitt Street (collectively "the Project");

B. Paragraph 2 of the Agreement, entitled "Concept Plan," is further amended as follows (additions double underlined and deletions ~~struck out~~):

> 2. **Concept Plan**. The Property shall be developed substantially in accordance with the concept plan entitled "Master Site Plan~~Concept Plan Exhibit B~~, Meeting House Hill~~O'Neil Street~~ Park Redevelopment" prepared by Acorn Engineering, Inc. last revised January 13, 2021~~August 2, 2019~~ and shown on ***Exhibit B*** (including the layout of the buildings, pedestrian and vehicular circulation plan, and open space) (hereinafter, the "Concept Plan"); provided, however, that the Project shall be subject to subdivision and site plan review and approval by the Planning Board. Any site plan review applications shall be consistent with the Concept Plan attached as Exhibit B and the application and approval requirements contained in Sec. 27-1421 ***et seq.*** of the Zoning Ordinance, as may be amended from time to time. Any subdivision applications shall be consistent with the Concept Plan attached as Exhibit B and the application and approval requirements contained in Chapter 24 of the South Portland Code of Ordinances (the "Subdivision Ordinance"), as may be amended from time to time. The Planning Board may permit deviations from the Concept Plan, as long as the deviations are consistent with the purposes of this Agreement and as otherwise allowed by law.

C. Subsections (a) and (b) of Paragraph 5 of the Agreement, entitled "Phasing," are hereby amended as follows (additions double underlined and deletions ~~struck out~~):

> 5. **Phasing**. Development of the Project shall be accomplished in four phases as follows:
>
> (a) Phase I shall consist of the demolition of the existing structures (provided, however, that MHH Park shall retain the so-called "horse barn" and the slate/mortar wall at the northeasterly side of the Property unless

deemed structurally unsafe by a Maine licensed professional engineer, and any fencing or other peripheral structures which removal would disturb the structural integrity of the embankment area); the installation of utility mains and stubs (including a new separated storm drain within O'Neil Street from Pitt Street to Cottage Road); the construction of O'Neil Street Extension, including the installation of the base course of pavement, curbing, sidewalk, monuments, signage, lighting, drainage and storm water facilities within the same; and the construction of the 9 single-family homes identified on the Concept Plan. Unless extended by the Planning Board for good cause shown, construction of Phase I of the Project shall start within one (1) year after the date of Planning Board subdivision and site plan approval of the Project and shall be substantially completed within two (2) years of that date. Substantial completion of Phase I shall be evidenced by the completion of the following: all utility mains and stubs; the O'Neil Street Extension work referenced in this subsection (a); all single family house lots having poured foundations; and issuance of a Certificate of Occupancy for at least 7 of 9 of the single family houses.

(b) Phase II shall consist of the construction of the 21~~16~~ dwelling unit condominium townhomes identified as Buildings A.1, A.2, A.3, and B on the Concept Plan, and -- only after Buildings A.1, A.2, A.3, and B are constructed -- the installation of the surface course of pavement on O'Neil Street Extension. Unless extended by the Planning Board for good cause shown, construction of Phase II of the Project shall start within two (2) years after the date of Planning Board subdivision and site plan approval of the Project and shall be substantially completed within four (4) years of that date. Substantial completion of Phase II shall be evidenced by the completion of the following: all of the work referenced in this subsection (b); issuance of a Certificate of Occupancy for all 21~~16~~ dwelling units within this Phase II; and issuance of a Certificate of Occupancy for any remaining single family houses.

D. Subsections (a), (b) and (d) of Paragraph 6 of the Agreement, entitled "Conditions and Restrictions," are hereby amended as follows (additions double underlined and deletions ~~struck out~~):

6. **Conditions and Restrictions**. The provisions of this Agreement shall operate as an underlying zoning district known as the "O'Neil Street Park Contract Zone" zoning district with respect to the area shown on ***Exhibit A***. The traditional-zoning type requirements of the O'Neil Street Park Contract Zone are as follows:

(a) **Permitted Uses**. The uses allowed or permitted on the Property shall be limited to single-family detached dwellings, condominium townhomes, apartment townhomes, public park facilities, community gardens, and accessory uses, including residential storage buildings (sheds and garages) and roof-mounted solar energy systems.

For purposes of this Agreement, "condominium townhome" shall mean a building or portion thereof containing two (2)~~three (3)~~ or more dwelling units arranged, intended, or designed to be occupied by two (2)~~three (3)~~ or more families living independently of each other in a dwelling unit but not containing more than eight (8) dwelling units nor occupied by more than eight (8) families and which dwelling units are individually owned pursuant to the condominium form of ownership. No dwelling unit shall be located on top of another dwelling unit within the building.

For purposes of this Agreement, "apartment townhome" shall mean a building or portion thereof containing three (3) or more dwelling units arranged, intended, or designed to be occupied by three (3) or more families living independently of each other in a dwelling unit but not containing more than seven (7) dwelling units nor occupied by more than seven (7) families. No dwelling unit shall be located on top of another dwelling unit within the building.

(b) Space and Bulk Regulations. For purposes of calculating the maximum number of residential dwelling units for the Property, the minimum open space for the Property and the maximum building coverage for the Property, the Property is approximately 6.0 acres in size and as specifically defined above. The parties understand and agree that various portions of the Property will be conveyed to the City and/or to third parties and that any such conveyances shall not cause the Property to be deemed non-compliant with the maximum number of residential dwelling units for the Property, the minimum open space for the Property or the maximum building coverage for the Property.

Maximum Number of Residential Dwelling Units for the Property: 43~~38~~

Minimum Lot Area: 4,500 square feet (s.f.) if lot is used for single-family dwelling unit or community gardens; otherwise, Minimum Lot Area is 30,000 square feet (s.f)

Minimum Street Frontage: 50 feet

Minimum Front Yards, all buildings: 10 feet

Minimum Rear Yards:
-principal building: 10 feet
-accessory building: 6 feet

Minimum Side Yards, all buildings: 6 feet

Maximum Single-Family Building Height: 35 feet

Maximum Buildings A.1, A.2, A.3, C and D Building Height*: 35 feet
Maximum Building B Building Height*: 45 feet

*Building height shall be as defined in Sec. 27-201 of the Zoning Ordinance, except that for pitched or hip roofs, the height shall be measured to the point midway between the level of eaves and the highest point of the roof.

Minimum Open Space: 40% of the gross lot area of the Property (*i.e.*, 2.4 acres); provided, however, that once the Project is complete, thereafter, the Minimum Open Space for Lots 10 and 11 shown on the Concept Plan shall not be reduced to less than the Minimum Open Space of each such Lot as shown on the final subdivision and site plans approved by the Planning Board~~existing as of the date of substantial completion of the Project~~.

Maximum Building Coverage: 35% of the gross lot area of the Property (*i.e.*, 2.1 acres) for principal structures; provided, however, that once the Project is complete, thereafter, the Maximum Building Coverage for the single-family house lots shall be 35% of each lot, and the Maximum Building Coverage for Lots 10 and 11 shown on the Concept Plan shall not exceed the Building Coverage as shown on the final subdivision and site plans approved by the Planning Board~~of each Lot existing as of the date of substantial completion of the Project~~.

• • •

(d) **Signs**: Signs shall be regulated in accordance with the requirements of Sec. 27-1561 ***et seq.*** of the Zoning Ordinance, with the following additional restrictions:

i. Each residential development cluster (Buildings A.1/A.2/A.3/B and Buildings C/D) may have up to two freestanding permanent signs not exceeding 20 s.f. in surface area per face and 8 feet in height. In addition, two signs no larger than 6 s.f. shall be allowed on each building near its entrance.

ii. Signage for the public park may have up to one permanent freestanding sign and it shall not exceed 30 s.f. in surface area and 8 feet in height.

iii. Signage for the community gardens may have up to one permanent freestanding sign and it shall not exceed 20 s.f. in surface area and 6 feet in height.

iv. No flashing, rotating, or intermittent signs shall be permitted on the Property.

v. No portable or temporary signs shall be permitted on the Property.

E. Subsections (d), (f) and (j) of Paragraph 7 of the Agreement, entitled "Other Conditions and Restrictions," are hereby amended as follows (additions double underlined and deletions ~~struck out~~):

7. **Other Conditions and Restrictions**. Additional requirements of the O'Neil Street Park Contract Zone related to construction of the Project and use of the Property are as follows:

• • •

(d) **Solar panel arrays**. Solar panel arrays shall be included on the south facing roof areas of all new residential structures, but this requirement may be waived by the Planning Board if an alternative location for the solar panels is proposed by MHH Park~~, such as the covered parking structure adjacent to Building A~~, and the Planning Board determines that such alternative location will not result in a net decrease in the minimum solar electricity generated on-site in aggregate. The target amount of electricity generation from the arrays on the residential structures shall be 6,000-8,000 kWh/year per dwelling unit and 258~~228~~,000 kWh/year in the aggregate. Electricity generation is to be estimated based on the manufacturer's estimated performance as measured in Photovoltaic (PV) Watts. Solar panel installations shall comply with all local and other applicable building and energy codes.

• • •

(f) **Grading**. The grading plan for the Project shall add fill along the lower section of the embankment area located on the northeasterly side of the Property between the so-called "horse barn" and Buildings C and D, creating a stepped terrace of sorts, to effectively reduce the grade and provide additional support to the embankment. Additionally, the so-called "horse barn" shall be kept, improved, and maintained to effectively act as a retaining wall, unless deemed structurally unsafe by a Maine licensed professional engineer. Other retaining walls may be constructed at the recommendation of a Maine licensed professional~~structural~~ engineer. The Planning Board shall require MHH Park to submit an assessment of the stability and future structural support needs of the embankment area from a Maine licensed professional~~structural~~ engineer competent in the fields of structural and geotechnical engineering as part of the site plan approval process, and the Planning Board shall request a peer review of that assessment at MHH Park's sole cost and expense.

• • •

(j) **Affordable housing**. The Project shall provide affordable housing as follows:

MHH Park, its successors and assigns, shall offer for rent and so rent two (2) dwelling units as affordable to households earning 60% or less of the area median income (AMI) as defined and published annually by the U.S. Department of Housing and Urban Development (HUD). These units shall be 2- or 3-bedroom units in Phase III Building D. The City may require certification by the unit owner of compliance with this affordability requirement, from time to time, in its sole discretion.

MHH Park, its successors and assigns, shall offer for sale and so sell two (2) dwelling units to the South Portland Housing Development Corporation (SPHDC), or another third party designated by the City, which intends to offer those units for rent to households eligible under the aforementioned affordability guidelines. These units shall be 2- or 3-bedroom units in Phase II Building A.1 or A.2, and shall be constructed and finished to the same or comparable standard as other like units in the building. Ownership of these units shall be transferred within three (3) months after receiving a Certificate of Occupancy, but in no case later than six (6) months after substantial completion. MHH Park shall offer these units for sale at a reduced price of $200,000 per unit in order to reach a 10% target of affordable housing in the project. If the SPHDC, or the City's designated third party, does not complete the agreed upon purchase of two units, the offer for sale shall expire six (6) months after substantial completion, MHH Park shall contribute $200,000 to the City's Affordable Housing Trust Fund, and MHH Park shall have no remaining obligation for the sale of these units.

F. All provisions of the Agreement are incorporated into this First Amendment and are hereby modified or amended to conform to this First Amendment but in all other respects are to be and shall continue in full force and effect.

G. This First Amendment shall be duly recorded by MHH Park at the Cumberland County Registry of Deeds within thirty (30) days of the date of this First Amendment, with a copy of the recorded instrument contemporaneously provided to the City Manager, or else it is void.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the date first written above.

CITY OF SOUTH PORTLAND

WITNESS

By: Scott T. Morelli
Its: City Manager

MEETING HOUSE HILL PARK LLC

WITNESS

By: Edward Rowe
Its: Member, duly authorized

STATE OF MAINE
Cumberland, ss. _____, 2021

Then personally appeared before me the above named Scott T. Morelli, City Manager of said City of South Portland, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said City of South Portland.

_____
Notary Public/Attorney-at-Law

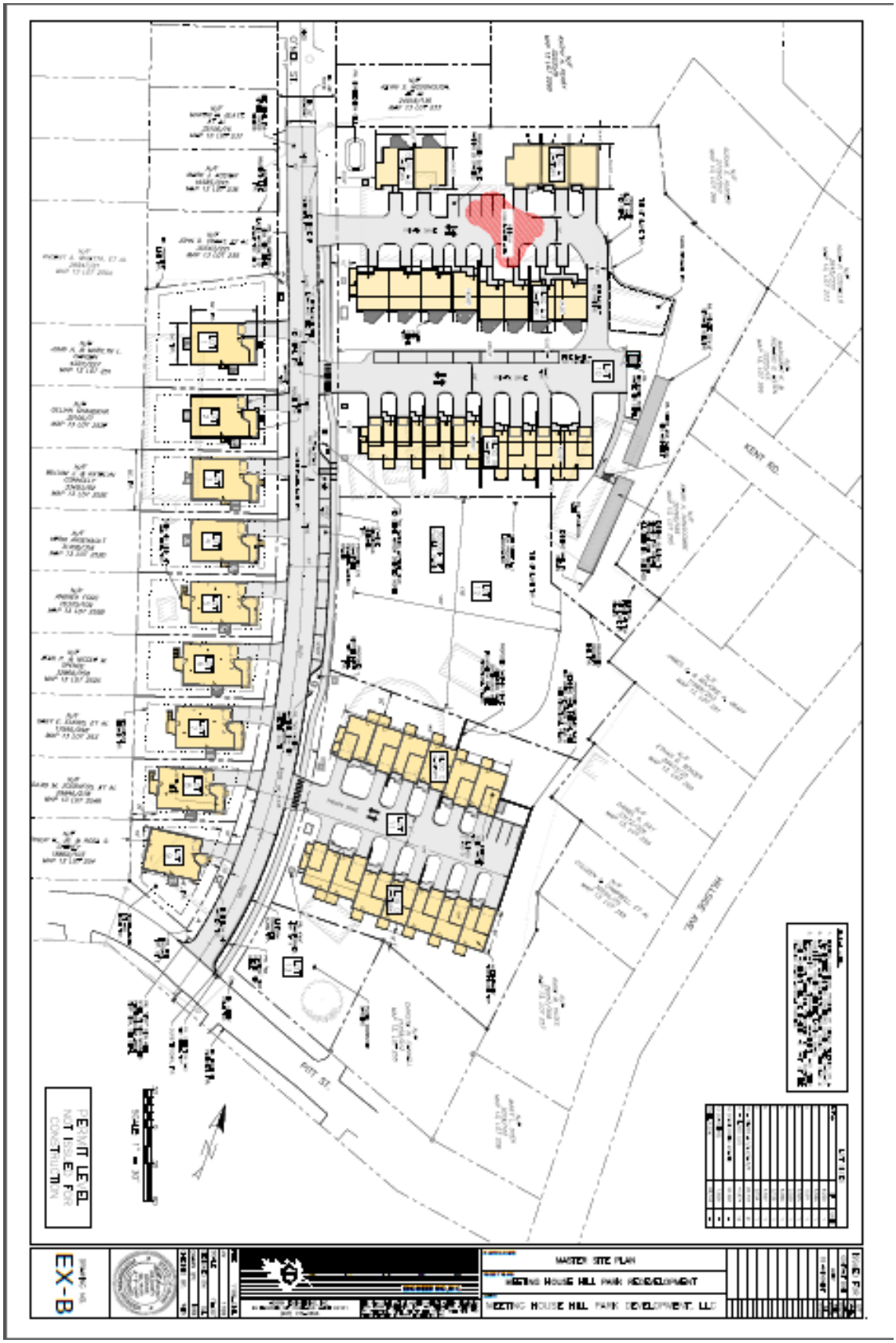
_____
Print Name

STATE OF MAINE
Cumberland, ss. _____, 2021

Then personally appeared before me the above named Edward Rowe, Member of said Meeting House Hill Park LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said Meeting House Hill Park LLC.

_____
Notary Public/Attorney-at-Law

_____
Print Name


MASTER SITE PLAN
MEETING HOUSE HILL PARK REDEVELOPMENT
MEETING HOUSE HILL PARK DEVELOPMENT, LLC
EX-B
PERMIT LEVEL
NOT TO BE USED FOR CONSTRUCTION
KENT RD.
PITT ST.
WILSON AVE.

APPENDIX C TO CHAPTER 27

SECOND AMENDMENT TO O'NEIL STREET PARK CONTRACT ZONING AGREEMENT

THIS SECOND AMENDMENT to O'Neil Street Park Contract Zoning Agreement (the "Second Amendment") is made this _____ day of _____, 2022, by and between the CITY OF SOUTH PORTLAND, a municipal corporation existing under the laws of the State of Maine, located in the County of Cumberland and State of Maine (the "City") with a mailing address of 25 Cottage Road, South Portland, ME 04106, and MEETING HOUSE HILL PARK LLC, a Maine limited liability company located in the County of Cumberland and State of Maine ("MHH Park") with a mailing address of 88 Second Street, South Portland, ME 04106.

WHEREAS, the City and MHH Park are parties to the O'Neil Street Park Contract Zoning Agreement dated March 12, 2020 and recorded in the Cumberland County Registry of Deeds in Book 36542, Page 325 and the First Amendment to the O'Neil Street Park Contract Zoning Agreement dated March 22, 2021 and recorded in the Cumberland County Registry of Deeds in Book 38096, Page 195 (collectively, the "Agreement") relating to the certain lot or parcel of land, with the buildings thereon, located at 42 O'Neil Street in South Portland, Maine, containing approximately 6.0 acres in size (the "Property"); and

WHEREAS, MHH Park now wishes to amend the Agreement to make certain clarifications and to adjust the timeline for completion of a portion of the development; and

WHEREAS, the Project continues to serve community objectives and policies as articulated in the City's Comprehensive Plan; and

WHEREAS, all of the required public hearings related to this Second Amendment have been duly noticed and conducted in accordance with Maine law; and

WHEREAS, the Planning Board, pursuant to Sec. 27-117 of the Zoning Ordinance and 30-A M.R.S. § 4352(8), and after notice and hearing and due deliberation thereon, recommended the Second Amendment; and

WHEREAS, the City, acting by and through the City Council, is authorized to approve contract zoning agreements and amendments thereto pursuant to Sec. 27-117 of the Zoning Ordinance and the provisions of 30-A M.R.S. § 4352(8); and

WHEREAS, the City, acting by and through the City Council, therefore, has determined that this Second Amendment would be, and is, pursuant to and consistent with the City's local growth management program and Comprehensive Plan adopted pursuant to 30-A M.R.S. § 4321 ***et seq.*** and consistent with the existing and permitted uses within the original zoning district classification and has authorized the execution of this Second Amendment and amendment of the Zoning Ordinance accordingly.

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

A. Section 5 of the Agreement, entitled "Phasing," is hereby amended as follows (additions double underlined and deletions ~~struck out~~):

5. **Phasing**. Development of the Project shall be accomplished in four phases as follows:

(a) Phase I shall consist of the demolition of the existing structures (provided, however, that MHH Park shall retain the so-called "horse barn" and the slate/mortar wall at the northeasterly side of the Property unless deemed structurally unsafe by a Maine licensed professional engineer, and any fencing or other peripheral structures which removal would disturb the structural integrity of the embankment area); the installation of utility mains and stubs (including a new separated storm drain within O'Neil Street from Pitt Street to Cottage Road); the construction of O'Neil Street Extension, including the installation of the base course of pavement, curbing, sidewalk, monuments, signage, lighting, drainage and storm water facilities within the same; and the construction of the 9 single-family homes identified on the Concept Plan. Unless extended by the Planning Board for good cause shown, construction of Phase I of the Project shall start within one (1) year after the date of a final, non-appealable Planning Board subdivision and site plan approval of the Project and shall be substantially completed within ~~two (2)~~three (3) years of that date. Substantial completion of Phase I shall be evidenced by the completion of the following: all utility mains and stubs; the O'Neil Street Extension work referenced in this subsection (a); all single family house lots having poured foundations; and issuance of a Certificate of Occupancy for at least 7 of 9 of the single family houses.

(b) Phase II shall consist of the construction of the 21 dwelling unit condominium townhomes identified as Buildings A.1, A.2, A.3, and B on the Concept Plan, and -- only after Buildings A.1, A.2, A.3, and B are constructed -- the installation of the surface course of pavement on O'Neil Street Extension. Unless extended by the Planning Board for good cause shown, construction of Phase II of the Project shall start within two (2) years after the date of a final, non-appealable Planning Board subdivision and site plan approval of the Project and shall be substantially completed within four (4) years of that date. Substantial completion of Phase II shall be evidenced by the completion of the following: all of the work referenced in this subsection (b); issuance of a Certificate of Occupancy for all 21 dwelling units within this Phase II; and issuance of a Certificate of Occupancy for any remaining single family houses.

(c) Phase III shall consist of the construction and use of a temporary construction entrance off of Pitt Street to serve Phases III and IV of the Project and construction of the 13 dwelling unit apartment townhomes

identified as Buildings C and D on the Concept Plan. Unless extended by the Planning Board for good cause shown, construction of Phase III of the Project shall start within three (3) years after the date of a final, non-appealable Planning Board subdivision and site plan approval of the Project and shall be substantially completed within five (5) years of that date. Substantial completion of Phase III shall be evidenced by the completion of the following: all of the work referenced in this subsection (c); and issuance of a Certificate of Occupancy for all 13 dwelling units within Phase III.

(d) Phase IV shall consist of the construction of the public park and community gardens identified on the Concept Plan and conveyance of the same to the City consistent with Section 7(g) herein, as well as closure of the temporary construction entrance off of Pitt Street. Unless extended by the Planning Board for good cause shown, construction of Phase IV of the Project shall start within three (3) months of the date of issuance of the first Certificate of Occupancy as part of Phase III and shall be completed within one (1) year of that date. Completion of Phase IV shall be evidenced by a Certificate of Completion executed and acknowledged by the City's Director of Parks and Recreation certifying that construction of the public park and community gardens identified on the Concept Plan and conveyance of the same to the City has occurred consistent with Section 7(g) herein.

(e) Unless extended by the City Council by an amendment to this Agreement, all Phases of the Project shall be finally completed within six (6) years of the date of a final, non-appealable Planning Board subdivision and site plan approval of the Project. Any subsequent amendments to those approvals by the Planning Board shall not extend the final completion date.

(f) For purposes of this Section 5, a final, non-appealable Planning Board subdivision and site plan approval of the Project means that the City of South Portland Planning Board subdivision and site plan approval of the Project have been granted and is final and (i) the applicable deadline for bringing a judicial appeal of any such approval has run and no judicial appeal has been filed, or (ii) if an appeal has been filed, the appeal has been satisfactorily resolved allowing the Project to proceed and the approval is not subject to further appeal.

B. Section 7 of the Agreement, entitled "Other Conditions and Restrictions," is hereby amended as follows (additions double underlined and deletions ~~struck out~~):

7. **Other Conditions and Restrictions**. Additional requirements of the O'Neil Street Park Contract Zone related to construction of the Project and use of the Property are as follows:

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(j) **Affordable housing**. The project shall provide affordable housing as follows:

MHH Park, its successors and assigns, shall offer for rent and so rent two (2) dwelling units as affordable to households earning 60% or less of the area median income (AMI) as defined and published annually by the U.S. Department of Housing and Urban Development (HUD). These units shall be 2- or 3-bedroom units in Phase III Building D. The City may require certification by the unit owner of compliance with this affordability requirement, from time to time, in its sole discretion.

MHH Park, its successors and assigns, shall offer for sale and so sell two (2) dwelling units to the South Portland Housing Development Corporation (SPHDC), or another third party designated by the City, which intends to offer those units for rent to households eligible under the aforementioned affordability guidelines. These units shall 2- or 3-bedroom units in Phase II Building A.1, A.2 or A.~~2~~3, and shall be constructed and finished to the same or comparable standard as other like units in the building. Ownership of these units and be transferred within three (3) months after receiving a Certificate of Occupancy, but in no case later than six (6) months after substantial completion. MHH Park shall offer these units for sale at a reduced price of $200,000 per unit in order to reach a 10% target of affordable housing in the project. If the SPDHC, or the City's designated third party, does not complete the agreed upon purchase of two units, the offer for sale shall expire six (6) months after substantial completion, MHH Park shall contribute $200,000 to the City's Affordable Housing Trust Fund, and MHH Park shall have no remaining obligation for the sale of these units.

C. Section 12 of the Agreement, entitled "Enforcement," is hereby amended as follows (additions double underlined and deletions ~~struck out~~):

12. **Enforcement**. The City shall have the power to enforce all conditions and restrictions of this Agreement, both through an enforcement action pursuant to Sec. 27-131 of the Zoning Ordinance and 30-A M.R.S. § 4452, both as may be amended from time to time, and through legal action for specific performance of this Agreement. In the event that MHH Park or its successors or assigns fail to develop the project in accordance with this Agreement, or in the event of any other breach hereof, and such failure or breach continues for a period of thirty (30) days after written notice of such failure or breach from the City to MHH Park, its successors and assigns, or in the event such failure or breach cannot reasonably be remedied or cured within such thirty (30) day period, if MHH Park, its successors or assigns, fails to commence a cure or to remedy such failure or breach within said thirty (30) day period and thereafter fails to diligently prosecute such cure or remedy to completion in a reasonable

time, then this Agreement may be terminated by vote of the City Council. In that event, the Property may then be used only for such uses as otherwise allowed by law, except that any dwelling unit or structure that has received a building permit or certificate of occupancy under the terms of this Agreement and that is in compliance with said building permit or certificate of occupancy can continue to be used -- and if a certificate of occupancy has issued, can continue to be occupied -- for residential purposes. Said exception shall be deemed to be incorporated into any building permit issued by the City in connection with the Property or any portion thereof.

D. All provisions of the Agreement are incorporated into this Second Amendment and are hereby modified or amended to conform to this Second Agreement but in all other respects are to be and shall continue in full force and effect.

E. This Second Amendment shall be duly recorded by MHH Park at the Cumberland County Registry of Deeds within thirty (30) days of the date of this Second Amendment, with a copy of the recorded instrument contemporaneously provided to the City Manager, or else it is void.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the date first written above.

CITY OF SOUTH PORTLAND

WITNESS

By Scott T. Morelli
Its City Manager

MEETING HOUSE HILL PARK LLC

WITNESS

By: Edward Rowe
Its: Member, duly authorized