



City of Auburn, Maine

Office of Planning & Permitting

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PLANNING BOARD AGENDA

August 11, 2026 – 6:00 p.m.

City Council Chambers, 60 Court Street

1. ROLL CALL

2. NEW BUSINESS

- A. CHAPTER 60 ZONING AMENDMENTS LD1829/2173:** Workshop discussion of proposed changes to Article II General Provisions and proposed changes to definitions Sec. 60-2

3. PUBLIC COMMENT

4. MISCELLANEOUS

5. PLANNING BOARD ITEMS FOR DISCUSSION

6. ADJOURNMENT

Auburn Planning Board meetings can be viewed live on the City of Auburn YouTube channel (<https://www.youtube.com/c/CityofAuburnMaine>), and on Great Falls Television (Spectrum Cable Channel 11). Following live broadcasts, Planning Board meetings are rebroadcast at 7:00AM, noon, and 7:00PM on Tuesdays on GFTV and are available anytime on our YouTube channel.

Sec. 60-2. Definitions.

For the purposes of this chapter, the following words and terms as used herein shall have the meanings or limitations of meaning hereby defined, explained or assigned:

Accessory dwelling unit means a self-contained dwelling unit meeting a minimum of 190 square feet and not to exceed 1,500 square feet, that can be located within, attached to or detached from a single-family dwelling unit located on the same parcel of land.

Accessory structure or building means a building, at least five feet in distance from the principal building, used for a purpose which is customarily subordinate and incidental to that of the principal building or to the principal use of the land and which is located on the same lot as the principal building use. The term "accessory buildings," in residential districts, includes tool sheds, woodsheds, detached garages and swimming pools. No accessory building shall house a home occupation or professional office or be used as a sales outlet in a residential district.

Accessory use means a subordinate use of land or building which is customarily incidental and subordinate to the principal building or to the principal use of the land and which is located on the same lot with the principal building or use.

Adaptive reuse means a special exception permitting a structure of community significance to be used for one or more purposes, not otherwise permitted in the district in which the building is located, but which the planning board has determined will contribute to the preservation of a structure of community significance, including without limitation, the following uses:

- (1) Bed and breakfast homes or inns;
- (2) Restaurants, diners or cafes;
- (3) Art studios and galleries;
- (4) Performing arts centers;
- (5) Medical and dental clinics;
- (6) Office space;
- (7) Municipal and government uses; and
- (8) Retail sales as an accessory use.

Adult day center means a supervised facility providing a program of education, crafts or recreation for adults over the age of 55 years.

Affordable housing developments means as defined in 30-A MRSA §4364.

Animal unit means one living animal of any species.

Antique shop means a building, or portion of building, where artifacts from generally recognized previous eras are sold or traded as the primary commercial activity.

Apartment. See the term *Dwelling unit*.

Architectural features means exterior building elements intended to provide ornamentation to the building massing, including but not limited to, eaves, cornices, bay windows, window and door surrounds, light fixtures, canopies, and balconies.

Art galleries means a building or place where works of art or other objects of value are kept, displayed, produced and offered for sale to the general public.

Artist studio, residential means a dwelling where up to 50 percent of the total floor space can be used for the production of art and/or craft products. The term "residential artist studio" shall not include galleries or studios open to the public for display or sales. All artist studios shall be designed to meet all residential safety and occupancy requirements and shall be considered to be accessory to the residential use.

Automobile means a passenger vehicle propelled by a self-contained motor. The term "automobile" also includes motorcycles, all-terrain vehicles, trucks and recreation vehicles (RVs).

Automobile and marine paint and body shops means a building in which the business of automobile and marine paint and bodywork is conducted. Such use may also include as an accessory use a facility for the orderly display and sale of vehicles which have undergone substantial body repair on the premises. No such facility shall display, outdoors or indoors, or offer for sale more than ten vehicles at any one time.

Automobile and marine repair and service station means a building, lot or both in or upon which the business of general motor repair and vehicle service is conducted, but excluding junk and/or wrecking businesses.

Automobile, commercial, means a vehicle the primary use of which is commercial in character.

Automobile filling station means a building or lot having pumps and storage tanks at which fuel, oil or accessories for the use of motor vehicles are dispensed, sold or offered for sale at retail, where repair service is incidental and no vehicle storage or parking space is offered for rent.

Automobile garage, private, means an accessory building or portion of a main building designed, arranged or used for housing of private motor vehicles, only one of which may be a commercial vehicle. Not more than 50 percent of the space in such a garage shall be used for housing vehicles other than those owned by occupants of the premises.

Automobile parking lot, private, means a parcel of land, lot or portion thereof required, in accordance with these regulations, for off-street automobile parking.

Automobile repair and service station means a building, lot or both in or upon which the business of general motor vehicle repair and service is conducted, but excluding junk and/or wrecking business.

Automobile sales lot means a lot arranged, designed or used for the storage and display of motor vehicles or any unoccupied trailer for sale.

Automobile scrap yard means any land or building used for the dismantling, storage and salvaging for reuse of automobiles or other vehicles not in running condition.

Automotive towing and storage means a business engaged in/or offering the services of a towtruck or towing service whereby motor vehicles are towed or otherwise removed from one place to another by the use of a motor vehicle specifically designed for that purpose. Storage of towed vehicles is considered to be the keeping of vehicles in a secured yard for not more than 120 days until claimed or disposed of in accordance with the laws of the state.

Basement means that portion of a building below the first floor joists having at least one-half of its clear ceiling height above the main level of the adjacent ground.

Bed and breakfast home means an accessory use to a single-family dwelling involving the renting of four or fewer guestrooms to transient guests who are staying for a limited duration (seven consecutive days and/or 60 accumulated days in a calendar year) and the serving of breakfast only to house guests. Such establishment shall be owned and operated by the resident of the dwelling. The term "bed and breakfast home" also includes a tourist home.

Bed and breakfast inn means a dwelling involving the renting of more than four but fewer than ten guestrooms to transient guests who are staying for a limited duration (seven consecutive days and/or 60 accumulated days in a calendar year) and the serving of breakfast to house guests only. Such use may provide a restaurant, function rooms and places of public assembly.

Boardinghouse or lodginghouse means a dwelling which, for compensation, lodging, or lodging and meals are provided to more than four persons and where a proprietor or owner may reside in the building. No provisions for cooking in individual rooms other than a main kitchen is allowed.

Building means a structure having one or more stories and a roof, designed primarily for the shelter, support or enclosure of persons, animals or property of any kind. (See the term *Structure*.)

Building envelope means the ground area on a lot and the space above it on which a building may be constructed.

Building form means the overall shape and dimensions of a building.

Building height means the vertical distance from the grade of the top of the highest roof beams of a flat roof, or to the mean level of the highest gable or slope of a hip roof. When a building faces on more than one street, the height shall be measured from the averages of the grades at the center of each street front.

Building inspector means the building inspector of the City of Auburn, Maine, or their duly authorized agent.

Building line means a line beyond which the foundation wall and/or any enclosed porch, vestibule of other enclosed portion of a building shall not project.

Building, principal, means a building in which is conducted the principal use of the lot on which it is situated.

Care home means a rest, nursing, or convalescent home established to render domiciliary nursing care and board for chronically ill or convalescent patients, or persons who are infirm because of mental or physical conditions, but excluding a child care home or one for the care of mentally retarded patients, alcoholics, psychotics or drug addicts.

Cellar means that portion of a building below the first floor joists having at least one-half of its clear ceiling height below the mean level of the adjacent ground. A cellar shall not be used for habitation.

Cemetery means a place used for the permanent interment of dead bodies or cremated remains thereof. A cemetery may be a burial park of earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments, or a combination of one or more thereof.

Child care home means a child boarding home, summer camp, foster family home or other place providing domiciliary arrangements for compensation, of three or more children, unrelated to the operator by blood, marriage or adoption, under 18 years of age. A facility providing child day care less than 24 hours per day, per child, to more than five children shall not be considered a child care home. The term "child care home" includes any family-type facility which provides child care to children placed by order of any court of competent jurisdiction, or by any public welfare department, or other governmental agency having responsibility for placing children for care, or placed by child-placing agency licensed under state law.

Child day care center, large means a facility conducted or maintained by anyone who provides, for consideration, care and protection for more than 12 children under 16 years of age, unrelated to the day care center operator, who are unattended by parents or guardians, for any part of the day. Any facility, the chief purpose of which is to provide education, shall not be considered to be a day care center, but is classified as a nursery school.

Child day care homecenter, small means ~~an accessory use of a residence by a person residing on a premises, a facility used~~ to provide on a regular basis, and for consideration, care and protection for up to 12 children under 16 years of age, unrelated to the day care home operator, who are unattended by parents or guardians, for any part of the day. ~~Any facility, the chief purpose of which is to provide education, shall not be considered to be a day care home, but is classified as a nursery school. A child day care home shall not be located closer to another child day care home than 500 feet measured along the street frontage. Child day care homes shall be reviewed under the city's home occupation regulations (article IX of this chapter) and~~ shall meet the following:

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- (1) All outdoor play areas, used in conjunction with the day care operation, shall be fully enclosed by a fence, a minimum of four feet in height.
 - (2) If the property utilizes a private sewerage disposal/septic system a written verification from a site evaluator, stating that the current system can handle the change of use to include the children in the proposed day care, shall be submitted.

Church means a building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which buildings, accessory buildings and uses are maintained and controlled by a religious body organized to sustain public worship.

Civic Use/Active Recreation means activities, uses, purposes, and organizations which are dedicated to arts, culture, education, religion, recreation, government, transit, gardening, horticulture, public gathering, assembly, or meeting. All civic and institutional uses must serve and be open to the public and operate as a non-profit or otherwise be tax-exempt.

Civic Space means an outdoor open space designed to support civic use, social and recreational activities. Civic space may be owned, maintained, and administered by a private entity, provided on the same lot as a building or on a lot associated with a building group, for the purpose of adding publicly accessible amenity space to a development project.

Clinic means an establishment where patients are accepted for treatment by a group of physicians practicing medicine together, but shall not offer domiciliary arrangements; medical and dental.

Club, private, means any building or rooms, which serve as a meeting place for an incorporated or unincorporated association for civic, social, cultural, religious, literary, political, recreational or like activities, operated for the benefit of its members and not open to the general public.

Community based residential facilities (CRF) means dwelling units providing communal domiciliary arrangements for a group of unrelated persons under supervision of the state government human service agencies, for the transition of formerly institutionalized persons back into the mainstream community living and participation, a halfway house, or a group home.

Comprehensive plan means the master development plan of the City of Auburn, Maine, any amendments or additions thereto, part or portion thereof adopted by the city council upon recommendations of the planning board of Auburn, Maine, pursuant to 30-A M.R.S.A. § 4323.

Connectivity means a system of streets with multiple routes and connections serving the same origins and destinations.

Connectivity index means an index calculated by dividing the number of street links (i.e., street sections between intersections, including cul-de-sacs) by the number of street nodes (i.e., intersections, and cul-de-sacs, and sharp curves with 15mph design speed or lower).

Conservation cemetery means a type of natural cemetery that includes a conservation management plan that upholds best practices, and provides perpetual protection of the land according to a conservation easement or deed restriction. Burials in conservation cemeteries utilize non-toxic and biodegradable materials.

Convenience store means a business establishment having an interior selling space of less than 3,000 square feet where general food supplies for the table, other articles of household use and gasoline pump service is offered for sale. Such a use may include the sale of food vended in disposable containers for consumption on or off the premises.

Correctional institution means a publicly or privately operated facility generally designed for the confinement, correction, and rehabilitation of adult and/or juvenile offenders sentenced by a court.

Court means an open, unoccupied space, other than a yard, on the same lot with a building or group of buildings which is bounded on two or more sides by such building or buildings and every part of which is clear and unobstructed from its lowest point to the sky.

Dental clinic means an establishment where patients are accepted for treatment by a group of dentists practicing dentistry together.

Detention facility. In the case of an adult or juvenile, "detention" means the confining of an adult or juvenile held in lawful custody in a specially constructed or modified facility designed to ensure continued custody and control. "Detention" may be confinement before trial or another hearing by a court or confinement to serve court-imposed sentences or dispositions and may be in a step-down, jail, half-way house or lock-up facility.

Development standard(s) means building standards that establish basic parameters governing building form, including the envelope for building placement in three dimensions and certain permitted and required building elements such as storefronts, balconies, street walls, etc. The development standards establish both boundaries within which development may take place and what requirements apply.

Development means the construction, reconstruction, alteration, expansion, extension, or relocation of any building or structure; excavation, earth filling, grading, or mining; any use or change in use of any building or structure or land; any change in building type; or, any expansion in the use of land.

Director means the director of planning and any successor or other official designated from time to time by the city council to enforce the provisions of this chapter.

District or zone means an area within which certain uses of land and buildings are permitted or denied pursuant to municipal review, and certain others are prohibited.

District, overlay, means a special district or zone which addresses special land use circumstances and environmental safeguards and is superimposed over the underlying existing zoning districts. Permitted uses in the underlying zoning district shall continue subject to compliance with the regulations of the overlay zone or district.

Dormitory means a building or portion thereof used for sleeping purposes in connection with a school, college or other educational institution.

Driveway means private ways intended for internal vehicular circulation on a lot or within an automobile parking lot.

Drive-through facilities mean a facility that provides or dispenses products or services through a service window or by an automated machine allowing customers to remain in vehicles that are in designated stacking lanes.

Dump means any premises used primarily for disposal by abandonment, discarding, dumping, reduction, burial, incineration or any other means and for whatever purpose of garbage, trash, refuse, dead animals, waste materials of any kind, junk; but not untreated sewage, animal waste, discarded machinery, or vehicles or parts thereof. The establishment of any dump shall be approved by the city council of the City of Auburn.

Dwelling means a building or portion thereof arranged or designed to provide living facilities for one or more families.

Dwelling, multifamily, means a residence designed for or occupied by three or more families with separate housekeeping and cooking facilities for each.

Dwelling, one-family attached, means a residential structure designed to house a single-family unit from lowest level to roof, with private outside entrance, but not necessarily occupying a private lot, and sharing a common wall or walls with an adjoining dwelling unit or units. Each one-family attached accessory dwelling unit must be at least 190 square feet, above grade in size, unless the Technical Building Code and Standards Board, pursuant to 10 M.R.S.A. 9722, adopts a different minimum standard; if so, that standard applies.

Dwelling, one-family detached, means a dwelling unit singly and apart from any other building and intended and designed to be occupied and used exclusively for residential purposes by one family only, excluding those forms of temporary housing permitted by section 60-666. Each one family detached dwelling unit must be at least 400 square feet above grade in size, and an accessory detached dwelling unit must be 190 square feet, above grade in size, unless the Technical Building Code and Standards Board, pursuant to 10 M.R.S.A. 9722, adopts a different minimum standard; if so, that standard applies.

Dwelling, seasonal, means a dwelling occupied for not more than six months of any year.

Dwelling, two-family, means a freestanding building intended and designed to be occupied and used exclusively for residential purposes by two families only, with separate housekeeping and cooking facilities for each.

Dwelling unit means a room or group of rooms located within a building and forming a single habitable unit, physically separated from any other rooms or dwelling units which may be in the same structure, with facilities which are used for or intended to be used for independent living, sleeping, cooking and eating purposes. ~~Dwelling units available for rental or occupancy for periods of less than one week shall be considered boarding/lodging units. Rooms within a boarding/lodging house shall not be considered dwelling units.~~

Eave means the edge of a roof which projects beyond the exterior wall.

Encroachment means any architectural feature, structure or structural element, such as a gallery, fence, garden wall, porch, stoop, balcony, bay window, terrace, or deck that breaks the plane of a vertical or horizontal regulatory limit exceeding into a setback, the public frontage, or above a height limit.

Erected includes the terms "built," "constructed," "reconstructed," "enlarged" and/or "retained on."

Facade means the vertical surface of a building.

Family means one or more persons occupying a single housekeeping unit and using common cooking facilities, provided that unless all members are related by blood or marriage, no such family shall contain over four persons.

Farm means any parcel of land which is used in the raising of agricultural products, livestock or poultry, or for dairying.

Farm, livestock, means any parcel of land that contains at least the following land area used for the keeping of horses, mules, donkeys, cattle, goats, sheep, swine and similar sized animals for the agricultural use of the residents of the lot, provided that there is a minimum of 1 acre of land as required by Chapter 8 Animals and adequate land area is provided for each animal unit, excluding water bodies of one-quarter acre surface area or larger:

- (1) Cattle: One bovine animal unit per acre of cleared hay-pasture land.
- (2) Horse: 1.5 animal units per acre of cleared hay/pasture land.
- (3) Sheep: Three animal units per acre of cleared hay/pasture land.
- (4) Swine: Two animal units per acre of cleared land.
- (5) Other livestock farms: The required lot size shall be determined by municipal officer charged with enforcement and shall conform to the lot size for similar sized animals.

Floodplain overlay means those areas of the city which are directly affected by flooding as shown on the flood insurance rate maps (FIRM) as established by the Federal Emergency Management Agency and that shall comply with the pertinent regulations found in division 2 of article XII of this chapter pertaining to the Floodplain Overlay District.

Floor area of building means the total number of square feet of floor area of all stories in a building, excluding cellars, uncovered steps and uncovered porches. All horizontal measurements shall be made between exterior faces of walls.

Form based code means a land development regulation that fosters predictable built results and a high-quality public realm by using physical form (rather than separation of uses) as the organizing principle for the code.

Form based code zoning district means one of the five areas on the regulating plan, including Transect 4.1 (T-4.1), Transect 4.2 (T-4.2), Transect 5.1 (T-5.1), Transect 5.2 (T-5.2), and Transect 6 (T-6).

Frontage means the length of a lot extending between the side lot lines of a lot which borders an accepted portion of a street, a private street constructed to the City of Auburn standards, or designated open space approved by the Planning Board. Maine Turnpike frontage does not apply to this definition.

Frontage line means the lot line(s) of a lot fronting a street, ~~or~~ other public way, a private way constructed to the City of Auburn standards, or designated open space approved by the Planning Board.

Government offices means a room or group of rooms used for conducting the affairs of a government entity, not entailing the sale of goods except that which is clearly incidental.

Government services, for the purposes of this chapter, includes the functions performed by the various government agencies in the city. Government services include the following: government administration, courts, public schools, postal services, public works and municipal utilities.

Greenhouse means an enclosed structure where trees, shrubs, vines and plants are propagated, grown or maintained. Activities associated with a greenhouse include:

- (1) The sale of greenhouse products and related supplies; and
- (2) The storage of material used in the maintenance of plants and growing items sold.

Grocery store means a small retail establishment having an interior selling space of less than 3,000 square feet where general food supplies for the table and other articles of household use are offered for sale. Such a use may include the sale of food vended in disposable containers for consumption on or off the premises; a corner market, a mom and pop store.

Ground area of building means the total number of square feet of horizontal surface covered by a building, including covered porches and accessory buildings. All measurements shall be made between exterior faces of walls, foundation, piers or other means of support.

Group home. See the term *Community based residential facilities*.

Guesthouse means a detached dwelling that is intended, arranged or designed for occupancy by transient, nonpaying visitors.

Habitable space means that area within a dwelling which has headroom of not less than seven feet when measured vertically upward from the finished floor, provided that any such area next below the roof of a dwelling shall be counted only if it is connected with the story next below by a permanent inside stairway. The floor area of any porch, cellar room, garage or shed attached to such dwelling shall not be counted in any measure of habitable space.

Half-story means a story directly under a sloping roof in which the points of intersection of the bottom of the rafters with the interior faces of the walls are less than three feet above the floor level.

Historic site means a parcel of land, a particular building, or a group of buildings that have played a significant role in the history of the community, and identified as such by the state historic preservation committee.

Historic or archaeological resources means areas identified by a governmental agency such as the state historic preservation commission as having significant value as historic or archaeological resources and any areas identified in the municipality's comprehensive plan.

Hog farm means any land or building used for the purpose of keeping, feeding or raising 20 or more swine per piggery. Establishment of this use requires approval from the city health department.

Home occupation means the accessory use of a dwelling unit for a business or commercial venture engaged in, by the person residing in the dwelling unit, and which allows up to one person who does not reside on the premises to be employed by that home occupation.

Hospital means any institution receiving inpatients and rendering medical, surgical and/or obstetrical care. The term "hospital" includes general hospitals and institutions in which service is limited to special fields such as cardiac, eye, nose and throat, pediatric, orthopedic, skin, cancer, mental health, tuberculosis, chronic disease and obstetrics. The term "hospital" also includes sanitariums, including those wherein mentally retarded and mental patients, epileptics, alcoholics, senile psychotics or drug addicts are cared for or treated.

Hotel means a building in which the primary use is transient lodging accommodations offered to the public on a daily rate of compensation and where ingress and egress to the sleeping rooms is primarily through an inside lobby or office, supervised by a person in charge at all hours. Such facilities may include accessory uses such as restaurants, bars, nightclubs, function rooms, places of public assembly and/or recreational facilities.

Household pet means any animal kept as a pet and normally housed at night within the owner's dwelling or an accessory building on the same lot, including laying hens, but not including any animal normally raised as livestock or poultry or any animal raised for commercial gain. No household pet shall be kept that creates a public nuisance by reason of:

- (1) Objectionable effects perceptible outside the owner's property, such as excessive or untimely noise or offensive odors; or
- (2) Being a hazard to the health, safety and welfare of neighbors, invited guests or public servants visiting the property in the pursuit of their normal duties.

Illustrative plan means a plan or map that depicts (i.e. illustrates but does not regulate) the streets, lots, buildings and general landscaping of the proposed Downtown Auburn/New Auburn Form-Based Code District.

Industrial use, ~~heavy~~, means the use of real estate, building or structure, or any portion thereof, for assembling or disassembling, fabricating, manufacturing, packaging or processing operations. Industrial uses include but are not limited to automobile manufacturing, foundries, and sawmills.

Industrial use, heavy, means any industrial use not classified as a light industrial use.

Industrial use, light, means the use of real estate, building or structure, or any portion thereof, for manufacturing or fabrication which will not create a nuisance by noise, smoke, vibration, odor or appearance.

Institution means any building or open area used only by an educational, religious, medical, charitable, philanthropic, or nonprofit organization, either public or private.

Institution, philanthropic, means a private, nonprofit organization that is not organized or operated for the purpose of carrying on a trade or business, no part of the net earnings of which inures to the benefit of any member of said organization and which either:

- (1) Provides volunteer aid to the sick and wounded of the armed forces in time of war and relief services to victims of natural or manmade calamities; or
- (2) Provides all or any of the following: religious, social, physical, recreational and benevolent service.

Institution, private educational, means any private school or educational institution, however designated, which offers an academic curriculum of college, professional, preparatory, high school, middle school, elementary,

kindergarten or nursery school instruction, or any combination thereof; but not a training program of trade, craft, technical or artistic instruction operated by a governmental entity. No private educational institution shall be deemed a home occupation. (See the terms *Training school* and *School*.)

Institution, research, means an agency for scientific research of technical development including offices, libraries, laboratories, testing facilities and equipment incidental to such research and development.

Jail means a specially constructed or modified facility designated by law or regularly used for detention for a period of up to 12 months.

Junkyard or automobile graveyard means any land or building used for the abandonment, storage, keeping, collecting or bailing of paper, rags, scrap metal, other scrap or discarded material, or for the abandonment, demolition, dismantling, storage or salvaging of automobiles or other vehicles not in running condition, machinery or parts thereof. Establishment and operation of this use requires annual approval from the City Council of Auburn, Maine.

Kennel means any building and/or land used, designed or arranged for the boarding, breeding or care of dogs, cats, pets, fowl or domestic animals, kept for purposes of show, hunting or as pets, except horses.

Land use permit means a permit required for the use of property that is legally permitted under the provisions of this chapter.

Landscape services means the actual planting, bed preparation, installation of landscape materials and maintenance of the landscape, planting and materials. Activities associated with landscaping include: the storage of materials and equipment related to the performance of landscaping, the temporary storage of trees, shrubs and plants pending installation in an existing landscape plan and the application and storage of pesticides and fertilizers by a licensed person.

Lawn maintenance service means the care and upkeep of the landscape after its installation and consists of such activities as mowing of the lawn, pruning of trees and shrubs, application by hand of fertilizer and weed control, insect and disease control, planting and care of flower beds, replacement of dead plants, incidental repairing of walls and paved surfaces, cleaning of fountains and pool basins, irrigation of lawns, cultivation of soil around trees and shrubs, rolling and reseeding of lawns, raking of leaves, winterization of trees and shrubs and snow removal.

Library means a place containing books and other material for reading, study or reference, provided that no such material is offered for sale.

Livestock means, but may not be limited to, any horses, mules, donkeys, cattle, goats, sheep, or swine.

Lock-up facility means a facility designated by law or regularly used for detention for a temporary period before trial or transfer to a jail or other facility.

Lodge, private. See the term *Club, private*.

Lot means for zoning purposes, as covered by this chapter, a lot is a parcel of land under one ownership or joint ownership of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an accepted public street, private street, or open space, have deeded legal access to a public street, and may consist of:

- (1) A single lot of record;
- (2) A portion of a lot of record;
- (3) A combination of complete lots of record;
- (4) A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residential lot or parcel be created which does not meet the requirements of this chapter;

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- (5) Lots shown on a plan approved by the planning board of the City of Auburn.

~~Lot frontage/width~~ *Lot line, front*, means the front *lot line* of a lot shall be construed to be the portion nearest the street *or open space*. For the purpose of determining yard requirements or corner lots and through lots, all sides of a lot adjacent to streets shall be considered ~~frontage a front lot line~~, and yards shall be provided as indicated under the definition of yards in this section.

Lot line, rear, means the lot line generally opposite or parallel to the front lot line, except in a through lot. If the rear lot line is less than ten feet long or the lot comes to a point at the rear, said rear lot line is assumed to be a line not less than 20 feet long, lying wholly within the lot, parallel to the front lot line, or in the case of a curved front lot line, parallel to the chord of the arc of said front lot line.

Lot measurements means the following measurements:

- (1) The depth of a lot shall be considered to be the uninterrupted distance between the midpoints of lot frontage and the midpoint of the rear lot line unless the lot meets the exception provided for by section 60-39.
- (2) The width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, provided, however, that the width between the side lot lines at their foremost points (where they intersect the street line) shall not be less than 80 percent of the required lot width except in the case of a lot on the turning circle of a cul-de-sac, where the 80 percent requirement shall not apply.

Lot of record means a lawfully laid out lot which is part of a subdivision recorded in the proper office of the registry of deeds, or a lawfully laid out lot or parcel described by metes and bounds, the description of which has been so recorded.

Lot types means the diagram which follows illustrates terminology used in this chapter with reference to corner lots, interior lots, reversed frontage lots and through lots. In the diagram above, the lots designated by letters are defined as follows:

- (1) Corner lot, defined as a lot located at the intersection of two or more streets *or open space*. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees. (See lots marked A(1) in diagram)
- (2) Interior lot, defined as a lot other than a corner lot with only one frontage on a street *or open space* other than an alley.
- (3) Through lot, defined as a lot other than a corner lot with frontage on more than one street other than an alley. Through lots with frontage on two streets may be referred to as double frontage lots.
- (4) Reversed frontage lot, defined as a lot in which the frontage is at right angles or approximately right angles to the general pattern in the area involved. A reversed frontage lot may also be a corner lot or an interior lot. (See A-D and B-D in diagram.)

Lot, undersized, means for zoning purposes, as covered by this chapter, an undersized lot is a parcel of land of insufficient size to meet minimum zoning requirements for area or width or depth.

Major or principal arterial highway means the highway that:

- (1) Serves the major traffic movements within urbanized areas such as between central business districts and outlying residential areas, between major intercity communities, or between major suburban centers;
- (2) Serves a major portion of the trips entering and leaving the urban area, as well as the majority of the through traffic desiring to bypass the central city;

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- (3) Provides continuity for all rural arterials which intercept the urban area. The term "major or principal arterial highways" includes Washington Street (State Routes 4 and 100, U.S. 202), Minot Avenue (State Routes 11 and 121), Union Street/Center Street/Turner Road (State Route 4), Veterans Memorial Bridge and approaches (State Routes 11 and 100, U.S. Route 202), North Bridge/Court Street to in town Minot Avenue Intersection (Turner Street), Court to Center Street (State Route 4).

Major recreational use of land means permanent use of at least 100 acres of outdoor space limited to ski areas with at least two lifts and public and private golf courses with a minimum of 18 holes.

Major retail development means a single building in excess of 100,000 square feet of new ground floor retail space.

Manufactured housing means a structural unit designed for occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis, or placed on an independent chassis, to a building site. The term "manufactured housing" includes any type of building which is constructed at a manufacturing facility and then transported to a building site where it is utilized for housing and may be purchased or sold by a dealer in the interim. The term "manufactured housing" includes newer mobile homes and modular homes.

Mining, quarrying, or earth removing means the excavation of any earth materials.

Minor arterial highway means the highway that:

- (1) Serves trips of moderate length at a somewhat lower level of travel mobility than principal arterials;
- (2) Provides access to geographic areas smaller than those served by the major arterial highway system; and
- (3) Provides intra-community continuity but does not penetrate identifiable neighborhoods. Examples are Riverside Drive, Mill Street, South Bridge (Broad Street to Mill Street), Main Street, Mechanics Row, High Street (Minot Avenue to Academy Street), Academy Street (High Street to Main Street), Elm Street, Spring Street (Minot Avenue to Court Street), Turner Street (Union Street to Turner Road), Mount Auburn Avenue (Center Street to Turner Street), Lake Street, Court Street (Union Street to in town Minot Avenue Intersection), Hotel Road (Manley Road to Poland Spring Road).

Mobile home development, intended to be generic, includes mobile home parks, mobile home subdivisions, and mobile home condominiums.

Mobile home park means a parcel of land under single ownership in rural residence and suburban residence districts which has been planned and improved for the placement of not less than three mobile homes for nontransient use.

Mobile homes, newer, means those units constructed after June 15, 1976, commonly called "newer mobile homes," which the manufacture certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures, transportable in one or more sections, which, in the traveling mode, are 14 body feet or more in width and are 400 or more square feet and which are built on a permanent chassis and designed to be used as dwellings on foundations when connected to the required utilities, including the plumbing, heating, air conditioning and electrical system contained therein; except that the term "newer mobile homes" includes any structure which meets all the requirements of this definition, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban development and complies with the standard established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, 42 USC 5401 et seq.

Mobile homes, older, means any factory-built home which fails to meet the definition of manufactured housing and more specifically, the term "older mobile homes" means any mobile home constructed prior to June 15, 1976. These units shall be restricted to approved mobile home parks.

Modular homes means those units which the manufacturer certifies are constructed in compliance with the state's Manufactured Housing Act and regulations, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning or electrical systems contained therein.

Motel means a building or group of detached buildings intended primarily to provide sleeping accommodations to the public on a daily rate of compensation and having a parking space generally located adjacent to a sleeping room. Such facilities may include a main kitchen or snack bar for the use of motel guests only.

Municipal or public utilities and communications facilities means the use of land for public utility purposes by an entity providing pipeline, gas, electrical, telephone, telegraph, water, or sewage service. "Public utility" also includes the use of land for utility purposes, whether or not owned, controlled, or operated by a public entity, whose services are performed for or commodities delivered to the public or any portion thereof. Facilities that provide for the transmission, transfer, and distribution of telephone service and related activities that are not a minor or major utility facility. For the purposes of the chapter, a municipal or public utility or communications facility includes, but is not limited to, the following: a private telephone company or paging service, any utility regulated by the Maine Public Utilities Commission, and any other commercial communications tower.

Municipal sanitary landfill means a disposal site for household, commercial and industrial wastes, sludge or incinerator ash operated or controlled for operation by the city in a controlled manner involving the covering of deposited wastes with layers of earth so as to reduce health hazards and public nuisances from vermin, insects, odors and wind-borne debris. The location and design of sanitary landfills also require precautions against ground and surface water contamination through clay lining, water impoundment, aquifer avoidance and similar techniques.

Municipal uses means any lawful use of a building or of land carried on by the city sanitary landfill shall not be deemed a municipal use.

Museum means a building or place where works of art or other objects of permanent value are kept and displayed, provided such objects are not offered for sale.

Natural resource uses means uses that utilize naturally occurring assets such as air, water, soils, fuel, minerals, plants or animals to provide public benefit through the provision of raw materials and/or energy.

Nonconforming building means a building lawfully existing at the time this or any previous zoning ordinance became effective and which does not conform to the dimensional regulations of the district in which it is located.

Nonconforming lot means a lot lawfully existing at the time this or any previous zoning ordinance became effective and which does not conform to the dimensional regulations of the district in which it is located.

Nonconforming use means a use of a building or of land lawfully existing at the time this or any previous zoning ordinance became effective and which does not conform with the use regulations of the district in which it is located.

Nursery means an outdoor place where live trees, shrubs, vines and plants are propagated, grown or maintained before permanent planting. Activities associated with nursery a business include: the sale of nursery products and related gardening supplies, the storage of material used in the maintenance of plants and growing items sold and the use of power-motorized equipment required by the nursery.

Nursery, child, means a facility providing a program less than 24 hours per day per child for the care of infants up to the age of 2½ years.

Nursery, wholesale, means a nursery where plants, trees, shrubs and vines are propagated and/or grown and sold only at wholesale to industry related buyers such as retail nurseries, greenhouses and landscape contractors. A wholesale nursery may also provide landscape services accessory to the nursery use provided.

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- (1) At least one-half of the area of the lot (up to a maximum of three acres) is in active nursery production in a husband type manner; and
 - (2) The plants and trees propagated, grown and nurtured in the nursery are used as the primary products by the owner/operator of the landscape service.

Office means a building, or portion of a building wherein services are preformed involving predominantly administrative, professional or clerical operations.

Office trailer means a movable vehicle or structure designed for year round or temporary occupancy for purposed of supervising construction; for business actually engaged in the business of selling manufactured housing, mobile homes and trailers; and as temporary office space for a business during the period in which permanent office space is being constructed.

Open space, common means land within or related to a development which is not individually owned and is designed and intended for the common use or enjoyment of the residents of a development and may include such complementary structures and improvements as are necessary and appropriate.

Outpatient addiction treatment clinic means a program or facility operated for the purpose of and specializing in the care, treatment and/or rehabilitation of persons suffering with addictions, including but not limited to gambling addition, alcohol or controlled substance addictions. The term "outpatient addiction treatment clinic" includes, but is not limited to, substance abuse treatment programs licensed by the State of Maine Department of Behavioral and Developmental Services Office of Substance Abuse. An outpatient addiction treatment clinic shall not be located within 2,000 feet of any property that is occupied by a church, school, family day care home, small day care facility, day care center, or public park or playground on the date of application for a license for such a facility. The term "outpatient addiction treatment clinic" does not include an inpatient or residential addiction treatment program, or a program consisting solely of support group activities without treatment by licensed health practitioners, such as Alcoholics Anonymous, Narcotics Anonymous, and similar programs.

Parapet means a low wall along the edge of a roof or the other portion of a wall that extends above the roof line.

Parking space, off-street, means a rectangular area, not less than nine feet by 18 feet, forming a parking stall within or without a structure, not located in any public right-of-way.

Pedestrian network means an interconnected system of walkways, sidewalks, crosswalks, and pedestrian-oriented infrastructure designed to facilitate safe, efficient, and enjoyable walking experiences.

Performing arts center means a public or private space used to create and present various performing and visual arts. For the purposes of this definition, the term "performing arts center" also includes educational and training uses associated with the various performing and visual arts.

Personal services means the furnishing of labor, time and effort by a person as an independent contractor not involving the delivery of a specific end product.

Place of worship see definition of church.

Planning board means the planning board of the City of Auburn, Maine.

Primary entrance means a section of building elevation which contains the street level principal entrance of the business, including the businesses on upper floors or in a basement.

Principal use means the principal use for which a lot or main building thereon is designed, arranged or intended and for which it is or may be used, occupied or maintained.

Professional office means rooms and/or buildings used for office purposes as the principal use by members of any recognized profession, including doctors, dentists, lawyers, accountants, engineers, architects, veterinarians, etc.

Public safety services means facilities operated by public agencies to provide services relating to the general health, safety, and welfare of the population, including but not limited to fire stations and other fire prevention and firefighting facilities; police and sheriff substations and headquarters; and emergency response services, excluding correctional facility, interim incarceration, lock-up or jail facilities.

Realm, private means the physical and social domain that is considered private by their physical location and visual association being away from public view. This is considered areas behind the front building facade along with side and rear yard areas.

Realm, public means the physical and social domain of the public that is held in common either by their physical presence or visual association. This includes but is not limited to sidewalks, plazas, squares, parks, streets, front yards, civic buildings and civic spaces.

Recreational uses of land means permanent uses of outdoor space which are intended or designed for public use and include but are not limited to ski areas, golf courses (both public and private), driving ranges, horse boarding and riding facilities, miniature golf, paintball, horse and dog racing, snowmobile races, sports field complexes larger than one acre in area, health and wellness centers, motorhome or recreational vehicle parks or commercial campgrounds, and facilities for wedding or event venues when used for two or more events during a calendar year, or facilities for mass gatherings when used for two or more events during a calendar year. See also *major recreational use of land* and *recreational uses of land, small-scale*.

Recreational uses of land, small-scale means permanent uses of outdoor space that are intended or designed for public use that are smaller or lower impact than other types of recreational uses of land, and include, but are not limited to, trails, water access or boat access facilities, foraging, outdoor education or training facilities, sports field complexes one acre or less in area, and public gardens.

Regulating plan means the adopted map that shows the Form Based Code zoning districts, which correspond to the special requirements of the form based code.

Restaurant means an eating place in which food is prepared and vended for immediate consumption on the premises without further preparation by the customer. The takeout of food on an infrequent basis is not prohibited.

Restaurant, carry-out, means an eating place in which all food is vended in disposable containers for consumption on or off premises at the customer's choice; a fast-food restaurant.

Restaurant, drive-in, means an eating place in which the business transacted is conducted by a customer from within his automobile or in which consumption of goods sold normally takes place within the customer's automobile on the establishment's premises.

Retail means a principal use encompassing the sale of commodities or goods in small quantities directly to the consumer. The term "retail" sales does not include sales of professional, financial and governmental services and personal services, including but not limited to a hotel and its accessory uses (restaurants, salons, gift shops, recreational facilities, convention space, etc.).

Retail space means the areas of a building, within a climate controlled environment, devoted to the display of commodities or goods for sale directly to the consumer and including customer sales transaction areas and areas associated with customer access.

Rifle, pistol, skeet or trap shooting range means a rifle, pistol, skeet or trap shooting range operated by an individual or club. Such a range may be opened to the general public or developed for the exclusive use of the individual, or club and invited guests.

Road means any public or private traveled way or any portion thereof.

Roof means the covering for a building which is an integral part of the structure for the purpose primarily of protecting the interior of the building or covering a porch or other similar permanent portion thereof, excluding awnings, stoop coverings, or similar additions which are removable without substantially impairing the original structure.

Sawmill means a unit designed to saw logs into lumber, firewood or other processed wood products.

School means an educational institution offering an academic curriculum; not the teaching of the crafts or a training school offering a program of trade, technical instruction or physical education. (See the term *Training school*.)

Sensitive environmental features mean natural resources including but not limited to wetlands, vernal pools, threatened and endangered species, and wildlife habitat blocks

Shared housing means housing consisting of two or more families occupying a single dwelling and using common cooking facilities. Shared housing shall permit the same number of families at the same density as allowed in the zoning district where the property is located subject to all applicable codes relating to building, housing, life safety, health and zoning as would be applied to independent living units located in the same structure. Approval for shared housing shall be secured from the department of community development and planning subject to the codes and ordinances indicated in this definition, prior to establishing a shared housing arrangement in any building.

Shelter for abused persons means dwelling facilities complying with the laws administered by the state government human services agencies, providing temporary domiciliary arrangements for children and adults unable to protect their own interest and welfare because of critical family circumstances.

Shopping center or office mall means a planned integrated complex of three or more retail stores and/or offices sharing a common structure and developed according to a unified plan. Such uses may include a common pedestrian circulation system and off-street automobile parking facilities.

Sign means any device, display surface, structure or object in public intended for visual communications.

Sign, mobile mounted, means a temporary sign which is mounted or for mounting on wheels or a mobile platform or which is portable.

Sign, official business directional, means any off-premise sign permitted to be erected pursuant to article II of chapter 42.

Sign, on-premises, means any sign that advertises, calls attention to, or indicates the person occupying the premises on which the sign is erected or maintained or the business transacted thereon, or advertises the property itself or any part thereof as for sale or rent, and which contains no other matter.

Sign, standing, means any sign that is not attached to a building.

Sign, temporary, means any movable sign, including its supporting structure, intended to be maintained for not more than 90 days in any calendar year.

Site-built home means a building constructed on-site which is designed to be used as a dwelling on foundations, when connected to the required utilities.

Slaughterhouse (abattoir, dressing plant) means any building, place or establishment in which is conducted the slaughtering of livestock and/or poultry for commercial purposes.

Special exception means a use that would not be appropriate generally or without restriction throughout the district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, order, comfort, convenience, appearance, prosperity, or general welfare. Such a use

may be permitted in such district as a special exception, if specific provision for such special exception is made in this zoning chapter and reasonable restrictions imposed by the planning board are complied with.

Specialty shop means a retail business offering products of a similar kind and nature designed for a particular use, purpose or occasion and distinguished from a store offering the same type of product together with other products of a nonhomogeneous quality.

Stable, riding, means any building or structure used or designed for boarding, breeding or care of horses, other than horses used for farming or agricultural purposes.

Standing means a person who holds title, right or interest in a property which may include a written option, contract to purchase the property or a leasehold interest or may be a person who can show how his actual use or enjoyment of property will be adversely affected by the proposed decision as an abutter as defined in section 60-1473.

Story means that portion of a building between the surface of any floor and the surface of the other floor or roof next above it, but not including the lowest portion so contained if more than one-half of such portion vertically is below the mean finished grade of the ground adjoining such building unless such space is used for business or as habitable space, in which case it shall count as a story.

Story, half, means a story under the gable, hip or gambrel roof, the plates of which on at least two opposite exterior walls are more than two feet above the floor of such story.

Street means the following:

- (1) A public way laid out and established by the state, county commissioners of the County of Androscoggin;
- (2) A way accepted by the municipal officers of the city;
- (3) A way as to which a petition for improvements has been allowed under the provisions of this chapter for which the cost of the improvements has been provided for by the developer in either a cash amount or as provided for in this chapter; or
- (4) A way on a plan of a subdivision duly approved by the planning board.

Street frontage. See the term *Frontage*.

Street line means a line defining the edge of a street right-of-way separating the street from abutting property or lots.

Street, primary means the street that is considered to be more intensely used than the other on a corner or double sided lot.

Street, secondary means the street that is considered to be less intense to the other on a corner or double sided lot.

Street system, local means the interconnected system of collector and local streets providing access to a development from an arterial street.

Structure of community significance means a building that by virtue of its historic, social, cultural or economic contribution to the community, as determined by the planning board, is entitled to a special exception allowing its adaptive reuse. The planning board may consider a building's age, as well as any evidence of its role in the historic, social cultural, or economic history of the community, in determining whether a building qualifies for this designation.

Structure or building means a combination of materials to form a construction that is safe and stable including, among other things: stadia, reviewing stands, platforms, automobile parking garages, stagings, windmills, observation towers, trestles, sheds, coal bins, shelters and display signs, but not fences of any kind.

Subdivision means a division of land or creation of dwelling units as defined in 30-A M.R.S.A. § 4401.

Summer camps means seasonal dwelling units intended for and actually used for single-family dwellings only during the months of May, June, July, August, September and October or weekends or other periods of vacations not exceeding 30 days.

Supermarket means a retail establishment having an interior selling space of 3,000 square feet or more where general food supplies for the table and other articles of household use are offered for sale.

Swimming pool means any manmade receptacle or excavation housing a surface area of 250 square feet, or more, designed to hold water to a depth of at least 24 inches, primarily for swimming or bathing whether in the ground or above the ground.

Theater, indoor, means a building designed and/or used primarily for the commercial exhibition of motion pictures or plays to the general public.

Theater, outdoor, includes only those areas, buildings or structures designed and used for the commercial outdoor exhibition of motion pictures to passengers in parked motor vehicles.

Tourist home. See the term *Bed and breakfast home*.

Townhouse means a single-family dwelling unit that is one of two or more residential buildings having a common or party wall separating the units.

Trailer or RV means any vehicle or structure, except a device exclusively used upon stationary rails or tracks, mounted on wheels for use on highways and streets; propelled or drawn by its own or other motor power; and designed and constructed to provide living and/or sleeping quarters for one or more persons or for the conduct of a business, profession, trade or occupation for use as a selling or advertising device. If the wheels of a trailer are removed, except for repairs, it is deemed a building subject to all the regulations thereof. A trailer shall not be considered an accessory building.

Trailer home means a travel trailer, camping trailer or other similar vehicle capable of being hauled by a passenger automobile or light truck and designed primarily for temporary occupancy for recreational purposes or other seasonal use. A trailer home shall not be considered an accessory building.

Training school means a public or private school or training institution which offers a training program of trade, technical instruction, or physical education. A training school shall not be deemed a home occupation.

Transect (rural-to-urban) means a cross-section of the environment showing a range of different building development zones. The rural-to-urban transect of the human environment is divided into multiple transect zones that describe the physical form and character of a place according to the intensity of its land use and building development pattern.

Transmission towers means a structure that has the sole purpose of transmitting radio, television, cellular telephone or telephone waves from one location to another.

Useable open space means open or green space that is accessible for the use and enjoyment of residents, shall not be steep sloped (over ten percent slope), shall not include wetlands, parking or required buffer areas, and may include any required yard area or open areas for play.

Variance means a relaxation of the terms of the zoning ordinance 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 the ordinance would result in unnecessary and undue hardship. The term "variance" is authorized for only dimensional and supplemental regulations. Establishment of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the district or adjoining districts.

Wayside stand means a structure designed, arranged or used for the display and sale of agricultural products primarily grown or produced on the premises upon which such stand is located. A wayside stand may be located on premises that the products are not grown upon provided such premises is owned by the grower.

Wholesale means sales chiefly to retailers, other merchants, industrial and/or commercial users mainly for resale or business use.

Yard means a required open space on a lot unoccupied and unobstructed by any principal structure or portion of a principal structure.

Yard, front, means the open space extending across the full width of lot between the front lot line and nearest line of the principal building or any enclosed portion thereof. The depth of such yard shall be the shortest horizontal distance between the front lot line and the nearest point of the building or any enclosed portion thereof.

Yard, rear, means the open space extending across the full width of lot between the rear line of the lot and the nearest line of the building or any enclosed portion thereof. The depth of such yard is the shortest horizontal distance between the rear lot line and the nearest point of the building. When the rear lot line is less than ten feet long or if the lot comes to a point at the rear, the depth of the rear yard is measured to an assumed rear lot line as follows, the lot line generally opposite or parallel to the front lot line, except in a through lot. If the rear lot line is less than ten feet long or the lot comes to a point at the rear, said rear lot line is assumed to be a line not less than 20 feet long, lying wholly within the lot, parallel to the front lot line, or in the case of a curved front lot line, parallel to the chord of the arc of said lot line.

Yard, side, means the open space between the side lot line, the side street line, or the proposed side street line and the principal buildings, or any portion thereof, extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front lot line and/or rear lot line. The width of a side yard shall be the shortest distance between the side lot line and the nearest point of the principal building or any portion thereof.

Zone. See the term *District*.

(Ord. of 9-21-2009, § 2.2; Ord. No. 13-09062011-05, 9-6-2011; Ord. No. 12-09062011-04, 9-19-2011; Ord. No. 04-03072016, 5-16-2016; Ord. No. 11-11072016, 11-21-2016; Ord. No. 05-04032017, § 1, 4-24-2017; Ord. No. 08-08072017, 9-11-2017; Ord. No. 13-11062017, 11-20-2017; Ord. No. 16-11182019, 12-9-2019; Ord. No. 11-03012021, 3-15-2021; Ord. No. 02-02132023, 2-17-2023; Ord. No. 04-04182023, 5-1-2023; Ord. No. 10-06202023, 7-10-2023; Ord. No. 22-10162023, 11-6-2023; Ord. No. 23-12022024, 1-6-2025)

ARTICLE II. GENERAL PROVISIONS

Sec. 60-33. Permitted uses.

In the zoning districts specified in this article and in article XII of this chapter, the designated buildings and alterations and extensions thereof and buildings accessory thereto and the designated uses of land, of buildings and of parts of land or buildings and the uses accessory thereto are permitted. Except as provided in this article, all other buildings and uses of land or of buildings are hereby expressly prohibited, except those already lawfully existing which by the operation of this provision would hereby become lawfully nonconforming.

(Ord. of 9-21-2009, § 3.1A)

Sec. 60-34. Buildings per lot.

More than one principal building may be erected on any lot provided that:

No more than one principal building shall be erected on any lot in residential zoning districts except for:

- (1) Multi-family buildings and/or developments approved under division 9 of article IV of this chapter;
 - (2) The addition of an accessory dwelling unit in a zoning district where two family dwelling units are permitted, and a single family dwelling currently exists on the lot;
 - (3) Four dwelling units may be constructed on vacant lots in the growth area as delineated in the future land use map in the most recent comprehensive plan and must be permissible in compliance with state law and in accordance with sections 60-53 and 60-54. For the purpose of this subsection, a vacant lot upon which a new dwelling unit was permitted in 2024 shall be considered a vacant lot for the purpose of calculating the total number of permissible dwelling units that may be constructed on the lot;
 - (4) A lot in the growth area as delineated in the future land use map in the most recent comprehensive plan with an existing dwelling unit may add one attached dwelling unit, one detached dwelling unit, or one of each for a total of three dwelling units and must be permissible in compliance with state law and in accordance with sections 60-53 and 60-54;
 - (5) Lots in the designated growth areas that are zoned urban residential, suburban residential, rural residential, and low density country residential shall contain no more than two dwelling units per building;
- (1) The lot has the available buildable land area for more than one dwelling in accordance with the applicable Zoning District or overlay;
 - (2) In all Zoning Districts, a minimum distance of 10 feet shall be required between primary structures. Any structures sharing party walls are not subject to this distance requirement;
 - (3) The additional buildings shall share a driveway curb cut or access to the public street through an internal street with the pre-existing building unless it is determined that another driveway location could provide safer access than the existing driveway or street;

~~The additional one-family detached dwelling unit shall share a driveway curb cut with the pre-existing dwelling unless it is determined that another driveway location could provide safer access than the existing driveway.~~

(Ord. of 9-21-2009, § 3.1B; Ord. No. 11-03012021, § 1, 3-15-2021; Ord. No. 18-04052021, 5-3-2021; Ord. No. 23-12022024, 1-6-2025)

Sec. 60-35. Conversion of one-family dwellings.

In all residential, general business, and form based code districts, existing one-family dwellings ~~erected prior to January 1, 1958,~~ may be converted to two-family dwellings or multi-family dwellings provided that:

- ~~(1) Any floor space created by additions to the existing structure after January 1, 1958, shall not be converted to a second dwelling.~~
- ~~(2) There will not be less than one accessible off street parking place of 200 square feet in area, exclusive of driveways, per dwelling unit resulting from such conversion.~~
- ~~(3) Stairways leading to any floor above the first floor will be enclosed within the exterior walls of the dwelling and any fire escapes required will be on the rear or one side of the dwelling and not on any wall facing a street.~~
- (4) Within the SR, UR, MFS, LDCR, RR, and AG Districts, aAfter such conversion, the building converted will retain substantially the appearance and character of a one-family dwelling and have following additional restrictions:

The structure shall have only one entrance facing a frontage.

Stairways leading to any floor above the first floor will be enclosed within the exterior walls of the dwelling, and

Any fire escapes required will be on the rear or one side of the structure and not on any wall facing a street.

- ~~(5) Single family dwellings may be converted into two or multi-family buildings if located in the growth area as delineated in the future land use map of the most recent comprehensive plan and pursuant to sections 60-53 and 60-54.~~

- ~~(6) Lots in the designated growth areas that are zoned urban residential, suburban residential, rural residential, and low-density country residential shall contain no more than two dwelling units per building.~~

The lot remains compliant with the dwelling unit density requirements and maximums of the Zoning District or applicable overlay.

(Ord. of 9-21-2009, § 3.1C; Ord. No. 04-03072016, 5-16-2016; Ord. No. 23-12022024, 1-6-2025)

Sec. 60-36. Lots in more than one jurisdiction.

When a lot in one ownership lies in more than one jurisdiction, the whole lot shall be considered for density and lot dimension purposes in the same manner as if the entire lot were situated in the city. Any site plan or special exception review of the use or development of the lot in the city, however, shall be limited to that portion that lies within the city's jurisdiction only.

(Ord. of 9-21-2009, § 3.1D)

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Sec. 60-37. Minimum lot area determined.

In determining the minimum area of lot required in any zoning district, any land within the lines of the street upon which such lot abuts shall not be included, even if the fee to such street is in the owner of the lot with the following exception: If a lot at a street corner is bounded in part by a curved exterior street line not more than 80 feet in length connecting other exterior street lines bounding such lot which, if extended, would intersect, the area required in such lot shall be computed as if said line were extended. If such curved line is more than 80 feet in length, the minimum area required in such lot shall be measured and computed entirely within the lines bounding such lot.

(Ord. of 9-21-2009, § 3.1E)

Sec. 60-38. Nonconforming lots.

- (a) Abutting undeveloped nonconforming lots under one ownership shall be considered as one lot and shall not again be divided without full compliance of the standards of this ordinance.
- (b) Abutting nonconforming lots under one ownership or joint ownership shall be considered as one lot. Such a lot may be divided provided that:
 - (1) One or more of the lots has been developed.
 - (2) The lots were purchased by separate deed.
 - (3) The lots are divided along the historical lot dimensions.
 - (4) All dimensional regulations are maintained.
- (c) An abutting conforming and nonconforming lot under one ownership, or joint ownership shall be considered as one lot. Such a lot may be divided provided that:
 - (1) The lots are divided along the historical lot dimensions.
 - (2) The conforming lot is not reduced in any manner that violates any provision of this chapter.
 - (3) All dimensional regulations are maintained.

(Ord. of 9-21-2009, § 3.1F)

Sec. 60-39. Lot area, width and depth exception.

The lot area (except as otherwise may be required), lot width and lot depth requirements of this chapter shall not apply to any lot which was lawfully laid out in conformance with zoning regulations in effect at the time of lot creation and duly recorded by plan or deed.

(Ord. of 9-21-2009, § 3.1G)

Sec. 60-40. Reduction in dimensional regulations.

No lot (except as allowed by the planning board at the time of final approval of a subdivision or development plan) shall be reduced, subdivided, conveyed, divided or otherwise transferred that violates, or creates a lot that violates, any minimum or maximum dimensional regulation of this chapter. No building permit or other municipal permit or license shall be issued to any of the land so transferred or to the land retained until all of such land or lots are in conformance with all dimensional regulations. If a serious health or safety issue with the property

should arise, the director of planning and permitting services shall determine if a permit should be issued to correct the problem. This provision shall not allow further nonconformity to occur in order to achieve the corrective action necessary. Any land taken by eminent domain or conveyed for a public purpose shall not be deemed in violation of this provision. Any setback or lot that is reduced below the minimum or extended beyond the dimensional requirements as a result of land taken by eminent domain or conveyed for a public purpose shall not be deemed nonconforming. Setbacks for the enlargement of any existing building located on such a lot shall be referenced to the property line as it was located prior to the eminent domain action or the conveyance for a public purpose.

(Ord. of 9-21-2009, § 3.1H; Ord. No. 04-03072016, 5-16-2016)

Sec. 60-41. Lot of record.

Where used in this article, the term "lot" means "lot of record" as defined in sections 60-1 and 60-2.

(Ord. of 9-21-2009, § 3.1I)

~~Sec. 60-42. Unsewered lots.~~

~~The minimum lot sizes specified in this chapter for residential districts are for lots having sanitary sewer service. No unsewered lots having an area less than 20,000 square feet shall be developed for residential dwelling purposes. This regulation does not reduce lot size requirements in residential districts having larger minimum lot sizes.~~

~~(Ord. of 9-21-2009, § 3.1J)~~

Sec. 60-43. Residential accessory buildings, uses, and structures.

- (a) Accessory buildings of 120 square feet and ten feet or less in height will have a zero rear and side setback. The front yard setback shall be maintained.
- (b) Accessory buildings greater than 120 square feet shall have rear and side yard setbacks that are 50 percent of the requirement for principal buildings, except that in no case shall the setbacks be reduced to less than five feet. The front yard setback shall be maintained.
- (c) A deck that is no greater than 30 inches high shall be allowed a zero rear and side setback provided that the deck is no closer than 15 feet to a neighboring principal building. All decks that are higher than 30 inches shall meet the requirements of subsection (b) of this section.
- (d) A deck that attaches a principal building to an accessory building shall be allowed and shall not be deemed to cause the accessory building to be nonconforming. Such decks shall meet all other requirements as found in this section.
- (e) The maximum first floor space of accessory buildings on lots under two acres is 1,000 square feet. On lots of over two acres, there is no maximum size.

(Ord. of 9-21-2009, § 3.1K; Ord. No. 30-01182011-02, 1-18-2011)

Sec. 60-44. Conflicts.

In any case where there is a conflict with another ordinance the more stringent standard shall apply.

(Ord. of 9-21-2009, § 3.1L)

Sec. 60-45. Site plan/special exception review.

- (a) Projects requiring site plan review shall be reviewed by the planning board in accordance with divisions 2 and 3 of article XVI of this chapter and according to the standards and criteria contained therein. No project requiring site plan review shall be expanded, extended or enlarged so as to occupy additional land area greater than ten percent of the original area or one-half acre, whichever is less; or by the construction of a structure or an addition to an existing structure by more than ten percent of additional floor space unless approval has been secured from the planning board in the manner provided in this section. A reduction in the scope of the project, except for land area, does not have to be reviewed by the planning board provided that an amended plan is submitted to the planning department to determine that all other land use provisions are satisfied.
- (b) The expansion, extension or enlargement of uses or buildings which are less than described subsection (a) of this section, shall be reviewed and approved by the planning department using the criteria of divisions 2 and 3 of article XVI of this chapter.
- (c) If an applicant disagrees with the review of the planning department, the planning board upon the written request of the applicant, shall conduct an administrative review of the planning staff's decision.
- (d) Permitted uses subject to special exception review pursuant to sections 60-499(b)(17), 60-525(b)(14), and 60-578(b)(35), which are to be located in a commercial or industrial subdivision which has been duly approved by the city planning board shall not be required to be reviewed and approved by the planning board in accordance with division 3 of article XVI of this chapter unless, in the determination of the municipal officer charged with enforcement, the project contains elements that deserve a full review by the planning board. In making such a determination, the municipal officer shall take into account the planning board's initial review of the subdivision, including but not limited to such issues as traffic, drainage, infrastructure improvements, availability of water and sewer, fire protection and the impact on the environment.
- (e) The permitted uses which have been exempted from special exception review and located in duly approved commercial or industrial subdivisions shall be processed by administrative review by the planning department in accordance with division 3 of article XVI of this chapter. Such uses shall also be subject to all city ordinances as would be required for review of special exceptions.
- (f) The planning board shall be notified of all action taken, or approvals granted, by the municipal officer pursuant to this section.
- (g) The city finds that a major retail development can have a significant impact on the immediate and surrounding areas and accordingly requires a determination by the city planning board of consistency with the adopted comprehensive plan in addition to the review and approval process of site plan/special exception review and other state and/or municipal permitting. A request for a determination of consistency shall be submitted to the department of planning and code enforcement a minimum of 15 days prior to this item being placed on the planning board agenda for action. Action on the request for a determination of consistency shall be made a minimum of one regularly scheduled meeting prior to the planning board meeting at which the project is to be reviewed. Notice for the consideration of a request for a determination of consistency shall conform to the requirements found in section 60-1474, and must state that the determination of consistency is being sought for a major retail development.

(Ord. of 9-21-2009, § 3.1M; Ord. No. 11-03012021, § 2, 3-15-2021)

Sec. 60-46. Home occupation.

The establishment of a home occupation shall be permitted in all residential zoning districts provided the use is consistent with the definition of home occupation and approval is secured from the department of community development and planning in accordance with article IX of this chapter.

(Ord. of 9-21-2009, § 3.1N)

Sec. 60-47. Corner lots.

There shall be a front yard along the street line as provided for under yard requirements, front in the district where located. All other yards shall be considered as side yards and measured as provided for under yard requirements, side in the district where located. On corner lots within the form based code districts, there shall be a primary street front yard and a secondary street front yard with minimum and maximum building setback requirements. The yard opposite from the primary street shall be considered the rear yard while the yard opposite the secondary street shall be considered the side yard.

(Ord. of 9-21-2009, § 3.1O; Ord. No. 04-03072016, 5-16-2016; Ord. No. 11-03012021, § 57, 3-15-2021)

Sec. 60-48. Public utilities.

The use of property by a public utility for the transmission of water, electricity, telephone or gas by pipes, poles, wires, lines, conduits, cables or other devices is permitted in all zoning districts.

(Ord. of 9-21-2009, § 3.1P)

Sec. 60-49. Railroads.

Railroad tracks, spurs, yards, crossings and structures existing as of the date of the enactment of this provision are permitted. The expansion, extension or enlargement of these facilities and the introduction of new facilities shall be reviewed and approved by the planning board in accordance with division 2 of article XVI of the chapter and according to the standards and criteria contained therein. Railroads shall be allowed in all zoning districts.

(Ord. of 9-21-2009, § 3.1Q)

Sec. 60-50. Accessways to land zoned commercial or industrial.

Accessways over land zoned residential to parcels of land situated in commercial or industrial districts shall be allowed upon approval of a site plan reviewed by the planning department in accordance with division 2 of article XVI of the chapter and further provided that:

- (1) Access to a public street that does not require using land zoned as residential is reasonably available. Such access shall be used.
- (2) The accessway and the building shall be screened from adjacent residential lots or uses as provided for by section 60-579(3)g.
- (3) The street onto which access will be gained is adequate to carry the projected volumes of traffic. This shall be determined by a traffic study as provided for by chapter 52, pertaining to traffic and vehicles.

- (4) Accessways shall be designed in accordance with the standards for industrial/commercial streets as provided for by chapter 52, pertaining to traffic and vehicles.
- (5) Title to the land used for access will be retained by the owner of the land zoned for commercial or industrial use to which access is provided.

(Ord. of 9-21-2009, § 3.1R)

Sec. 60-51. Mass gatherings.

The use of property for a mass gathering as defined and regulated by article IX of chapter 14 is permitted in all zoning districts.

(Ord. of 9-21-2009, § 3.1S; Ord. No. 11-03012021, § 3, 3-15-2021)

Sec. 60-52. Adult day centers and child day care centers.

Adult day care centers and child day care centers proposed to be operated in a church, school or municipally owned building or recreation facility shall not be required to be reviewed and approved by the city planning board as a special exception. Such uses shall be processed by administrative review by the planning department in accordance with division 3 of article XVI of this chapter. The planning board shall be notified of any project approved by the planning department.

(Ord. of 9-21-2009, § 3.1T)

Secs. 60-53. Additional dwellings permitted to increase housing opportunity.

More than one dwelling unit may be erected on a single lot provided that the minimum dimensional and building placement requirements, excluding lot width and depth, shall be met for each additional dwelling unit.

Additional dwelling units allowed under this section are subject to more stringent lot size requirements per unit if located in an applicable Overlay.

~~Additional dwelling units must be permissible on certain parcels in the City of Auburn pursuant to section 60-34. This table specifies the additional lot area needed for additional units in each zoning district as well as permissible accessory dwelling units. Setback standards shall not be reduced to allow for additional dwelling units and shall not be increased for subsequent dwelling units. Additional dwelling units allowed under this section are prohibited in the Lake Auburn Watershed Overlay District where the underlying zoning district is agriculture and resource protection. Additional dwelling units allowed under this section are subject to more stringent lot size requirements per unit if located in the Taylor Pond Watershed.~~

Zoning District	Minimum lot area (per unit)	Minimum lot width (per unit)	Accessory Dwelling Unit
Agriculture & Resource Protection	10 acres	250 feet	Permitted if unit meets requirements for single family home in Article IV, Division 2 of this Chapter*.
Low Density Country Residence	3 acres for the first unit with accessory dwelling unit. 3 acres for each subsequent unit.	325 feet for the first unit. No width is required for subsequent units.	Permitted

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(Supp. No. 34)

Low Density Rural Residence	1 acre for the first unit with accessory dwelling unit. 1 acre for each subsequent unit.	250 feet for the first unit. No additional width is required for subsequent units.	Permitted
Suburban Residence	21,780 square feet for the first unit with accessory dwelling unit. 21,780 square feet for each subsequent unit.	150 feet for the first unit. No additional width is required for subsequent units.	Permitted
Urban Residence	10,000 square feet for the first unit with accessory dwelling unit. 10,000 additional square feet per unit for each subsequent unit.	100 feet for the first unit. No additional width is required for subsequent units.	Permitted
Multifamily Suburban	10,000 square feet minimum.	100 feet for the first unit. No additional width is required for subsequent units.	Permitted
General Business	10,000 square feet minimum.	100 feet for the first unit. No additional width is required for subsequent units.	Permitted
General Business II	10,000 square feet minimum.	100 feet for the first unit. No additional width is required for subsequent units.	Permitted
Form Based Code	No minimum lot size. See Ch. 60, Article IV, Division 14	24 feet minimum width. See Ch. 60, Article IV, Division 14	Permitted
Industrial	Housing only permitted as accessory buildings for caretakers (see Sec. 60-578)	150 feet	Permitted for legally existing residential dwellings built before January 1, 2024.
Lake Auburn Watershed Overlay District	Please refer to the underlying zone and CH. 60 Article XII Division 4. Sec. 60-950	Please refer to the underlying zone and CH. 60 Article XII Division 4.	Permitted subject to Lake Auburn Watershed Overlay District accessory dwelling unit allowances.
Taylor Pond Watershed	Minimum lot size in the underlying zone for the first unit with accessory dwelling unit. Minimum lot size is required for each additional unit.	Minimum width required in the underlying zone. No additional width required for subsequent units.	Permitted

~~* Does not apply if within the Lake Auburn Watershed Overlay District.~~

(Ord. No. 23-12022024, 1-6-2025)

Secs. 60-54. Affordable housing density bonus.

For an affordable housing development, a density bonus of two and one-half times the maximum number of dwelling units permitted in the underlying zone shall be permitted where water and sewer service are available, and the development is in the growth area as delineated in the future land use map in Auburn's latest comprehensive plan. Off-street parking requirements may not exceed two spaces for every three units.

(Ord. No. 23-12022024, 1-6-2025)

Secs. 60-55. Affordable housing height bonus.

For an affordable housing development, a height bonus of 14 feet above the maximum height permitted in the underlying zone shall be permitted where water and sewer service are available, and the development is in the growth area as delineated in the future land use map in Auburn's latest comprehensive plan.

Sec. 60-56. Accessory Dwelling Units.

An Accessory Dwelling Unit shall be allowed on any lot having or permitting a residential use provided that:

- (1) The first accessory dwelling unit is exempt from the calculation of density for the lot, parcel, or tract upon which it is located.
- (2) Subsequent dwelling units shall not be considered an accessory dwelling unit.
- (3) All lot line setback requirements for accessory dwelling units are the same as other accessory structures for the zoning district in which the lot, parcel, or tract is located.
- (4) An accessory dwelling unit shall be allowed on a lot that is nonconforming which contains a dwelling if the accessory dwelling unit does not increase the nonconformity of the lot.
- (5) Fire suppression sprinklers shall be required for accessory dwelling units within or attached to a structure of more than two (2) dwelling units.
- (6) The construction of the accessory dwelling unit is preceded by the construction of a primary dwelling(s) on the lot.
- (7) An accessory dwelling unit shall not be subject to any additional motor vehicle parking requirements beyond the parking requirements of the single-family dwelling unit or multi-unit residential structure on the lot where the accessory dwelling unit is located.

Sec. 60-57. Adequate Water and Sewer Facilities.

An owner of a proposed dwelling unit shall provide written verification to the City of Auburn that each proposed structure is to be serviced by adequate water and wastewater services prior to certification of the development for occupancy or similar type of approval process. The following shall constitute as written verification:

- (1) If a dwelling unit is connected to a public, special district or other comparable sewer system, written verification includes proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system.
- (2) If a dwelling unit is connected to a septic system, written verification includes proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector pursuant to 30-A M.R.S. § 4221. Plans for a subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with 10-144 C.M.R. Ch. 241, Subsurface Wastewater Disposal Rules
- (3) If a dwelling unit is connected to a public, special district or other centrally managed water system, written verification includes proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit.

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(4) If a dwelling unit is connected to a well, written verification includes proof of access to potable water, including the standards outlined in 01-672 C.M.R. Ch. 10 section 10.25(J), Land Use Districts and Standards. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

Secs. 60-55—60-77. Reserved.

Sec. 60-55. Blocks.

- (a) All developable land within a proposed development must be divided into blocks, except land consisting only of infrastructure or recreational corridors, sensitive environmental features, land used for agriculture, land directly abutting an interstate highway, and State roadways where access is limited.
- (b) Block perimeters shall be marked by streets or rights-of-way.
- (c) Block perimeters are limited to 1600 feet in length, except that blocks containing only industrial structures, civic space, or open space may exceed this limit. The length of any individual side of a block shall not exceed 500 feet in length.
- (d) In blocks perimeters exceeding 1600 feet in length, the Board shall require the reservation of a twenty-foot-wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic and shall require a paved six-foot-wide paved footpath be included. The Board shall require the developer to provide for the proper maintenance of any such easement.
- (e) A proposed development shall provide multiple direct connections in its local street system to and between local destinations, such as parks, schools, and shopping, without requiring the use of arterial streets. Each development shall incorporate and continue all collector or local streets stubbed to the boundary of the development plan by previously approved but unbuilt development or existing development.
- (f) To ensure future street connections to adjacent developable parcels, a proposed development shall provide a local street connection spaced at intervals not to exceed 660 feet along each boundary that abuts potentially developable or redevelopable land.
- (g) The following types of development are exempt from the requirements of 60-55(a) – (d), above:
 - 1. An existing lot with less than 5 acres and will or currently has a total of less than 10 dwellings.
 - 2. An existing developed lot seeking to construct accessory structures,
 - 3. An existing undeveloped lot seeking to construct a single building having a footprint of less than 3000 square feet.
 - 4. A proposed development located outside the designated growth area which will provide a local street system with a connectivity index greater than 1.~~42~~
 - 5. Buildings constructed solely for agricultural or industrial purposes on lots greater than 5 acres. This exemption shall not be construed to apply to residential or other types of development, even if occurring on land primarily devoted to agricultural or industrial purposes.
- (h) Notwithstanding the foregoing, the performance standards contained in subsections (a)-(d) of this section may be waived by the Planning Board upon a finding that the property to be developed is unsuitable for block-style design as otherwise required. In the instance a waiver is granted, the planning board may require conditions, such as a required connectivity index above 1.4, which increase connectivity of the proposed development.
- (i) An exempted subdivision, per 60-55(g), located within the growth area shall provide a pedestrian path uninterrupted by vehicle traffic. All structures containing dwellings shall have an entrance oriented toward this pedestrian path.

Sec. 60-56. Walkability Standards.

- (a) drive-through facilities shall be prohibited in the T-6, T-5.1, T-5.2, T-4.1, T-4.2, T-4.2B, MFS, and UR zoning districts

Sec. 60-1366. Approvals and waivers.

- (a) Where plans need to be modified after planning board approval due to changes beyond the developer's control, the director of planning and permitting or their designee will have the authority to approve any amendments that the director of planning and permitting or their designee feels may be approved without detriment to the health, safety and welfare of the community. If the director of planning and permitting or their designee feels the amendments must go back to the planning board the subdivision approval process must be followed.
- (1) A paper copy of the plan shall be submitted to the director of planning and permitting or their designee marked with all proposed changes in red ink. An accompanying letter shall also be attached requesting all changes.
 - (2) The director of planning and permitting or their designee shall circulate the plan to the proper departments for review.
 - (3) Once all review has been completed, the director of planning and permitting or their designee shall write a letter to the developer explaining how to proceed with the proposed amendments.
- (b) If the director of planning and permitting or their designee determines the amendments must go back to the planning board, the subdivision approval process must be followed.
- (c) Where planning board finds that extraordinary, unnecessary and financial hardships may result from strict compliance with the standards of a particular plan, it may vary these standards so that substantial justice may be done and the public interest secured; provided that such variations will not have the effect of nullifying the intent and purpose of the official map, the comprehensive plan or the zoning ordinance. Any variances or waivers granted by the planning board must be noted on the face of the recording plat.
- (d) Where the planning board finds that, due to special circumstances of a particular plan, provisions of certain required improvements are not requisite in the interest of public health, safety and welfare or are inappropriate because of inadequacy of lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements, subject to appropriate conditions.
- (e) If the Board determines that the reservation of land for parks and/or recreational purposes would be inappropriate, the Board may waive the requirement of land reservation upon making findings that such a waiver complies with sections 60-1367(f) through (o) and the following requirements:
- (1) The Planning Board finds that there is no suitable location for open space on the parcel or the subdivision is located within ¼ mile walk of public active recreation space of a size of two acres or more, which can be safely accessed by existing pedestrian ways or paths from the proposed buildings within the subdivision.
 - (2) This determination shall be based on the topographic features of the lot, size and quality of nearby public open space, and shall not take into account the proposed lot configuration by the subdivider.
 - (3) Upon waiving the requirement of land reservation, and in lieu of providing such reserved open space, the subdivider (applicant) shall deposit a cash payment equal to the current assessed land value, at the time of approval, of the portion of land required to be reserved in lieu of land reservation with the City Clerk in accordance with the provisions of 60-1367.(e).

Commented [DB1]: Want only to waive open space if consistent

Commented [DB2]: Need feedback on which is more legally appropriate 60-1367(e)

(Ord. of 9-21-2009, § 7.3H; Ord. No. 24-05032021, 5-17-2021)

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(Supp. No. 34)

Sec. 60-1367. Recreation area/open space standards.

(a) ~~(a)~~ Every developer of a ~~single family residential~~ subdivision shall include as part of a subdivision proposal a provision for recreational and open space which is adequate to meet the reasonably foreseeable needs of the residents of the subdivision. The standard established by the city to satisfy this purpose is an area of not less than ~~43,560 contiguous square feet or one acre of land for the first ten lots or units. The amount of land required is increased at a rate of 5,000 square feet per unit for each unit over ten units.~~ 10 percent of the total gross area of the parcel to be subdivided. Within all zones except ID, open space shall be active recreation open space. Within the AG, LDCR, or RR zoning districts, active recreation open space may be substituted for passive recreation open space if the land is of a character described in 60-1367(d)(2). The standard noted in section 60-1365 shall be used as a guideline by the planning board ~~and may be varied for low impact developments.~~

Commented [DB3]: Open space is just as important for commercial development

(b) The following standards apply to the design, form, and function of any required open spaces:

- (1) ~~Reserved Open Space shall be easily accessible by pedestrian traffic from all lots within the subdivision.~~
- (2) ~~*Open space shall be located within 800 feet walking distance of all dwelling or non-residential building entrances within the proposed subdivision.~~
- (3) ~~Land reserved for park and/or recreational purposes shall be of a character, configuration, and location suitable for the particular use intended.~~
- (4) ~~Where the proposed subdivision is located on a lake, pond, river, or stream a portion of the waterfront area, when feasible, shall be included in the reserved land. The land so reserved shall be at least 200 feet wide, measured perpendicularly from the normal high-water mark~~

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(c) The following Standards apply to the design, form and function of active recreation open spaces:

- (1) ~~A site to be used for active recreation purposes, such as a playground, community gardens, or a playfield, shall be relatively level and dry.~~
- (2) ~~Active recreation open spaces shall include sufficient recreational amenities to support residents or patrons within the development.~~
- (3) ~~Active recreation open spaces shall have a total contiguous frontage on one or more streets of at least 50 feet or the smallest amount of required minimum lot width, whichever is greater.~~
- (4) ~~Active recreation open spaces shall have no major dimensions more than a ratio of length to width of 3:1 and a maximum width of 300 feet. This provision shall not apply to pedestrian alleys.~~
- (5) ~~If proposing multiple open spaces, the design of such areas shall be for the benefit of the residents rather than the accommodation of a proposed lot configuration. Multiple open spaces shall be in a form of interconnected series of open spaces.~~
- (6) ~~The area of porches may be used to satisfy active recreation requirements if affronting and within 15 feet of a street or trail, are open on at least one side, have a width of at least 8 feet from the face of the structure, and are within 20 feet of another porch.~~
- (7) ~~The area of pedestrian alleys may be used to satisfy active recreation requirements. A pedestrian alley shall be subject to the following minimum standards:~~
 - i. ~~a minimum width of 20 feet,~~
 - ii. ~~an enclosure ratio between 1:1 to 1:3,~~
 - iii. ~~seating provided at a maximum distance of 300 feet along the alley.~~

Commented [DB4]: Except for Pedestrian Alleys,

iv. ~~and does not allow regular vehicle traffic.~~

~~(8) The length of Active Recreation open space shall be bordered on at least two sides by dwellings or regularly used buildings.~~

~~(9) Abutting dwellings or structures shall have dwellings oriented towards the open space.~~

~~(10) Seating shall be provided every 300 linear feet around the perimeter of the open space.~~

(d) The following Standards apply to the design, form and function of passive recreation open spaces:

~~(1) Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and shall have no less than 200 feet of road frontage.~~

~~(2) The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes to be preserved, together with sufficient areas for trails, lookouts, etc., where necessary and appropriate.~~

~~(3) Trails may be used to satisfy a maximum of 25 percent of the total required passive open space under the following conditions:~~

~~i. Only the width of the trail shall be counted towards required open space.~~

~~ii. Trails shall have a width of at least 10 feet and have a destination to an active recreation area of at least 1 acre. Trails connecting to other trails offsite may be counted if the ultimate destination is an active recreation area of at least 1 acre in size.~~

~~iii. Where feasible shall connect within existing trail networks and to existing active and passive open space recreation areas~~

~~iv. Trails functioning primarily for standard transportation, such as bordering a right-of-way, are excluded from recreational open space quotas~~

~~(e) (b)~~—In any case in which the developer chooses to develop in total or in part land area that could be used to satisfy the recreational land dedication for units/house lots of it is not feasible to dedicate rights and land to meet the requirements due to topography, location or other limiting factors or if the developer can satisfy the planning board that a dedication of land is not required for recreational and open space needs, the developer may contribute to the city, ~~or to a condominium or homeowners' association,~~ a fee-in-lieu amount in cash which is essentially equivalent to the value which such dedicated land rights in the area where the proposed subdivision is located would have had. This fee will be capped at and based on the average market value of similarly zoned land in the immediate area of the proposed development at the time of final subdivision approval as determined by the city tax assessor.

~~(f) (c)~~—In reviewing the ~~amount of money requested~~ ~~requested waiver of open space requirements~~, the board shall review the adequacy of existing facilities available to the inhabitants of the subdivision, improvements that may be needed by the existing facilities to make them adequate for the additional impact being created by the added units and any other factors which may influence the need for land dedication for a fee-in-lieu of.

~~(g) (d)~~—A developer may choose to use both the land dedication provision and fee-in-lieu of land dedication provision in conjunction with each other. ~~Any fee in lieu of amount of money used with a land dedication shall be used to develop, enlarge or enhance this recreational facility.~~

~~(h) (e)~~—In determining the adequacy of land dedication and/or fee-in-lieu of land dedication, the board shall assess the projected needs of the inhabitants of the subdivision. If the planning board determines that full land dedication is necessary, then they may require such land dedication with no fee-in-lieu of land dedication.

Commented [DB5]: May be better, need to discuss

Commented [DB6]: Double dipping

(i) ~~(f)~~ — In the situation when a fee-in-lieu of land dedication is supplied by the developer, then the developer may choose to request what uses or equipment the money will be used for. The planning board shall request an assessment of the developer's desires from the parks and recreation advisory board and if they agree with the developer, then all monies received will be earmarked for the purposes so chosen.

(j) ~~(g)~~ — The proposal for land dedication may be in the form of a deed of a parcel of land within or contiguous to the subdivision, or contiguous to an existing public recreational facility within reasonable proximity of the subdivision. The planning board shall use the recreational/open space district map, made a part of the ordinance as a guide. Alternatively, the land dedication may be part of a condominium or homeowners' association or proposed in any other form acceptable to the planning board provided it serves the needs of the residents of the subdivision.

(k) ~~(h)~~ — ~~The planning board~~ The city council may decline to accept a proposed dedication of rights in land to serve the recreational needs of the residents of the subdivision in any case in which it determines that the public expense of maintaining the same would unduly burdensome compared to the recreational benefit which would be conferred ~~or where the planning board determined that such recreational needs can more efficiently be served by applying a cash contribution from the developer to enlarge or enhance an existing recreational facility.~~

(l) ~~(i)~~ — All funds contributed to the parks and recreation open space dedication will be allocated to the development of facilities located within ~~zones as shown on the recreational/open space district map ¼ mile of the property's boundary, made a part of this chapter,~~ unless the planning board ~~and/or developer~~ have determined that a contribution to a facility which lies outside the ~~zoned-measured area~~ would better serve the needs of the subdivision. Such funds shall be used within a five-year period. Funds not used after five years shall be returned to the developer with interest. The interest amount shall be the average of yearly interest rates established by local banks. If for unforeseen reasons monies accumulated are not used as previously agreed upon within the five-year period, the recreation advisory board may request the planning board to reallocate the funds for other recreational uses. Notice to the developer shall be given ~~and input from the developer shall be used to determine whether or not these monies may be reallocated.~~

(m) ~~(j)~~ — Before making any final determination about the recreational needs of the subdivision's residents, or how they can best be met, the planning board shall solicit input from the parks and recreation advisory board and shall carefully consider any recommendations in this regard which it received in response.

(n) ~~(k)~~ — If a project is either proposed to be phased in, is a part of a unified development or is developed by the same developers on adjacent land to previously developed land, it shall be considered as one development and will be required to participate in the recreation open space dedication.

(o) ~~(l)~~ — The approval by the planning board of a residential subdivision plan shall not be deemed to constitute an acceptance by the city of any open space shown on such plan. The planning board ~~may also~~ shall also require the filing of a written agreement between the developer and the city covering future deed and title, dedication and provisions for the costs of grading, developing, equipping and maintaining recreation areas.

(Ord. of 9-21-2009, § 7.3i; Ord. No. 11-03012021, 3-15-2021)

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Sec. 60-1365. General requirements.

In reviewing applications for the subdivision of land, the board shall consider the following general requirements. In all instances the burden of proof shall be upon the persons proposing the subdivision.

- (1) *Subdivision plan shall conform to the comprehensive plan.* Any proposed subdivision shall be in conformity with the comprehensive plan of the city and with the provisions of all pertinent state and local codes and ordinances.
- (2) *Preservation of natural and historic features.* The board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally desirable areas. The street and lot layout shall be adapted to the topography. Extensive grading and filling shall be avoided as far as possible.
- (3) *Lots.*
 - a. The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
 - b. Depth and width of properties reserved or laid out for all purposes shall be adequate to provide for off-street parking and service facilities for vehicles required by the type of use and development contemplated.
 - c. No person shall make a subdivision within the city unless all lots of the proposed subdivision have ~~frontage, as regulated by the zoning ordinance, upon~~ access to a way granting legal access to a public street. The following ways shall constitute legal access to a lot:
 1. A way accepted by or established as belonging to the city, provided access is not specifically prohibited.
 2. A public way shown on a plan approved in accordance with the provision of this chapter and in this Code.
 3. A private way ~~(unaccepted street) existing prior to October 6, 1968, which way is shown on a plan recorded in the registry of deeds prior to such date and is deemed adequate by the planning board as evidenced by the board's endorsement on a final plan for the subdivision of land existing or constructed to the standards of the City of Auburn.~~ In its approval of an existing private way, the board may make whatever requirements it feels necessary to improve the way commensurate with the projected use of same.
 4. ~~A person issued a permit pursuant to this subchapter in a great pond watershed shall have a copy of the permit on the site while work authorized by the permit is being conducted.~~
 4. An access easement with a width of no less than 12 feet and length of no more than 400 feet to a private or public street.

(Ord. of 9-21-2009, § 7.3G; Ord. No. 11-03012021, § 82, 3-15-2021)

ARTICLE V. DESIGN AND CONSTRUCTION STANDARDS

DIVISION 1. GENERALLY

Sec. 46-142. Purpose of article.

The purpose of the standards set forth in this article is to ensure the adequate and proper installation of improvements within the city; promote the safety and efficiency of vehicular and pedestrian traffic; minimize user costs and the long-term costs of maintenance and repairs to public improvements; encourage efficient use of the land; protect the environment, including provisions for the necessary and adequate control of groundwater levels, stormwater runoff and soil erosion; and ensure an accurate and permanent record of the public improvements, thereby promoting the health, safety and welfare of the community.

(Ord. of 2-26-2002, § 1)

Sec. 46-143. Applicability of article.

- (a) This article shall apply to all improvements within the city constructed subsequent to the effective date of the ordinance from which this article is derived, other than those called for in a final plan previously approved by the city planning board.
- (b) The city engineer may grant a written waiver of strict compliance with the standards set forth in this article after receipt of a written application requesting a waiver by the property owner, developer or authorized representative in any case where the city engineer has determined that such waiver will not create a traffic or safety hazard or otherwise impair the integrity of this article and where the applicant can demonstrate that a safer design for the pedestrian may result from the alteration or that a specific hardship is created by the enforcement of this article. The city engineer shall consult the planning department prior to the granting of such a waiver.
- (c) In any case in which the standards as set forth in this article are inconsistent with those established by other city ordinances, the more stringent standard shall apply.
- (d) A determination that any section of this article is invalid shall not necessarily result in the invalidity of any other section.

(Ord. of 2-26-2002, § 2)

Sec. 46-144. Adoption and amendment of standards.

- (a) The city engineer may propose new standards and amend existing standards for improvements. All new and amended standards shall become effective only after a public hearing before the city council. Such standards shall be additional to and consistent with the provisions of this article, shall be necessary and reasonable, and shall be in accordance with sound engineering practice.
- (b) The city engineer shall maintain for public inspection current copies of the effective standards.

(Ord. of 2-26-2002, § 3)

Sec. 46-145. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Base course means the layers of specified or selected material of designated thickness placed on a subbase or a subgrade to support a surface course.

Bond means a surety bond or a form of security approved as to form and financial sufficiency by the finance director and city solicitor, including a letter of credit and escrow account.

City engineer means the city engineer, acting directly or through his duly authorized representatives.

Developer means any person, group of persons, organizations, etc., whose concern and desire is to improve land in accordance with the development regulations of the city.

MDOT specifications means the 2002 Maine Department of Transportation Standard Specifications, Highways and Bridges.

Passenger car equivalent means, at peak hour, the number of passenger cars, or, in the case of nonpassenger vehicles, the number of passenger vehicles that would be displaced by nonpassenger vehicles, that pass through an intersection or on a roadway under prevailing roadway and traffic conditions at that hour of the day during which the traffic volume generated by the development is higher than the volume during any other hour of the day. One tractor-trailer combination is the equivalent of two passenger cars.

Pavement structure means the combination of subbase, base course and surface course placed on a subgrade to support the traffic load and distribute it to the street bed.

Private way means a privately owned and maintained street or road.

Reserve or spine strip means any strip of land along a right-of-way located for the purpose of preventing development of abutting land through deprivation of required frontage or control of access to the right-of-way.

Right-of-way means land, property or interest therein, usually in a strip, acquired for or devoted to a street or road.

Road means a public or private way for purposes of vehicular travel, including the entire area within the right-of-way. For the purpose of this article, the term "road" shall refer to nondevelopment and rurally located public and private ways, usually of rural design.

Sidewalk means that portion of the street primarily constructed for the use of pedestrians, also referred to as a pedestrian way.

Special exception means a use that would not be appropriate generally or without restriction throughout the district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, order, comfort, convenience, appearance, prosperity or general welfare. Such a use may be permitted in such district as a special exception, if specific provision for such special exception is made in appendix A of this Code (the zoning ordinance) and reasonable restrictions imposed by the planning board are complied with.

Street means a public or private way for purposes of vehicular travel, including the entire area within the right-of-way. For the purpose of this article, the term "street" shall refer to all developed public and private ways, of both rural and urban design.

Street way and *roadway* mean the portion of a street, or road including shoulders, for vehicular use.

Subbase course means the layers of specified or selected material of designated thickness placed on the subgrade to support a base course or surface course.

Subgrade means the top surface of a street bed upon which the pavement structure and shoulders are constructed or upon which the subbase course is constructed.

Surface course means one or more layers of pavement designed to accommodate the traffic load. The top layer may be referred to as the wearing course. The bottom layer may be referred to as the binder course or pavement base course.

Walkway means a pedestrian way other than a street sidewalk.

(Ord. of 2-26-2002, § 4)

Secs. 46-146—46-173. Reserved.

DIVISION 2. STREETS

Sec. 46-174. Applicability.

For the purpose of this article, design requirements shall relate to the following street classifications:

(1) *Street classification I.*

- a. *Local street.* A local street serves primarily for access to abutting residential properties.
- b. *Cul-de-sac.* A cul-de-sac is a local, industrial or commercial street with only one end open to traffic and being terminated at the other end by a vehicular turnaround; also referred to as a dead-end street.
- c. *Collector street.* A collector street serves the internal traffic of the city, providing circulation within or through a development and connecting local streets to the arterial system.
- d. *Arterial street.* An arterial street serves as a major traffic way for travel between and through urban centers and neighborhoods. The design and construction of arterial streets is not included in this article due to the significant special design considerations and uniqueness of each project.
- e. *Industrial and commercial streets.* Industrial and commercial streets are streets within such zones and provide access to industrial and commercial users.
- f. *Private streets.* Private streets are streets which may be constructed as part of a residential, planned unit, commercial or industrial development. Private streets receive no public funding; will never be maintained or improved by the city; and will remain private property.
- g. *Lanes.* ~~Lanes are streets providing access to ten or less lots in a residential subdivision or with average daily traffic (ADT) of 100 vehicles or less. A cul-de-sac providing for access to the same number of units or with the same ADT shall be considered a lane and shall meet the same standards. Lanes are one way streets providing access to a residential subdivision with average daily traffic (ADT) of 100 vehicles or less.~~

(2) *Street classification II.*

- a. *Urban.* Urban design standards shall be defined as paved streets with such appurtenances as curbs, esplanades, paved sidewalks and an enclosed under drain/stormwater conveyance system with catchbasins, manholes and associated piping.
- b. *Rural.* Rural design standards shall be defined as paved streets with gravel shoulders and with side ditches and culverts for the transportation of groundwater seepage and stormwater.

(Ord. of 2-26-2002, § 5.1)

Sec. 46-175. Minimum street design and construction standards chart.

The minimum street design and construction standards chart is intended to show minimum widths and design standards for a particular classification of street. If, in the opinion of the city engineer, traffic use or geometric considerations for a street or any part of a street warrant modifications or a greater standard than listed on the chart, the city engineer may require such modifications and shall submit his reasons in writing to the planning board.

Item	Type of Street					
	Lane	Local		Collector		Industrial Commercial
Average daily traffic (ADT)	<100	< 500	500 >	1,500 >		
Right-of-way width (feet)	50	56 0	56 0	66	66	60
Pavement width (feet)	22 20	24 32	28 32	32	40	40
Curbing	Vertical/sloped	Vertical/sloped		Vertical		Vertical
Sidewalk width (feet)	—	56	56	56	56	56
Sidewalk esplanade (feet)	—	5	5	5	5	5
Minimum grade (percent)	0.5	0.5	0.5	0.5	0.5	0.5
Maximum grade (percent)	8	8	8	6	6	5
Maximum grade within 75 feet of intersection (percent)	3	3	2	3	3	2
Minimum centerline radius (feet)	150	150	150	300	300	300
Minimum tangent between reverse curves (feet)	—	—	—	300	300	300
Minimum pavement cross slope (inches/feet)	1/3/8	¾	¾	¼	¼	¼
Minimum angle of street intersection (degrees)	75	75	75	90	90	90
Design speed (mph)	25	25	25	35	35	35
K factor—crest vertical curve	20	20	20	35	35	50
K factor—sag vertical curve	30	30	30	40	40	50
Curb radii at intersection (feet)	20	20	20	30	30	30
Property line radii at intersection (feet)	20	20	20	20	20	20

(Ord. of 2-26-2002, § 5.1)

Sec. 46-176. Subsurface soil exploration.

- (a) The purpose of the subsurface soils exploration is to determine the engineering properties and conditions of the soil and rock which exist below the ground surface in order to properly design streets and other improvements.

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- (b) A high intensity soil survey (also required in section 46-209(b)(1)e) shall be conducted by a certified soil scientist, meeting the standards of the National Cooperative Soil Survey, which identifies soil types down to one-tenth acre or less at a scale equivalent to the development plan submitted. The mapping units shall be the soil series. Single soil test pits and their evaluation shall not be considered to constitute high intensity soil surveys.
 - (c) Test pit or boring locations shall be shown on the development plan.
 - (d) Soil profiles shall include seasonal high and existing groundwater elevations.
 - (e) The city engineer may request additional test pits or borings to determine the limits of unsuitable material or to provide additional information for adequate design of the pavement structure.
 - (f) If, during construction, subsurface soils vary from original classifications, the pavement structure design shall be modified to reflect the new soil types and submitted to the city engineer for approval.

(Ord. of 2-26-2002, § 5.1)

Sec. 46-177. Rights-of-way.

- (a) The minimum width of rights-of-way for streets to be dedicated or established after the effective date of the ordinance from which this article is derived shall conform to the widths as shown in the minimum street design and construction standards chart as set forth in section 46-175.
- (b) The city may require that additional rights-of-way width be provided for future extension of the street.
- (c) The extension of an existing street, of the same classification as the existing street, shall be constructed at the same or greater width as required.
- (d) Proposed developments along existing, dedicated or platted streets where rights-of-way are inadequate shall include additional land to meet the minimum standards. Land reserved for such purposes may not be used in satisfying setback, yard or area requirements of the zoning districts.
- (e) Reserve or spine strips controlling the access to streets shall be prohibited except where their control is placed with the city.

(Ord. of 2-26-2002, § 5.1)

Sec. 46-178. Arrangement and layout.

- (a) The arrangement, character, extent, width, grade and location of all streets to be dedicated to the public and all private streets shall be considered in their relation:
 - (1) To existing and planned streets;
 - (2) To reasonable circulation of traffic within developments and on adjoining streets;
 - (3) To topographical conditions;
 - (4) To runoff of stormwater;
 - (5) To public pedestrian and vehicular convenience and safety; and
 - (6) To their appropriate relation to the proposed uses of the areas to be served.
- (b) Proposed streets shall conform to the comprehensive plan as adopted by the city.

- (c) All streets shall be designed so that they provide for safe vehicular travel while discouraging the movement of through traffic over local streets.
- (d) To the extent practicable, culs-de-sac shall be avoided in favor of loop streets, and if included in the development, shall be minimal in number.
- (e) Developments generating 1,000 or more vehicle trips per 24-hour period will provide two or more separate points of vehicular access into and out of the site.

(f) Driveway access to collector or arterial streets shall be avoided to facilitate the free flow of traffic and minimize traffic hazards.

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~~(f)(g)~~ Where land abuts a street where the legal speed limit is equal or above 35 miles per hour in the designated growth area new development shall be accessed only from new streets laid out as part of the development

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~~(g)(h)~~ Nonresidential developments will provide a clear route for delivery vehicles with the appropriate geometric design to allow turning and backing for WB-40 vehicles (i.e., tractor-trailer combinations).

(i) The layout and design of parking areas shall provide for safe and convenient circulation of pedestrians and vehicles throughout the lot and shall prohibit vehicles from backing out onto a street or road.

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(j) All subdivisions and non-residential development sites must include a continuous pedestrian network, which must provide access to all development areas and civic spaces within and between sites. If sidewalks are provided, they shall be of a width of no less than 6 feet.

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(k) To discourage excessive vehicle speeds in areas intended for pedestrian traffic, curb extensions shall be provided on all new streets within a development designed for pedestrian traffic at all intersections and at intervals of 500 feet or less.

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(l) All new streets within the designated growth area must provide on-street space adequate for the parking of vehicles, and, if such streets remain private, the developer or property owner may not prohibit such parking.

~~(h)(m)~~ New streets within an AG, RR, or LDCR district and outside of the growth area shall provide on street parking or an enlarged esplanade of 14 feet in width between the street and the sidewalk with city engineer approval.

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~~(h)(n)~~ Where a development abuts or contains an existing or proposed arterial street, the planning board may require:

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- (1) Marginal access streets (i.e., street parallel to arterial street providing access to adjacent lots);
- (2) Reverse frontage lots (i.e., frontage on a street other than the existing or proposed arterial street) with screen planting contained in a nonaccess reservation along the rear property line; or
- (3) Other such treatments as may be necessary for adequate noise reduction, visual screening and protection of residential properties and to afford separation of through and local traffic.

(o) The proposed street layout shall be coordinated with the street and road system of surrounding areas. All streets shall provide for the continuation or appropriate projection of streets in surrounding areas and provide means of ingress and egress to surrounding acreage tracts.

(p) To ensure future street connections where a proposed development abuts undeveloped land greater than 5 acres or a future development phase of the same development, street stubs shall be provided to provide access to all abutting properties or to logically extend the street system into the surrounding area. All street stubs shall be provided with temporary turn-around or cul-de-sacs and the restoration and extension of the street shall be the responsibility of any future developer of the abutting land.

(g) Each development shall incorporate and continue all collector or local streets stubbed to the boundary of the development plan by previously approved but unbuilt development or existing development.

~~(f)(r)~~ All streets constructed giving direct access to dwellings or use intended for direct pedestrian access to buildings shall have a design speed lower than 25mph.

(Ord. of 2-26-2002, § 5.1)

Sec. 46-179. Intersections.

- (a) Traffic intersections and confluences shall encourage safe and efficient traffic flow.
- (b) Streets intersecting an arterial street shall do so at a 90-degree angle. Streets intersecting collector or local streets shall not vary from 90 degrees by more than 15 degrees.
- (c) At street intersections, the right-of-way lines shall be rounded by a circular arc having a radius as tabulated in the minimum street design and construction standards chart as set forth in section 46-175. A greater radius may be required for streets intersecting at an angle other than 90 degrees.
- (d) Cross street intersections within residential areas shall be avoided.
- (e) Intersections with more than four legs shall be prohibited.
- (f) Minimum centerline offsets of adjacent intersections shall be as follows unless, in the opinion of the city engineer, a lesser length is necessitated by local conditions:

Local to local	125 feet
Local to collector	150 feet
Local to arterial	250 feet
Collector to collector	200 feet
Collector to arterial	250 feet

- (g) Horizontal curves shall be no closer than 135 feet to the center of an intersection unless otherwise approved by the city engineer.
- (h) Where new street intersections or driveway curb cuts are proposed, sight distances, as measured along the street or road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the following table:

Posted Speed Limit (mph)	Sign Distance (feet)
25	200
30	300
35	350
40	400
45	450
50	500
55	550

- (i) Where necessary to achieve required visibility, corner lots shall be cleared of all growth and sight obstruction, including earth excavation, and deed covenants shall be attached to prohibit future emplacement of sight obstructions.

- (j) Vehicular access to developments shall be from streets or roads that have adequate capacity to accommodate the additional traffic generated by the development. The level of service after development at intersections on major access routes to the development and at the intersection of any development access drive or proposed street shall be at a minimum at predevelopment levels of service. The developer shall mitigate development impacts that result in a reduced level of service.
- (k) For developments subject to planning board review that will result in a reduction in the level of service, the planning board may waive the lower level of service restriction in subsection (j) of this section, subject to written recommendations of the director of community services, public works director and chief of police; also subject to input from the Lewiston-Auburn comprehensive transportation study, or their designees, and the state department of transportation.

(Ord. of 2-26-2002, § 5.1)

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Sec. 46-180. Culs-de-sac (dead-end streets).

(a) *Local residential standards.*

- (1) In addition to the design standards for local residential streets, culs-de-sac shall be constructed to provide for a circular turnaround with minimum dimensions as follows:
- Radii at circular turnaround with a center island:
 - Property line, 75 feet.
 - Outer edge of pavement, 66 feet.
 - Inner edge of pavement, 44 feet.
 - Radii at circular turnaround without a center island:
 - Property line, 60 feet.
 - Outer edge of pavement, 50 feet.
- (2) At the end of temporary culs-de-sac, a temporary turnaround shall be constructed with an outside edge of pavement diameter of 90 feet or a backing space extending at least 30 feet beyond the edge of the street, and the end of the street extending at least 30 feet beyond the edge of the backing space. Pavement widths for backing spaces shall be identical to the type of street.
- (3) Cul-de-sac shall be a maximum of 600 feet in length measured from the centerline of the feeder street to the center of the turnaround radius unless the planning board finds that a greater length will not reduce future connectivity of the area or create a hazard as based on the availability of hydrants, accessibility to firefighting equipment and anticipated use of abutting properties. A cul-de-sac exceeding 600 feet in length shall provide a six-foot wide paved pathway to another street which is not a cul-de-sac. This pathway shall serve as an additional pedestrian connection to the required sidewalk abutting a street.

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- (b) *Collector, industrial and commercial standards.* Presentation of special design, discussion and written permission of the planning board shall be required for those conditions that may require culs-de-sac under the category of collector, industrial or commercial.

(Ord. of 2-26-2002, § 5.1)

Sec. 46-181. Alignment and grades.

- (a) Alignment for local streets in residential areas shall be curvilinear, utilizing existing topography so as to discourage high speed. Insofar as possible, high cuts and fills shall be avoided. Caution shall be taken in the design of the alignment so that the safety of the facility is not reduced.
- (b) Alignment and grades for collector streets or streets in industrial or commercial areas should be commensurate with the topography, but should be as direct as possible.
- (c) Alignment and grades for all proposed streets shall be subject to the approval of the city engineer.
- (d) Increases in maximum allowable grade may be allowed by the city engineer in cases of unusual circumstances.

(Ord. of 2-26-2002, § 5.1)

Sec. 46-182. Sidewalks and other walkways.

It is the policy of the city to encourage developers to construct sidewalks as part of all new residential and commercial projects in order to enhance the quality of life, area aesthetics and neighborhood integrity, and to promote alternative, nonmotorized modes of transportation.

- (1) Sidewalks with esplanades shall be provided along ~~one~~both sides of all local streets and both sides of all collector, commercial and industrial streets, and shall connect with the existing sidewalk network in the vicinity of the development.
- (2) The planning board ~~may~~shall require walkways in open space or recreation areas that are designed to link residential units with recreational and commercial facilities, other common facilities, school bus stops, and existing sidewalks and walkways in the vicinity.
- (3) Sidewalks and walkways shall be clear and free of encumbrances.
- (4) Areas within street rights-of-way which are reserved for future sidewalks and esplanades shall be designed and graded to the standards and specifications contained in this article.
- (5) Esplanades shall be sloped at one-half inch per foot from the sidewalk to the street curb and shall be loamed, seeded and mulched in accordance with the city's design standards.
- (6) The planning board may waive the requirement to build sidewalks under the following circumstances:
 - a. When the developer can demonstrate to the planning board's satisfaction that the nature of the development does not lend itself to pedestrian uses by the residents, employees or the public;
 - b. ~~When the developer can demonstrate that the cost of building the sidewalk makes the project financially impossible (i.e., the developer has sufficient financing for the project except for the cost directly attributable to the construction of the sidewalks);~~
 - c. With respect to residential developments, if there are no existing sidewalks in the proximity of the development and the city has no plans to construct sidewalks that would connect to the proposed development, the planning board may waive the requirement at the developer's request. If the city does have plans to construct new sidewalks that would connect to the proposed development, then the planning board shall require the developer to place an amount in interest bearing escrow sufficient to fund the cost of constructing sidewalks within the development. If the city has not budgeted the new connecting sidewalk within five years after the development has been completed, at the request of the developer to the city manager, the city shall return the money held in escrow, plus interest.

1. *Street names.*

- (i) Streets that join and are in alignment with existing streets shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets and roads within the city. Names of new streets to be accepted by the city shall be subject to the approval of 911 and the city council. Names of new streets that are not to be accepted by the city shall be subject to the approval of 911 and the planning board.
- (ii) Initial street name signs shall be furnished and installed by the city with the cost of such installation being borne by the developer.

2. *Traffic control devices.* All initial signing and pavement markings required for the proper control of pedestrian, bicycle and vehicular traffic within the development shall be paid for by the developer. The city shall furnish and install all such devices. The types and locations of all such devices shall be determined by the police chief and public works director, and shall be in conformance with the Manual on Uniform Traffic Control Devices, current revision.

(Ord. of 2-26-2002, § 5.1)

Sec. 46-183. Street construction materials.

- (a) *Generally.* Street construction materials as specified in this article shall conform to MDOT specifications unless otherwise noted.
- (b) *Type and minimum allowable depth.* Minimum requirements for materials are as follows:

	Minimum Requirements		
	<i>Lane Local (inches)</i>	<i>Collector (inches)</i>	<i>Industrial Commercial (inches)</i>
<i>Street materials:</i>			
Aggregate subbase course	15	18	18
Aggregate base course	3	3	3
Hot bituminous pavement:			
Total thickness	3½	4	5
Surface course	1½	1½	1½
Base course	2	2½	½
<i>Sidewalk materials:</i>			
Aggregate subbase course	12	12	12
Hot bituminous pavement:			
Total thickness	2	2	2
Surface course	1	1	1
Base course	1	1	1
<i>Driveway apron materials (within right-of-way of urban design):</i>			
Aggregate subbase course	12	12	12
Hot bituminous pavement:			
Total thickness	3	3	4
Surface course	1	1	1

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	Base course	2	2	3
<i>Curbing materials:</i>				
	Granite stone curbing, type 1			
	Bituminous Slipform concrete curbing, type 3			
	Granite stone edging, type 5			

(Ord. of 2-26-2002, § 5.2)

Sec. 46-184. Street construction standards.

- (a) *Generally.* All streets shall be constructed according to the specifications in this section as overseen by the city engineer.
- (b) *Clearing, grading, cuts and fills.*
 - (1) *Clearing.* Before grading is started, the entire right-of-way area shall be cleared of all stumps, roots, brush and other objectionable material and all trees not intended for preservation in accordance with MDOT specifications, section 201, Clearing Right-of-Way. Rights-of-way for rural design streets shall not be cleared in those areas that will enhance the natural appearance and attractiveness of the development while not conflicting with this article.
 - (2) *Grading.* All streets and roads shall be graded to their full width by the developer so that pavements and sidewalks can be constructed on parallel profiles. Due to special topographical conditions, deviation from such requirement will be allowed only with special approval of the city engineer.
 - (3) *Subgrades.* Subgrades shall be prepared in accordance with MDOT specifications, section 203, Excavation and Embankment, in particular subsection 203.17, Preparation and Protection of the Subgrade.
 - (4) *Cuts.* Cuts shall be in accordance with MDOT specifications, section 203, Excavation and Embankment. Tree stumps and other organic materials shall be removed to a depth of two feet below the subgrade. Rocks and boulders, when encountered, shall be scarified or removed to subgrade.
 - (5) *Fills.* Fills shall be in accordance with MDOT specifications, section 203, Excavation and Embankment. Excess materials, including organic materials, soft clays, etc., shall be removed from the street site. The fill shall be spread in layers not to exceed 12 inches loose measure and compacted.
 - (6) *Backfilling.* Backfilling, to include utility trenches, shall be in accordance with MDOT specifications, section 206, Structural Excavation, and other applicable sections such as those that address backfilling of curbs, under drains, culverts and other typical street and road structures. Separate layers of backfill material of specified thickness shall be mechanically tamped.
 - (7) *Side slopes.* All side slopes shall be no steeper than three horizontal to one vertical unless provided for under subsection (g) of this section. All slopes shall be loamed, seeded and mulched in accordance with section 46-209(f)(4) through (6).
- (c) *Sanitary sewers, storm drains and other utilities.*
 - (1) All utilities shall be located underground and as required in subsections (c)(2) through (11) of this section unless otherwise approved by the city engineer.
 - (2) Sewer mains shall be located approximately along the centerline of the street at a recommended average depth of eight feet.

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- (3) Sewer manholes shall be located on the street centerline at the crown of the road and the top surface of the manhole rim or cover shall be flush with the pavement surface.
 - (4) To the extent practicable, under drain/stormwater conveyance pipes shall be located along gutter lines on a line one foot in front of the toe of the face of the curb and with a minimum cover of four feet.
 - (5) Water mains shall be located under the sidewalk at an elevation greater (i.e., a depth less than) the sewer main and sewer service laterals and at a recommended depth of 5½ feet.
 - (6) Hydrants shall be located one foot in back of the face of the curb.
 - (7) Gas mains shall be located under the esplanade on the same side of the street as the water main and with a minimum cover of 2½ feet.
 - (8) Gas mains shall be installed after the installation of all other underground utilities.
 - (9) Telephone, electrical and cable television lines shall be located under the esplanade on the side of the street opposite the water and gas mains. Electrical lines shall have a minimum cover of 2½ feet. Electrical lines for rural design shall be located in the gravel shoulder and shall have a minimum cover of three feet and be a minimum of two feet below cross culverts and ditch lines where applicable. All wiring shall be placed in PVC conduit and also encased in concrete where passing under the ditch line. Warning tape shall be placed above the conduit at a depth of one foot.
 - (10) All sanitary sewers, storm drains and underground utility mains and their services shall be installed within the street right-of-way prior to the placement of the aggregate base/subbase course unless a waiver in writing is obtained from the city engineer.
 - (11) All utility service laterals shall extend to the street right-of-way abutting the lot to be served, where they will be properly capped or terminated. An accurate record of each such utility service lateral, its location and its depth at the street right-of-way shall be kept by the developer and true copies of such record will be provided to the city engineer and the appropriate utility. Such location of the utility service laterals at the street right-of-way line shall be physically marked by the placement of a wooden stake, driven to the depth of the service, with enough of the stake exposed above the ground to be readily visible, and marked as to the type of service.
- (d) *Geotextiles, subbase and base, and pavement.* MDOT specifications, section 620, Geotextiles, subsection 722.01, Stabilization Geotextile, section 304, Aggregate Base and Subbase Course, and section 403, Hot Bituminous Pavement, shall be applicable to this subject, except as follows:
- (1) *Geotextiles.* The use of geotextiles under the aggregate subbase for the purpose of subgrade soil stabilization and increased tensile strength shall be as directed by the city engineer.
 - (2) *Subbase and base.*
 - a. *Aggregate subbase course.* Aggregate for subbase shall not contain particles of rock which will not pass the four-inch square mesh sieve. Material shall be a crushed product sourced from a quarry.
 - b. *Aggregate base course.* Aggregate for base shall not contain particles of rock which will not pass the two-inch square mesh sieve. Material shall be a crushed product sourced from a quarry.
 - (3) *Pavement.*
 - a. Streets shall not be paved until all underground utilities and their service laterals have been installed, nor until the aggregate base/subbase course has been inspected and approved by the city engineer.

- b. Where pavement placed joins an existing pavement, the existing pavement shall be cut along a smooth line and to a neat, even vertical joint. Broken or raveled edges, or deviation from grade will not be permitted.
 - c. Gradation of aggregates for plant mix hot bituminous pavements shall be as specified in MDOT specifications, section 703.09, Aggregate for Plant Mix Hot Bituminous Pavement, unless otherwise approved by the city engineer.
 - d. Proper drainage in curbed areas, especially transition approaches to catchbasins, sluiceways and paved outlet gutters, is of utmost importance. Before placing the surface (wearing) course in any urban area where the drainage is critical, the base (binder) course grade should be checked with a transit or level.
- (e) *Curbing.* MDOT specifications, section 609, Curbing, shall be applicable to this subject, except as follows:
- (1) Curbing, where required, shall be vertical curb type 1 (quarried granite stone) unless otherwise allowed in this article.
 - (2) Vertical curb type 1 circular shall be used for the radii at all intersections regardless of the curb type allowed on the remainder of the street.
 - (3) On local streets, ~~bituminous-slipform concrete~~ curbing type 3, either vertical or sloped face, may be used, unless determined to be unsuitable by the city engineer.
 - (4) Curb type 5 shall be used for cul-de-sac center islands when granite curbing is required.
 - (5) Vertical curb reveal shall be seven inches for type 1 (granite) and six inches for type 3 (~~bituminous-slipform~~), unless otherwise indicated by the city engineer.
- (f) *Sidewalks.* MDOT specifications, section 608, Sidewalks, shall be applicable to this subject.
- (g) *Guardrails.* MDOT specifications, section 606, Guard Rail, shall be applicable to this subject. Guardrails may be required:
- (1) On sections of street where side slopes are steeper than three horizontal to one vertical;
 - (2) Where the street is greater than eight feet above the bottom of the street side slope;
 - (3) At sudden changes of alignment;
 - (4) Where other street obstacles exist;
 - (5) On narrow bridges; or
 - (6) As otherwise determined by the city engineer.
- (h) *Temporary markers.* The developer shall furnish, install and maintain all stakes, marks or temporary structures necessary for marking and maintaining the points, lines and grades for construction of the street and other improvements to the approved plan, profile and cross sections.
- (i) *Monuments.* MDOT specifications, section 623, Monuments, and subsection 712.04, Stone Curbing and Edging, shall be applicable to this subject, except as follows:
- (1) A minimum of three granite monuments shall be set at appropriate corners of the perimeter of the proposed development tract as determined by the city engineer. Also, granite monuments shall be set at all street corners, at all points where the street line intersects the exterior of the development, and at angle points and points of curvature or tangency in each street.
 - (2) Monuments shall be six inches above the ground except in lawns, drives and parking lots where they shall be flush.

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- (3) If there is ledge (rock) between one foot and three feet below the ground, a two-foot diameter concrete collar, with or without dowels, in accordance with MDOT specifications, shall be provided. If the ledge is less than one foot below the ground, an approved survey marker shall be grouted or embedded in the ledge.
 - (4) All granite monuments shall be four feet long, except where the ledge does not allow, and a square six inches on each side. The monuments shall be provided with a drill hole and a magnetic aluminum or brass marker, such as the Bernsten models, with the surveyor's registration number and the exact survey point engraved on the surface, unless otherwise approved by the city engineer.
 - (5) No permanent monuments shall be installed until all improvements that might disturb or damage the monuments have been completed.

(Ord. of 2-26-2002, § 5.3)

Secs. 46-185—46-206. Reserved.

DIVISION 3. DRAINAGE AND EROSION CONTROL STANDARDS

Sec. 46-207. Intent.

An adequate drainage and erosion control system shall be provided, including temporary or permanent appurtenances as necessary, such as swales, ditches, mulch, hay bales, erosion control mesh, stone check dams, sedimentation/detention/retention basins, culvert/under drain/stormwater conveyance pipes, catchbasins and manholes, to ensure that stormwater and other surface flows are effectively conveyed from the development and that groundwater is intercepted and conveyed away from the street aggregate base/subbase in compliance with the guidelines contained in this division, current environmental regulations and all other requirements of this article.

(Ord. of 2-26-2002, § 6.1)

Sec. 46-208. Classifications.

- (a) *Urban systems.*
 - (1) Drainage facilities located within areas defined by this article standards as urban shall include an enclosed underground system capable of effectively removing stormwater and groundwater from the street and adjacent areas. Discharge of drainage shall be into natural drainage courses or approved connection to an existing system capable of handling the increased flows.
 - (2) Drainage systems conforming to the urban standards specified in this division may be constructed in areas defined by this article as rural at the option of the developer or if required by the city engineer.
 - (3) If conditions warrant, the planning board may allow a combination of rural and urban drainage standards or utilize rural standards entirely to include the appropriate right-of-way widths.
- (b) *Rural systems.* Drainage facilities located within areas defined by this article as rural shall consist of a system of culverts and open drainage channels capable of effectively carrying stormwaters into natural drainage courses.
- (c) *Urban or rural systems.* Drainage facilities located within areas defined by this article as urban or rural shall comply with subsections (a) and (b) of this section, as appropriate.

Sec. 46-209. Erosion and sediment control and stormwater management plans.

(a) *Generally.*

- (1) The erosion and sediment control plan shall be designed in accordance with the Maine Erosion and Sediment Control Handbook For Construction: Best Management Practices (BMPs), current revision, prepared by the state department of environmental protection, and with the requirements of this article.
- (2) Application submitted pursuant to the subdivision or zoning chapters of this Code for projects that will disturb more than one acre must submit a stormwater management plan to the city engineering division for its review and approval.
- (3) *Stormwater quantity and quality.*
 - a. Stormwater management plans shall show means whereby the peak discharge for the developed site shall not exceed the peak discharge for the undeveloped site for 24-hour storms of two-, ten- and 25-year frequencies for all projects that will result in three or more acres of impervious area or 20 or more acres of developed area. The peak flow of the receiving waters may not be increased as a result of the stormwater runoff from the site for 24-hour storms of two-, ten- and 25-year frequencies. The site runoff may not adversely affect designated 100-year flood elevations. Emergency overflow facilities shall be provided for storms in excess of the 25-year storm. Hydraulic calculation techniques and design standards for facilities to achieve such performance standard shall be of accepted methods and subject to the approval of the city engineer.
 - b. *Stormwater quality.* Stormwater management plans shall show means whereby sediment and other pollutants will be limited through appropriate management practices to prevent adverse downstream water quality impacts. Projects located within the direct watersheds of Lake Auburn or Taylor Pond shall comply with the standards as set forth in appendix A, section 5.7 of this Code (the phosphorus control ordinance). All other projects meeting the threshold criteria of 38 M.R.S.A. § 420-D, Stormwater Management, shall comply with the stormwater quality standards as set forth in the Maine Department of Environmental Protection Regulations, chapter 500, section 4, Stormwater Management (Code Me. R, ch. 500, § 1 et seq.).
- (4) The developer shall maintain all components of the erosion and sediment control and stormwater management system unless the system is formally accepted by the city or is placed under the jurisdiction of a legally created property owners' association whose charter and powers require maintenance of the system, with adequate financing to carry out this responsibility.
- (5) A special erosion control plan with additional upgraded measures shall be prepared for construction between September 15 and April 15, a vulnerable period when almost no vegetation can grow, freezing and thawing of soil occurs, and normal rainfall combines with snow melt to produce high amounts of runoff.
- (6) Disturbed soil shall be stabilized within one week from the time it was last actively worked using temporary or permanent measures, such as placement of riprap, sod, mulch or erosion control blankets, or other comparable measures.
- (7) If mulch is likely to be moved because of steep slopes or wind exposure, it shall be anchored with netting, peg and twine, or other suitable method, and shall be maintained until a catch of vegetation is established over the entire disturbed area.

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- (8) In addition to placement of riprap, sod, erosion control blankets or mulch, additional steps shall be taken, where necessary, in order to prevent sedimentation. Evidence of sedimentation includes visible gully erosion, discoloration of water by suspended particles and slumping of banks. Silt fences, staked hay bales and other sedimentation control measures, where planned for, shall be in place prior to commencement of work, but shall also be installed whenever necessary due to sedimentation.
- (9) Mulch or other temporary erosion control measures shall be maintained until the site is permanently stabilized with vegetation or other permanent control measures.
- (10) Permanent revegetation of all disturbed areas, using native plant material wherever possible, shall occur within 30 days from the time the areas were last actively worked, or for fall and winter activities, by June 15, except where precluded by the type of activity (e.g., riprap, road surfaces, etc.). The vegetative cover shall be maintained.
- (b) *Checklist of required submissions.*
- (1) *Map submissions.* Map submissions shall include the following:
- a. A location map with the boundaries of development clearly marked.
 - b. An USGS topographic map, or larger scale map when available or if necessary for clarification, with the boundaries of the site clearly marked and drainage areas used for stormwater management calculations noted. Total watershed above and below the project area shall be shown with:
 1. Predevelopment drainage areas noted.
 2. Post-development drainage areas noted.
 - c. A topographic map specifically for the project with:
 1. Predevelopment contours noted.
 2. Post-development contours noted.
 3. Limits of clearing and grading noted.
 4. Location of stormwater control structures.
 5. Location of sediment and erosion control practices.
 6. Predevelopment drainage patterns noted.
 7. Post-development drainage patterns noted.
 8. Flow lengths used in time-of-concentration calculations noted.
 - d. A SCS medium intensity soils map with the boundaries of development clearly marked and drainage areas used for stormwater management calculations noted.
 - e. A high intensity soil survey for the development site (also required in section 46-176(b)).
- (2) *Narrative submissions.* Narrative submissions shall include the following:
- a. A description of the development, including a description of the:
 1. Nature of the development.
 2. Present and post-development land use cover.
 3. Areas that will be disturbed by the construction.
 4. Adjacent areas that will be disturbed by construction.

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- 5. Areas on-site especially vulnerable to erosion.
 - 6. Soils found on-site.
 - b. A description of the stormwater handling, including:
 - 1. A summary and analysis of existing stormwater movement.
 - 2. An analysis of post-development stormwater movement.
 - 3. Methods being proposed to control stormwater.
 - 4. A notation of the method of calculation.
 - c. A description of erosion and sedimentation control. The practices and structures to be used shall be listed and described. The description shall indicate how:
 - 1. Accelerated erosion will be minimized.
 - 2. Sedimentation will be minimized.
 - d. A schedule of construction, including the schedule of installation/implementation of temporary and permanent sediment and erosion control structures and management practices.
 - e. A description of inspection and maintenance for sediment and erosion control measures.
- (3) *Design drawings and calculations.* Design drawings and calculations shall include the following:
- a. Detailed drawings of any structural practices used that are not referenced.
 - b. Calculations for stormwater management practices, including:
 - 1. Worksheets showing assumptions used.
 - 2. Detention basins.
 - 3. Culverts.
 - 4. Ditches and waterways.
 - 5. Other information as required.
 - c. Calculations for sediment and erosion control practices, including:
 - 1. Worksheets.
 - 2. Sediment basins.
 - 3. Diversions.
 - 4. Ditches and waterways.
 - 5. Worksheets used with the Universal Soil Loss Equation.
 - 6. Other information as required.
- (c) *Checklist help sheet.* This subsection (c) provides additional explanations for the items required in the checklist of required submissions for erosion and sediment control and stormwater management plans as set forth in subsection (b) of this section.
- (1) *Map submissions.*
- a. A location map with the boundaries of development clearly marked. This is simply a small map locating the development in relation to identifiable landmarks.

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- b. An USGS topographic map with the boundaries of development clearly marked and drainage areas used for stormwater management calculations noted. This is a topographic map that clearly shows the whole watershed where the development is located. This is used to analyze patterns of water flow onto the property as well as away from it. This map shall indicate both the predevelopment drainage pattern as well as the post-development pattern.
 - c. A topographic map specifically for the project. This map is required by the city and shall have contour lines at intervals of two feet or at such intervals as the city engineer may otherwise require, based on USGS datum at mean sea level. The existing contours of the development shall be shown. Also, any proposed grading changes shall be indicated. Areas that are to be cleared and graded shall be clearly shown on the map. The location of both stormwater control structures and sediment and erosion control practices shall be drawn on the map. The existing drainage patterns on-site shall be shown on the map by indicating the watershed areas, the general direction of water flow and the longest flow length drawn on it. This flow length is used in calculations of travel time and time of concentration. Post-development drainage patterns shall be shown with any watershed changes noted, changes in direction of water flow indicated and modifications to the longest flow length shown. The existing tree lines, grassy areas and unique vegetation shall be shown on the map. Also, the areas that are especially vulnerable to erosion shall be highlighted in some way.
 - d. A SCS medium intensity soils map with the boundaries of development clearly marked and drainage areas used for stormwater management calculations noted. The development shall be outlined on a medium intensity soil conservation service map in a clearly legible manner so that the soil types present can be easily identified. Drainage areas shall be shown on this map. In cases where the medium intensity soils map must be enlarged for purposes of clarity and legibility, it shall be noted on the modified map that it has been enlarged and that the scale is no longer accurate. A reference to the source of the map shall be included as well.
 - e. A high intensity soil survey for the development. The city requires that a high intensity survey be done for the project and a copy of such map shall be included. Please remember that only a certified soil scientist shall prepare such a map.

(2) *Narrative submissions.*

- a. *Description of the development.* A description of the nature and purpose of the land disturbing activity and the amount of grading involved shall be submitted. A description of the existing topography, vegetation and buildings shall be provided along with approximate areas of each. Adjacent areas, such as streams, lakes, residential areas, roads, etc., which might be affected by the land disturbance shall be described. A description of the soils on-site shall be provided, including the soil names and their extent. Finally, a description of the areas on-site that have potentially serious erosion problems shall be included.
- b. *Description of stormwater handling.* The existing drainage patterns on-site shall be described as well as the drainage modifications that will occur during and after completion of the construction activity. A summary of the engineering analysis of predevelopment and post-development stormwater changes shall be submitted and the method of calculation noted. Actual calculations shall be submitted in a separate section. A description of the stormwater control practices proposed shall be included.
- c. *Description of erosion and sedimentation control.* An outline and brief description of any structures or practices which will be used to control erosion and sedimentation on the development site shall be prepared. Both temporary and permanent measures to be used shall be described. When revegetation will be done, seed mixes, seeding rates, seeding dates, fertilizer, lime and mulch rates shall be specifically described. If critical erosion areas were

identified, the plan shall be tailored for these areas. The location of temporary soil stockpiles shall be indicated on the plans; they shall be seeded if they will be needed for an appreciable length of time. The Maine Erosion and Sediment Control Handbook For Construction: Best Management Practices, current revision, is an excellent reference for this section of the plan.

- d. *Schedule of construction.* A timing schedule indicating the anticipated starting and completion dates of the development and the proposed sequence of installation of stormwater structures, and erosion and sediment control measures shall be submitted. The sequence shall minimize the time and area that bare soil is exposed at any one time as per the requirements of subsections (a)(5) through (10) of this section.
- e. *Description of inspection and maintenance for sediment and erosion control measures.* A schedule of regular inspections and repair of erosion and sediment control structures and stormwater control structures shall be set forth. A guarantee to reseed areas that do not have a successful catch shall be routinely included.

(3) *Design drawings and calculations.*

- a. *Detailed drawings.* Detailed drawings shall be provided for any stormwater control structure or any erosion and sediment control measure which is proposed but not referenced to the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, or other local handbook.
- b. *Calculations for stormwater management practices.* Whatever method is used to compute stormwater calculations, the associated worksheets and calculations shall be included for review. It is important to clearly identify the basic assumptions used for any set of calculations. The calculations for all proposed detention basins, culverts, ditches, waterways or other structures or measures proposed shall be submitted.
- c. *Calculations for sediment and erosion control practices.* Worksheets used to determine sizing of proposed sediment basins, diversions, road ditches and waterways shall be included for review. Also, all computations of the Universal Soil Loss Equation shall be included as well.

(d) *Resource publications.* Resource publications (current revisions) for preparing erosion and sediment control plans are as follows:

- (1) Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, prepared by the Cumberland County SWCD and the department of environmental protection.
- (2) Stormwater Management Manual, prepared by the Greater Portland Council of Governments.
- (3) Technical Release 55, Urban Hydrology for Small Watersheds (TR-55), June 1986 (available from the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, VA 22161, (703) 487-4650)).
- (4) Other publications may be used subject to approval of the city engineer.

(e) *General criteria for sediment and erosion control plans.* General criteria for sediment and erosion control plans are as follows:

- (1) All denuded areas shall be stabilized.
- (2) All soil stockpiles shall be stabilized.
- (3) Permanent vegetation shall be established.
- (4) Adjacent properties shall be protected from sediment from the development.

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- (5) Adjacent properties shall not be subjected to erosion due to increased runoff water from the development.
 - (6) Cut and fill slopes shall be constructed and stabilized in a way to reduce erosion.
 - (7) On-site waterways and outlets shall be stabilized.
 - (8) Storm sewer inlets shall be protected from sediment.
 - (9) If working in or crossing live streams, the streams shall be protected during construction.
 - (10) Construction access routes shall be stabilized, to include dust control.
 - (11) Temporary sediment and erosion control structures shall be removed when the development is finished.
 - (12) Maintenance of stormwater, sediment and erosion control structures shall be adequately addressed.
- (f) *Appurtenances.*
- (1) *Riprap.* MDOT specifications, section 610, Stone Fill, Stone Blanket and Stone Ditch Protection, shall be applicable to this subject.
 - (2) *Erosion control blankets.* MDOT specifications, section 613, Erosion Control Blankets, shall be applicable to this subject.
 - (3) *Sodding.* MDOT specifications, section 616, Sodding, shall be applicable to this subject.
 - (4) *Loam.* MDOT specifications, section 615, Loam, shall be applicable to this subject. All esplanades, circular turnaround islands, ditch slopes and other planting strip areas at sides of streets shall receive at least four inches of loam.
 - (5) *Seeding.* MDOT specifications, section 618, Seeding, shall be applicable to this subject. Seeding Method Number 1 (Park Mixture) shall be used on areas specified in subsection (f)(4) of this section.
 - (6) *Mulch.* MDOT specifications, section 619, Mulch, shall be applicable to this subject.
 - (7) *Geotextiles.* MDOT specifications, section 620, Geotextiles, shall be applicable to this subject.
 - (8) *Landscaping.* MDOT specifications, section 621, Landscaping, and section 622, Transplanting Shrubs, Hedges and Trees, shall be applicable to this subject.
 - (9) *Dust control.* MDOT specifications, section 637, Dust Control, shall be applicable to this subject. Dust control shall be provided for all areas as necessary to prevent the visible emissions of dust in the air.

(Ord. of 2-26-2002, § 6.3)

Sec. 46-210. Drainage system design standards.

- (a) *Generally.*
- (1) All development applications shall contain a drainage system plan, to include profiles, typical cross sections and typical detail drawings of drainage structures; and designed by a state registered professional engineer. The plan shall show under drain/stormwater conveyance pipes, catchbasins, manholes, ditches, culverts, easements and other proposed drainage system improvements with a statement in writing attached to the drainage system plan indicating that the proposed development will not create erosion, drainage or runoff problems either in the development or adjacent properties. Some of the drainage system plans may be combined with other plans in the development application, such as the street plans and profiles.

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- (2) Pipe inlet and outlet invert elevations shall be shown on profiles of the drainage system. Catchbasin inlet grate elevations shall be shown on the plans.
 - (3) All drainage systems within the development, except as required in subsection (c)(5)b of this section, shall be designed to meet the criteria of the performance standards for a 25-year storm based on rainfall data as available. Flows shall be computed by appropriate professional methods, with design computations being submitted for review by the city engineer.
 - (4) Upstream drainage shall be accommodated by an adequately sized drainage system through the proposed development for existing and future potential development in the upstream drainage area or areas tributary to the proposed development.
 - (5) Existing upstream and downstream drainage facilities shall be studied to determine the effect of the proposed development's drainage. The developer shall demonstrate to the satisfaction of the city engineer that the storm drainage from the proposed development will not, in any way, overload or damage existing storm drainage systems upstream or downstream from the proposed development.
 - (6) Where open ditches (other than street side ditches), channels, streams, natural drainage courses or closed conduits are used to collect, discharge or transmit water through the development, an adequately sized, perpetual drainage easement shall be provided. Such easement shall be centered as closely as possible to the middle of the watercourse or conduit and shall be no less than 30 feet in width in order to allow adequate ingress and egress of maintenance equipment.
 - (7) Where a drainage easement is to contain an open ditch, channel, stream or natural drainage course, the following shall apply:
 - a. The easement shall be cleared of all trees and brush and all stumps shall be removed to the extent necessary to allow adequate drainage and to provide vehicular access for maintenance where determined necessary by the city engineer.
 - b. The channel shall be constructed according to a plan that will show the following:
 1. The location and boundaries of the easement.
 2. Contour lines depicting the shape and slope of the channel.
 3. Typical cross sections of the channel showing how the channel will be constructed to prevent erosion.
 - (8) Where a drainage easement is to contain a closed conduit, a plan shall be provided showing the following:
 - a. The location and boundaries of the easement.
 - b. A profile of closed conduit with stationing and elevations of conduit invert at each full and half stations.
 - c. Typical cross sections of the channel showing how the channel will be constructed to prevent erosion.
 - (9) Drainage easements shall be private and adequate care and maintenance of the easements shall be a provision of the deeds and covenants of the respective private properties on which the easements are located unless otherwise decided by the public works director.
- (b) *Urban standards.*
- (1) Under drain shall be installed on both sides of curbed streets and will also constitute the major portion of the underground stormwater conveyance system. The city engineer may approve the installation of an under drain on only the uphill side of the street traversing a slope or on only one side of the street

in a relatively flat area if the developer's engineer can demonstrate that street area surface water infiltration shall be quickly drained from the street aggregate base/subbase and that groundwater will not reach the street aggregate base/subbase once the development is fully developed.

- (2) Minimum pipe size for any drainage pipe shall be 12-inches in diameter, except for type B under drainpipe, which shall be six inches in diameter.
- (3) Design of storm drains shall be on the basis of flowing full at a minimum velocity of 2.5 feet per second.
- (4) Three hundred feet shall be considered as a maximum length for carrying open stormwater in a street gutter prior to intake at a catchbasin, unless otherwise approved by the city engineer.
- (5) Catchbasin inlet grate elevations shall be recessed two inches below the gutter line grade with a minimum gutter line transition distance of ten feet upgrade and five feet downgrade of the inlet grate.
- (6) No water shall be permitted to drain across a street or an intersection.
- (7) Catchbasins or manholes shall be placed at all vertical and horizontal changes in the alignment of pipe, and at all junctions. However, in no case shall catchbasins or manholes be spaced at intervals exceeding 300 feet, unless otherwise approved by the city engineer.
- (8) Drains shall be designed such that a minimum of four feet of cover over the pipe is provided within the right-of-way and in paved areas or three feet of cover is provided in unpaved areas outside the street right-of-way.
- (9) House foundation perimeter drains and roof drains may be connected to the storm drainage system only if fitted with backflow checkvalves and upon written approval by and under the supervision of the city engineer.

(c) *Rural standards.*

- (1) Street side ditches and outlet channels shall be of a configuration and size to carry the contributory stormwater and subsurface flows from the street way structure and street side embankments. In all instances, the invert of the ditch shall be a minimum of six inches below the subgrade of the street way extended to the shoulder, except in areas:
 - a. Of well drained native soils as approved by the city engineer;
 - b. Where the ditch line gradient is great enough to prevent the 25-year stormwater level from infiltrating the street aggregate base/subbase; or
 - c. Where subsurface soils are of a nature requiring an under drain system, in which case, subgrade may be constructed to direct subsurface water to the under drainpipes.
- (2) Ditches shall drain in a positive manner.
- (3) Street side ditches shall be a minimum grade of 0.5 percent or the grade required to handle the design flow, whichever is greater, unless otherwise approved by the city engineer.
- (4) Ditch linings shall be provided to protect the side slopes and bottom from erosion and scour. Minimum channel linings for corresponding longitudinal slopes shall conform to the following:

0.5—6.0 percent	Loam and seed, protected by erosion control mesh.
6.0—8.0 percent	Sod placed over loam.
Over 8.0 percent	Stone, masonry, bituminous concrete or metal linings.

- (5) Culverts shall be required as follows:

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- a. *Cross culverts.* Culverts crossing under roads or streets shall have a minimum diameter of 15 inches or be sized to pass a 25-year frequency storm from the contributing drainage area, whichever is greater, with a maximum hydrostatic head two feet above the culvert inlet invert or three inches below the outside edge of the shoulder, whichever is the greater elevation.
 - b. *Driveway culverts.* Culverts shall be installed under any proposed or existing driveway that interrupts natural or proposed longitudinal drainage along any street or road. Driveway culverts shall be of a size capable of passing a ten-year frequency storm from the contributing drainage area with a maximum hydrostatic head as specified in subsection (c)(5)a. of this section. Driveway culverts shall be of corrugated metal pipe, unless otherwise approved by the highway division superintendent, and have a minimum diameter of 12 inches. Final determination of culvert size shall be made by the city engineer. Driveway culverts shall be installed on the grade of the street side ditch line.
 - c. *Cover.* Minimum cover over culverts in roadway areas shall be 24 inches. Minimum cover over driveway culverts shall be 12 inches.
 - d. *Ditch lines.* Street side ditch lines shall be extended laterally and lowered to accommodate culverts with inlet or outlet inverts below the normal grade of the ditch line.

(Ord. of 2-26-2002, § 6.4)

Sec. 46-211. Drainage system materials.

The following material shall be utilized for drainage system construction and shall conform to MDOT specifications unless otherwise noted:

- (1) *Reinforced concrete pipe.* Reinforced concrete pipe shall meet the requirements of MDOT specifications, section 706, Non-Metallic Pipe. The classification of pipe shall be as required to meet soil and traffic loads with a factor of safety of 1.0 on the 0.01-inch crack strength with a class B bedding. Joints shall be of the rubber gasket type meeting ASTM designation C-443, or of an approved performed plastic jointing material such as Remnak.
- (2) *Polyvinyl chloride (PVC) pipe.* PVC pipe and fittings shall conform to the requirements of AASHTO M-278. All pipes shall be supplied with gasket type joints meeting the requirements of ASTM D-3212. Perforated pipe and fittings shall conform to the requirements of AASHTO M-278 or ASTM F-949. Pipe shall be designed to withstand soil and traffic loads with a maximum deflection of five percent.
- (3) *Corrugated polyethylene drainage tubing for under drain.* Such pipe and fittings shall conform to the requirements of AASHTO M-252, slot-perforated, for diameters up to ten inches, and to AASHTO M-294 for diameters of 12—24 inches. Pipe to be used for under drain type C shall be perforated in accordance with the applicable perforation requirements of AASHTO M-36, type III, class 1 perforations. Coiled pipe shall not be used. All polyethylene tubing and pipe shall be smooth lined.
- (4) *Corrugated metal pipe.* Corrugated metal pipe and fittings shall conform to the requirements of MDOT specifications, section 707, Metallic Pipe. Pipe gauge shall be as required to meet soil and traffic loads with a deflection of not more than five percent.
- (5) *Under drainpipe.* Pipe for under drain may be of perforated corrugated metal pipe, perforated PVC pipe or corrugated polyethylene pipe for under drain meeting similar requirements to that of standard drainpipe conforming to MDOT specifications, section 605, Under Drain.
- (6) *Manholes.*

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- a. Manholes shall be of precast concrete construction. Precast units shall conform to the requirements of ASTM designation C-478. Cones shall be truncated. Bases may be cast-in-place concrete, 3,000 pounds per square inch (psi), 28-day strength, or may be precast concrete.
 - b. Manhole steps shall be drop front type of cast aluminum conforming to federal specification QQ-A-200/8 aluminum magnesium silicide type alloy. All steps shall cast into the walls of the manholes so as to form a continuous ladder with a distance of 12 inches between steps.
 - c. Manhole frames and covers shall be either a M24 by 8 manhole or E24 by 5 manhole as manufactured by Etheridge Foundry of Portland, Maine, or an approved equal. Covers shall be solid diamond and marked "storm."
 - d. Manhole inverts shall be constructed of brick and shall be shaped to the crown of the pipe for sizes up to 18 inches and to the spring line for larger pipes.
 - e. Manholes shall have a minimum inside diameter of four feet in the barrel section and two feet in the cone or top slab ingress/egress opening.
- (7) Catchbasins.
- a. Catchbasins shall be of precast concrete construction conforming to the appropriate ASTM designations specified in subsection (c)(6) of this section.
 - b. Frame and grate castings shall be as directed by the city engineer. All catchbasins shall be provided with a curb face inlet unless otherwise approved by the city engineer.
 - c. Catchbasins shall have a minimum two-foot sump for the retention of waterborne solids.
 - d. Minimum inside diameters for catchbasins shall be as specified in subsection (c)(6) of this section.

(Ord. of 2-26-2002, § 6.5)

Sec. 46-212. Drainage system construction standards.

- (a) Drainage system construction shall conform to MDOT specifications, section 603, Pipe Culverts and Storm Drains, section 604, Manholes and Catchbasins, and section 605, Under drain, unless otherwise noted.
- (b) All trenching shall be accomplished in accordance with all appropriate state and federal safety requirements.
- (c) Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet.
- (d) Pipe, excluding culvert pipe and under drain, shall be bedded in crushed or screened stone with a minimum depth of six inches to provide class B bedding. The stone will be deposited in the trench and brought to proper invert grade. The maximum size of stone aggregate will be three-fourths of an inch. When the trench bottom has been excavated, it shall be filled and thoroughly compacted to grade before the utility pipe is placed. When the excavated trench bottom is not sufficiently firm to properly support the utility pipe, the city engineer may direct the developer to excavate below grade and bed the trench bottom with a specified depth of select material. Unless otherwise shown on the final plan, the stone shall be brought to the spring line of the pipe. Bedding materials other than those stated in this subsection may be used upon written approval from the city engineer. The approval shall include a description of materials that may be substituted.
- (e) Pipe alignment shall be straight in both the horizontal and vertical directions unless specific approval of a curvilinear drain is obtained in writing from the city engineer.
- (f) Catchbasins and manholes shall be founded below the frost line on a minimum depth of six inches of crushed or screened gravel compacted to a uniform density.

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(g) All drain outlets shall be terminated in a concrete end wall or shall be riprapped to prevent erosion. Facilities for energy dissipation shall be provided. Culvert pipe inlets shall be constructed so as to prevent or decrease damage to the embankment or to improve efficiency of the culvert. All drain inlet flow control devices and trash racks shall be as required or approved by the city engineer.

(h) Type B under drain (six-inch diameter, for intercepting groundwater) shall be laid with perforations down on a minimum three-inch bed of granular material. Type C under drain (12-inch minimum diameter, for conveying surface stormwater and intercepting groundwater) shall be laid with perforations up. Granular material for backfill shall be as specified for type B under drain in MDOT specifications, section 703.22, Under Drain Backfill Materials.

(Ord. of 2-26-2002, § 6.6)

Secs. 46-213—46-232. Reserved.

DIVISION 4. TRAFFIC IMPACT ANALYSIS STANDARDS

Sec. 46-233. Intent.

A traffic impact analysis shall be provided, to include a determination of the travel demand generated by the development, the identification of deficiencies in the existing and proposed transportation systems, and the identification of the improvements necessary to maintain acceptable levels of service, in order to help prevent deterioration in the quality of service of the city's existing transportation system and to ensure sufficient access to the development. The traffic impact analysis shall be prepared under the supervision of a registered professional engineer with specific training in traffic and transportation engineering, and with experience related to preparing traffic studies for existing or proposed developments.

(Ord. of 2-26-2002, § 7.1)

Sec. 46-234. Waivers and modifications.

The city engineer may waive or modify any of the requirements of this division if the developer's certified traffic engineer can demonstrate that they are not necessary because of size, type or location of the development or because other traffic impact analytical methods or procedures are equally effective, and may waive all requirements of this division if the developer's certified civil engineer can demonstrate that traffic impacts, such as changes in volumes, types and patterns, are negligible. The director of community services may waive all requirements of this division if the developer can demonstrate that traffic impacts, such as changes in volumes, types and patterns, are negligible.

(Ord. of 2-26-2002, § 7.2)

Sec. 46-235. Procedure for conducting analysis.

(a) *Inventory of existing and proposed land use.*

(1) *Existing land use.* Site location and setting are important in determining the potential impacts of development on a given site. The site description shall include the following:

a. Exact physical location of the proposed development.

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- b. Physical characteristics, such as land configuration, unique features, water bodies, trees, developable acres and topography.
 - c. Existing land uses, such as the actual use, zoning and land use classification.
 - d. Land uses of adjacent property.
- (2) *Proposed land use.* Adopted comprehensive plans, community development plans, long range plans or similar documents shall be checked as part of the inventory of proposed land uses. This will provide an indication of the type and direction of future development that is generally acceptable to the community and that may be facilitated by community facilities, such as streets, sewers and water lines. Quantification of trip generation shall also be developed.
- (b) *Inventory of existing and proposed transportation system.*
- (1) *Existing transportation system.* An understanding of the nature and function of the existing and proposed transportation system in the area near a proposed development site is essential for predicting traffic patterns, performing the traffic analysis and developing necessary improvement alternatives. The following information shall be provided:
- a. Current and proposed street network, including functional classification, route jurisdiction and the number of moving traffic lanes.
 - b. Geometrics and characteristics, especially at critical intersections, including such items as curb parking and potential street improvements.
 - c. Intersection traffic control.
 - d. Signal timing and system operation at signalized intersections.
 - e. Existing or proposed intersection and development access points and configurations.
 - f. Existing and proposed rights-of-way.
 - g. Available hourly traffic counts.
 - h. Peak period turning movements at critical intersections.
 - i. Accident information.
 - j. Transit routes/headways.
 - k. Transit stops/station locations.
- (2) *Proposed transportation system.*
- a. Comprehensive transportation plan.
 - b. Future improvements, committed and planned.
- (c) *Forecasted nonsite traffic volumes.* Nonsite traffic consists of through traffic volumes, having neither an origin nor a destination in the vicinity of the development, and traffic generated by developments adjacent to and affected by, or having an impact on, the proposed development. Methods used to determine nonsite traffic volumes shall include use of the following:
- (1) Comprehensive transportation plans or related data projections; land use and socioeconomic information shall be checked.
 - (2) Typical annual growth rates; sufficient historic volume information shall be provided and factors shall be developed to apply to existing counts.
 - (3) Known site-specific development in planning/construction phases.

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- (d) *Site related traffic.* Site related traffic shall be determined as follows:
- (1) Divide activities associated with development into components.
 - (2) Identify trip generation units of measure and rates for components.
 - (3) Estimate development-generated units of measure and rates for components.
 - (4) Identify the critical hours of analysis, such as the adjacent street morning and evening peak hours or the proposed development peak hour of activity.
 - (5) The trips generated shall then be distributed to the transportation system on the basis of land use, population or employment, distance, accessibility and any local factors affecting distribution. The distribution should reflect conditions for the analysis year, and the methodology should be well documented.
 - (6) If the magnitude of the development is significant, a determination of the mode of travel may be necessary. The determination of trips generated is most likely in terms of vehicle trips; therefore, an assessment of vehicle occupancy shall be performed to convert vehicle-trips to person-trips. Then, the alternative modes of travel shall be analyzed as to their attractiveness to development-generated traffic.
 - (7) Trips for various transportation modes shall be assigned to existing and proposed transportation networks based on available system capacity, convenience and other relevant criteria. Traffic assignments shall reflect logical routing and realistic roadway capacity potential.
- (e) *Traffic analysis.*
- (1) Nonsite and site-related traffic shall be combined (i.e., the traffic volumes for the various stages of the proposed development and the determined analysis periods (morning, evening or development peak hours), estimated in previous steps, in order to obtain estimates of total projected traffic volumes).
 - (2) Capacity analyses shall be conducted for all critical intersections and access points during peak traffic periods. Critical intersections usually fall into the following categories:
 - a. All major intersections within a certain distance of the development as agreed to by the city engineer.
 - b. All affected intersections where development traffic would increase the volume to a level that would warrant improvements.
 - c. All affected intersections that operate or would, after development, operate below design levels of service.
 - (3) The results of the capacity analyses shall be used to identify street and road segments and intersections near the development that are or will, after development, be deficient in capacity, and to identify safety-related constraints.
- (f) *Street/road and access improvements.* The information determined pursuant to subsection (e) of this section is then used to identify and evaluate improvements that can be made to maintain acceptable levels of service and to help decision-makers to determine whether the impact of the proposed development on the surrounding area is acceptable. Level of service D shall be considered appropriate for urban design unless otherwise indicated by the city engineer or as required in section 46-179(j) and (k). The following elements shall be addressed as applicable:
- (1) *External street/road system improvements.*
 - a. Review of design vehicle requirements.
 - b. New streets/roads and lanes.

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- c. New or modified interchanges.
 - d. Additional through lanes.
 - e. Turn lanes, including storage lengths.
 - f. Acceleration/deceleration and bypass lanes.
 - g. New signals.
 - h. Modification of existing signals.
- (2) *Internal street system.*
- a. Review of design vehicle requirements.
 - b. Lane requirements.
 - c. Traffic control.
 - d. Driveway design.
- (3) *Evaluation of improvements.*
- a. Impact on operating characteristics.
 - b. Cost.

(Ord. of 2-26-2002, § 7.3)

Sec. 46-236. Department of transportation traffic movement permit.

- (a) The city has been given the authority by the state department of transportation to review and approve all development projects that meet the following threshold standards, provided, the applicant submits a traffic study with criteria as required in section 46-235:
- (1) A project generating 100 to 200 passenger car equivalents at peak hour as described in 23 M.R.S.A. § 704-A(2) and (4).
 - (2) A project generating 200 or more passenger car equivalents at peak hour (provided there is no impact in any other municipality other than the City of Auburn) as described in 23 M.R.S.A. § 704-A(2) and (4).
- (b) All development projects meeting the requirements of subsection (a) of this section must also receive approval from the city planning board in conformance with article 7, section 7.1 of appendix A of this Code (the zoning ordinance).

(Ord. of 2-26-2002, § 7.4)

Secs. 46-237—46-265. Reserved.

DIVISION 5. CONSTRUCTION RECORDS AND INSPECTIONS

Sec. 46-266. Records.

- (a) After approval by the planning board of a development and prior to construction, the developer shall supply the city engineer with a complete set of engineering drawings on Mylar showing all streets, sanitary sewers,

drainage facilities, utilities and all appurtenant work within the development at a scale of not more than one inch equals 50 feet.

- (b) An accurate record of each utility service lateral, its location and depth at the street right-of-way, shall be kept by the developer and true copies of such record will be provided to the city engineer and the appropriate utility.
- (c) The developer shall provide the city engineer with a complete and accurate list of any changes from the engineering drawings and a marked set of as-built, reproducible drawings prior to the release of the performance bond.

(Ord. of 2-26-2002, § 8.1)

Sec. 46-267. Inspection of required improvements.

- (a) *Purpose of inspection.* The primary purpose of inspection by the city is to protect the taxpayer's investment by observing and recording development construction activities to ensure compliance with the requirements of this article. The need for construction inspection is always present and the role of an inspector is often critical in ensuring a product of acceptable quality.
- (b) *Scope and conduct of inspections.*
 - (1) An inspection shall include the monitoring of the construction process, inspection of materials and critical activities, and the coordination of sampling and testing events.
 - (2) The place, frequency and thoroughness of inspection may vary depending on the construction activity, the quality of work exhibited by the contractor and the availability of inspection personnel.
 - (3) Inspection by the city will not in any way hold the city liable for improvements, nor will it relieve the developer of the responsibility for quality control of the construction project or the need for the developer to provide engineering, surveying, grade control and technical personnel as required by this article or as may be necessary to meet the requirements of this article.
- (c) *Start of construction notice.* Prior to the start of construction, the developer shall give written notice to the city engineer. The notice shall include the following:
 - (1) Type of improvements.
 - (2) Description and the amount of work to be completed.
 - (3) Starting date.
 - (4) Duration of construction.
 - (5) Construction schedule.

Construction shall be scheduled continuously until the date of completion.

- (d) *Inspection fee.*
 - (1) Prior to the start of construction, the developer shall pay an inspection fee as set out forth in appendix B to this Code. Improvements subject to fees include those that have public impacts relevant to this article, typically all improvements excluding structures permitted by the building inspector.
 - (2) The developer shall submit a list of all discrete improvement tasks, quantities and the related costs. The city engineer shall review the list to determine which improvements have public impacts relevant to this article.

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- (3) The fee shall cover inspection during regular city work hours as well as off hours, to include weekends and holidays, and the contracting by the city of inspection services when necessary.
 - (4) Fees prescribed in this subsection (d) shall be paid at the office of the engineering division. Checks shall be made payable to the city.
 - (e) *Notice to proceed.* Within 15 days of receipt of the written notice, inspection fee and bond as required in section 46-299, the city engineer shall issue a written notice to proceed.
 - (f) *Stop work order.* Upon notice from the city engineer that work on the development is being performed contrary to the provisions of this article or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the developer, the developer's agent or the person doing the work, and shall state the conditions under which the work will be permitted to resume, to include payment of a \$250.00 fine and \$250.00 for each day work continues in violation of the written stop work order.
 - (g) *Testing.* Testing, other than that provided by the developer, may be required by the city engineer in order to determine if materials and required improvements are in accordance with approved plans and specifications. Such testing shall be coordinated by the engineering division and paid for by the developer prior to final acceptance of the improvements.
 - (h) *Failure to conform with approved plans.* If the city engineer should find, upon inspection of the improvements performed before expiration of the bond, that any of the required improvements have not been constructed in accordance with plans and specifications as approved, he shall report such nonconformance to the city manager. The city engineer shall then notify the developer and, if necessary, the bonding company, and shall take all necessary steps to preserve the city's rights under the bond.
 - (i) *Modification of location or design.* If, at any time before or during construction of the required improvements, the developer demonstrates to the satisfaction of the city engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the city engineer may authorize modifications, provided that the modifications do not amount to a waiver or substantial alteration of the function of any improvements required by the planning board.
 - (j) *Maintenance of improvements.* The developer or other responsible party shall be required to maintain all public improvements and provide for waste disposal and snow removal on streets and sidewalks until acceptance of such improvements by the city council.
- (Ord. of 2-26-2002, § 8.2)

Secs. 46-268—46-297. Reserved.

DIVISION 6. REQUIRED IMPROVEMENTS AND BOND

Sec. 46-298. Completion of improvements.

Prior to the release of the approved recording plat for subdivisions and the start of construction for all development, the developer shall file a bond as provided in section 46-299, and prior to the release of such bond the developer shall have completed all improvements, including, but not necessarily limited to, the following:

- (1) All streets shall be graded in conformity with the requirements set out in division 2 of this article.
- (2) On all streets a suitable hard surface permanent pavement shall be installed meeting the requirements set forth in division 2 of this article.

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- (3) Water, gas, sanitary sewer mains, storm drains and other below pavement structures shall be installed prior to the placement of aggregate base/subbase course, with all lots having sufficient stub outs to avoid the subsequent cutting of pavement.
 - (4) Sidewalks and curbs shall be constructed as required in division 2 of this article.
 - (5) Adequate stormwater and groundwater drainage shall be constructed subject to the provisions of division 3 of this article and in accordance with the approved project specifications.
 - (6) Monuments meeting the requirements as set forth in section 46-184(i) shall be installed at all angles and points of curvature in the right-of-way.
 - (7) All utility lines shall be placed underground unless otherwise approved by the city engineer and shall meet the requirements of division 2 of this article.
 - (8) Street lighting, if required, shall be installed in accordance with the standards of the city electrician.
 - (9) Public water supply, if required, shall be installed subject to the approval of the Auburn Water District and shall meet the requirements of division 2 of this article.
 - (10) Public sanitary sewer, if required, shall be installed subject to the approval of the Auburn Sewerage District and shall meet the requirements of division 2 of this article.
 - (11) Landscaping shall be completed as shown on approved plans both within the right-of-way and on private property.

(Ord. of 2-26-2002, § 9.1)

Sec. 46-299. Bond.

- (a) The bond required by section 46-298 shall be a surety bond, an irrevocable letter of credit or escrow account. An alternative form of security may be approved by the director of community services if the director of community services determines that the developer has a proven record of past performance and sufficient financial capability. Alternative forms of security must also be approved by the finance director and city solicitor as to financial sufficiency and proper form.
- (b) Bonds shall be required to ensure fulfillment of all public improvements and improvements which have public impacts relevant to this article, including those required by section 46-298. Such bond shall specify the completion of the improvements required in the development within 24 months from the date of such bond. Furthermore, the bond shall be released only upon completion of all improvements and the tendering of a defect bond as required in subsections (d) and (e) of this section.
- (c) The bond shall not exceed 100 percent of the cost of improvements as estimated by the city engineer and approved by the city manager. For special exceptions with improvements of \$250,000.00 or more, the bond shall not exceed \$250,000.00 or 50 percent of on-site improvements, whichever is greater, and 100 percent of the cost of off-site improvements. The developer of special exceptions may be entitled to one bond reduction with the amount to be justified by existing construction expenditures, satisfactory completion of work and risk assessment as determined by the city engineer. The developer of subdivisions shall not be entitled to bond reductions. The surety shall not be released from the bond except by a release in writing from the city manager upon recommendation from the city engineer and the director of community services.
- (d) Upon satisfactory completion of the development's prescribed improvements, the developer shall file a defect bond (i.e., maintenance bond) prior to the city's acceptance of any and all streets or other improvements within the development. The defect bond shall ensure workmanship and the durability of all materials used in the construction of the roadways, curbing, esplanades, sidewalks, sanitary sewerage systems (including manholes and house drain laterals), storm drainage systems (including manholes,

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catchbasins and catchbasin drains), street lighting, landscaping and all other improvements which may become defective within a one-year period, all as determined by the city engineer. The developer shall give to the city, at the time of acceptance of the street as a public street, a warranty deed to the property within each street within the development.

- (e) The defect bond shall be a bond equal in value to ten percent of the amount of the original bond. An alternative form of security may be approved by the director of community services if the director of community services determines that the developer has a proven record of past performance and sufficient financial capability. A bond that contains appropriate terms and conditions to cover both the performance and defect provisions as specified in subsections (a) through (d) of this section is an acceptable form of security.

(Ord. of 2-26-2002, § 9.3)

Secs. 46-300—46-316. Reserved.

Decision: 2026 ME 53
Docket: Yor-25-345
Argued: March 4, 2026
Decided: June 2, 2026

Panel: STANFILL, C.J., and MEAD, CONNORS, LAWRENCE, and DOUGLAS, JJ.

MICK LAND DEVELOPMENT, INC.

v.

TOWN OF SOUTH BERWICK

CONNORS, J.

[¶1] In this appeal pursuant to M.R. Civ. P. 80B, Mick Land Development, Inc. (Mick Land) asks the court to strike an access condition imposed by the South Berwick Planning Board (Board) when it approved Mick Land’s proposed subdivision. The Superior Court (York County, *Mulhern, J.*) affirmed the Board’s decision. We also affirm.

I. BACKGROUND

[¶2] In a nutshell, Mick Land wanted and expected the primary access to the subdivision to be from one road, with a second road to serve as the emergency access, while the Board approved the subdivision conditioned on the second road as the primary access and the first road as only an emergency access. The details that follow are taken from the administrative and

procedural record. *See Stiff v. Town of Belgrade*, 2024 ME 68, ¶ 2, 322 A.3d 1167.

[¶3] In April 2022, Mick Land applied to the Board to develop a subdivision in South Berwick called Samville Estates (Samville). Mick Land proposed two access points for the subdivision: Meadow Pond Road, which runs through a neighboring subdivision called Meadow Pond Estates, and Industry Drive, which runs through the neighboring town of Berwick.¹

[¶4] The Board began reviewing the application under the Town’s subdivision ordinance and its site plan review ordinance, each of which provided for review in stages. *See* South Berwick, Me., Code §§ 121-4(C), 140-77(C)(3)-(8) (Oct. 24, 2017). On January 4, 2023, the Board accepted a sketch plan for Samville and moved the application to the preliminary plan stage of review. The Board had before it a preliminary traffic impact study based on the use of Meadow Pond Road as the primary point of access to Samville, with Industry Drive as a secondary emergency access point. The traffic impact study indicated that there would be “no significant impact off-site beyond the access drive on capacity or traffic operations,” that there were “no

¹ Mick Land, which previously developed Meadow Pond Estates Phases I and II, asserts that Samville Estates was a planned “Phase III” of the Meadow Pond Estates subdivision. This was disputed before the Board.

high crash locations within the vicinity of the site,” and that “sight distances from the proposed access points will exceed the recommended minimums.”

[¶5] In an application dated March 28, 2023, Mick Land submitted a preliminary plan to the Board again showing Meadow Pond Road as the primary access point and Industry Drive as a secondary access point limited to emergency use. The Board discussed the preliminary plan at its meeting on April 19, 2023, at which an attorney representing the homeowners’ association (HOA) for Meadow Pond Estates argued that the additional traffic on Meadow Pond Road would present a danger because Meadow Pond Road was curvy, visibility was poor, and traffic would flow through the most congested part of Meadow Pond Estates.

[¶6] On May 3, 2023, the Board conducted a site walk. That same day, the Board held a public hearing on the application. At this hearing, residents from Meadow Pond Estates expressed concerns about the use of Meadow Pond Road to access Samville, stating that there were blind spots on Meadow Pond Road, that exiting from Meadow Pond Road onto the adjoining road was dangerous, and that children biked and rollerbladed there. The HOA president also emailed the town planner on May 5, stating that it was much easier to exit the development onto Route 4 from Industry Drive, that “the start of Meadow

Pond R[oa]d is a curvy, not high-traffic optimized route,” and that visibility was poor when exiting Meadow Pond Road.

[¶7] The Board continued to review the application and to consider the access issue for much of 2023. At the Board’s meeting on November 15, 2023, the Chair proposed that Industry Drive serve as the primary point of access to Samville and that access from Meadow Pond Road would be for emergencies only. The Board took no action on the Chair’s proposal but instead accepted Mick Land’s preliminary plan for Samville, with the understanding that access would remain an “open issue[.]”

[¶8] Mick Land then filed revised site plans that did not restrict Industry Drive to emergency access. On February 21, 2024, the Board conducted final plan review of the application. It approved the final plan with the condition that Meadow Pond Road would be limited to emergency access.

[¶9] On March 6, 2024, the Board voted to approve written Findings of Fact and Conditions of Approval. In these written findings, the Board noted the subdivision ordinance’s requirement that “[t]he subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads, existing or proposed,” *see* South Berwick, Me., Code § 121-12(E) (Oct. 10, 2017), and found the following:

This standard has been met. A Traffic Impact Assessment was completed with a date of October 13, 2022 and is within the application documents. To limit residential traffic from this development from traveling through the existing Meadow Pond Phases 1 and 2, the Planning Board imposed Condition 6. This condition requires a sign stating “emergency access only” on the roadway connecting the new development and Meadow Pond Phases 1 and 2, which allows for a 2nd point of egress in the case of emergency but does not cause undue burden on the residential roadways existing in Meadow Pond Phases 1 and 2. All residential traffic from the new development must utilize the [I]ndustry [D]rive entrance, except in case of an emergency.

The Board then included as a condition of approval Condition 6, which required that “[t]he new private road access from Meadow Pond Road into Samville Estates Subdivision will be posted with appropriate road signs stating, ‘Emergency Access Only,’ and ‘No Thru Way.’”

[¶10] Mick Land filed a complaint in the Superior Court seeking judicial review of the Board’s decision under M.R. Civ. P. 80B. This proceeding was stayed while Mick Land pursued an application with the Board to amend the site plan approval by modifying Condition 6. The Board voted to deny the application to amend and issued findings of fact stating that the Board “had concerns about the potential need for a traffic study for the Industry Drive access and decided that there wasn’t enough information to amend condition 6.”

[¶11] Mick Land filed a second Rule 80B complaint for review of the Board's latest decision, which appeal was consolidated with the previous complaint.

[¶12] In December 2024, the court remanded the matter to the Board to develop further findings of fact and conclusions of law. On January 9, 2025, the Board issued remanded Findings of Fact, Conclusions of Law and Decisions. The additional findings and conclusions focused on the evidence regarding adverse impact on traffic safety absent the condition with respect to pedestrian and bicycle traffic, noting, inter alia, that residents had stated that eighteen children resided in Meadow Pond Estates "with many of them biking and rollerblading around the road." Condition 6, the Board concluded, would reduce the amount of added traffic to that area, mitigating the danger to that pedestrian and bicycle traffic.

[¶13] Regarding Mick Land's application to amend Condition 6, the Board stated that "[t]he applicants didn't provide any new evidence beyond what had already been in the record and had been determined to be insufficient to accommodate the necessary health and safety standards, which resulted in the condition being imposed."

[¶14] On January 15, 2025, the remanded findings were filed with the Superior Court.² On May 6, 2025, after consideration of the Board’s findings and conclusions on remand, the court denied Mick Land’s Rule 80B appeal. Mick Land then timely appealed to us. *See* M.R. App. P. 2B(c)(1)-(2).

II. DISCUSSION

[¶15] Mick Land articulates its challenge to the access condition in various ways, but the gist of its position is that the condition is (A) not permitted under the language of the applicable ordinances, (B) not supported by substantial evidence, and (C) otherwise arbitrary and capricious.

[¶16] “In a Rule 80B appeal, the Superior Court acts in an appellate capacity, and, therefore, we review the Planning Board’s decision directly . . .

² After the Board issued its findings on remand, Mick Land moved in the Superior Court (with the consent of the Town) for the court to amend its order of remand so that the court retained jurisdiction. This motion was timely under M.R. Civ. P. 59(e). The court granted the order, and the matter proceeded without a new Rule 80B complaint filed. We note that this is not the usual course of action under Rule 80B. Rule 80B(m) provides that the Superior Court normally does not retain jurisdiction upon remand to a municipal entity. M.R. Civ. P. 80B(m); *see Penkul v. Town of Lebanon*, 2016 ME 16, ¶ 6 n.4, 136 A.3d 88 (“This case highlights the confusion that may be generated when the trial court purports to ‘retain jurisdiction’ after remanding a matter to a government decision maker. The clearer practice is for the court to enter a final judgment remanding the matter. The proceedings undertaken on remand will clarify whether any subsequent appeal might be taken and which entities will have the complete administrative record.”). Although we have sometimes used unclear language regarding the finality of a remand order by the Superior Court, we and the Rule are clear that such a remand order is not a final judgment for the purpose of immediate appeal to us, but is a final judgment for the purpose of requiring a new Rule 80B complaint after the remand, with the arguments raised in the first action preserved for review in the second appeal. *See* M.R. Civ. P. 80B(m). As *Penkul* notes, this process recognizes that a second appeal after the remand is not automatic, in that the issues concerning the appellant may be mooted on remand. *See Penkul*, 2016 ME 16, ¶ 6 n.4, 136 A.3d 88; *see also Doggett v. Town of Gouldsboro*, 2002 ME 175, ¶ 7, 812 A.2d 256.

for errors of law, abuses of discretion, or findings not supported by substantial evidence in the administrative record.” *Bryant v. Town of Wiscasset*, 2017 ME 234, ¶ 11, 176 A.3d 176 (alteration and quotation marks omitted). Mick Land bears the burden of persuasion on appeal as the party seeking to vacate the Board’s decision. *Bizier v. Town of Turner*, 2011 ME 116, ¶ 8, 32 A.3d 1048.

A. The Board had the authority under the subdivision ordinance to impose Condition 6.

[¶17] Mick Land argues that the Board lacked authority to impose Condition 6 because that the Town’s subdivision ordinance does not authorize the Board to conditionally approve a subdivision or, alternatively, because the Board found that Samville met all standards under the subdivision ordinance. This argument presents a question of law that we review de novo. *Newfield Sand v. Town of Newfield*, 2025 ME 45, ¶ 11, 335 A.3d 626.

[¶18] A municipal planning board has no inherent authority and may only exercise such authority as the municipality has conferred upon it by ordinance. *See id.* ¶ 14. That said, the Board is not limited to express grants of authority, but also has all powers granted “by necessary inference as an incidence essential to the full exercise of powers specifically granted.” *See id.* (quotation marks omitted); *Total Quality, Inc. v. Town of Scarborough*, 588 A.2d 283, 285 (Me. 1991) (upholding conditions imposed by a planning board,

noting that they were “reasonable means of achieving the goals stated in the [o]rdinance of promoting traffic safety and minimizing the impact of the property use on abutting properties”).

[¶19] Here, the subdivision ordinance authorizes the Board to “modify and approve” final subdivision applications and requires that the Board state on the record “[t]he reasons for any modification required.” South Berwick, Me., Code § 121-36(D) (Oct. 17, 2017). The subdivision ordinance also includes review criteria that the Board “shall consider” in reviewing subdivision applications, including that the subdivision “will not cause . . . unsafe conditions with respect to use of the . . . public roads.” *Id.* § 121-12(E). Read together, these provisions authorize the Board to impose conditions on final subdivision plans to ensure compliance with the review criteria.

[¶20] Mick Land argues that, even if the subdivision ordinance provides textual support for the Board’s authority to conditionally approve subdivision plans, such a grant of authority is an unlawful delegation of legislative power because “there is no guidance in the Subdivision Ordinance as to what circumstances would permit the Board to add conditions, or what . . . conditions are permitted.” Relatedly, Mick Land argues that the Board cannot rely on the subdivision review criteria to support Condition 6 because the Board found

that all the review criteria, including the absence of unsafe conditions on the public roads, were met.

[¶21] It is “unconstitutional for a zoning ordinance to delegate decision-making to a Planning Board or other entity without a sufficiently detailed statement of policy to furnish a guide which will enable those to whom the law is to be applied to reasonably determine their rights thereunder, and so that the determination of those rights will not be left to the purely arbitrary discretion of the administrator.” *Fitanides v. City of Saco*, 2015 ME 32, ¶ 12 n.3, 113 A.3d 1088 (alteration and quotation marks omitted). Here, however, there is no such delegation problem. The Board based Condition 6 on section 121-12(E) of the subdivision review criteria, which prohibits unsafe conditions on the public roads—a “sufficiently detailed statement of policy.” *See id.* (quotation marks omitted). Although the Board stated that section 121-12(E) had “been met,” it immediately followed that statement with a clarification that it was imposing Condition 6 to ensure compliance with this section. It is clear from reading the Board’s findings and decisions as a whole that the Board concluded that Samville met section 121-12(E) only after the imposition of Condition 6.³

³ We do not reach the town’s argument that Condition 6 is additionally or alternatively supported by language in the site plan review ordinance.

B. Condition 6 was supported by substantial evidence in the record.

[¶22] Mick Land argues that the record lacks substantial evidence supporting the imposition of Condition 6. Although Mick Land acknowledges that the record contains factual support for the Board's decision in the form of safety concerns from Meadow Pond Estates residents, it argues that such evidence is limited to "speculative lay opinions and generalized fears about traffic and safety, uncorroborated by any expert study, Town staff corroboration, or any other competent record data," which it claims are insufficient as a matter of law to support the Board's decision.

[¶23] The court in a Rule 80B appeal reviews a municipal board's factual findings to determine if they are supported by substantial evidence in the record. *Wister v. Town of Mount Desert*, 2009 ME 66, ¶ 27, 974 A.2d 903. "Substantial evidence exists if there is any competent evidence in the record to support a decision." *21 Seabran, LLC v. Town of Naples*, 2017 ME 3, ¶ 10, 153 A.3d 113 (quotation marks omitted). "A demonstration that no competent evidence supports the local board's findings is required in order to vacate the board's decision." *Thacker v. Konover Dev. Corp.*, 2003 ME 30, ¶ 8, 818 A.2d 1013.

[¶24] It is true that, although the substantial evidence standard is deferential, “[f]act-finders must rely on evidence, not speculation, in fact-finding, and we must vacate decisions where fact-finding was unsupported by evidence.” *Hannum v. Bd. of Env’t Prot.*, 2003 ME 123, ¶ 15 n.6, 832 A.2d 765. Here, however, the Board did not rely merely on speculation. Residents commented, based on their own personal knowledge, that there were blind spots on Meadow Pond Road and that it was dangerous to exit Meadow Pond Road onto the adjoining street. Residents also commented that children often rode bikes and pedestrians walked in the street. This was competent evidence upon which the Board could find that limiting access on Meadow Pond Road to avoid additional traffic in Meadow Pond Estates was necessary for safety purposes. *See Lentine v. Town of St. George*, 599 A.2d 76, 77, 80 (Me. 1991) (holding that the denial of an application to build a wharf was supported by substantial evidence where the denial was based on the statements and articulated concerns of neighbors). Mick Land bore the burden of proof, and the Board was not bound to accept any particular piece of evidence. *See Adelman v. Town of Baldwin*, 2000 ME 91, ¶ 14, 750 A.2d 577. The Board also conducted a site walk, and Board members were free to evaluate the evidence in light of their own personal observations. *See id.* ¶ 11; *cf. Dionne v.*

LeClerc, 2006 ME 34, ¶ 15, 896 A.2d 923 (stating that the factfinder is not required to accept even undisputed evidence, whether from experts or lay witnesses).⁴

C. The Board’s decision to impose Condition 6 was not otherwise arbitrary or capricious.

[¶25] Mick Land asks us to vacate the Board’s decision on multiple other grounds: because Condition 6 will result in Meadow Pond Estates being functionally disconnected from Samville, which, according to Mick Land, “disregards sound planning principles and violates established subdivision standards”; because the connection between Meadow Pond Estates and Samville was anticipated when Meadow Pond Estates was constructed;⁵ because the Board allegedly misconstrued the scope of its review to include town-wide, legislative concerns; and because the Board’s imposition of

⁴ Mick Land’s traffic studies focused on safety from the perspective of motor vehicles. As the Board explained, however, “[w]hile the materials received do ensure safe motor vehicle passage, the shape and resulting vehicle speeds do not provide assurances to pedestrian and bicycle traffic without mitigation.” Section 121-12(E) requires proof that the subdivision “will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads, existing or proposed.” Unsafe conditions can refer to lack of safety with respect to pedestrians and bicycle traffic, as well as motor vehicles.

⁵ As to Mick Land’s argument that the use of Meadow Pond Road as an access point was previously approved by the Board during the development of Meadow Pond Estates, Mick Land has not articulated any reliance interest or argument for why the Board should be estopped from taking a contrary position. *See Tarason v. Town of South Berwick*, 2005 ME 30, ¶ 15, 868 A.2d 230 (stating that equitable estoppel requires the plaintiff to establish that “(1) the statements or conduct of the [government entity] induced him to act; (2) the reliance was detrimental; and (3) his reliance was reasonable”).

Condition 6 fundamentally redesigned Samville as proposed by Mick Land.⁶ These arguments boil down to whether the Board acted arbitrarily and capriciously. We hold that it did not.⁷

[¶26] “The arbitrary-and-capricious standard is high: we will not find that [the Board] has acted arbitrarily or capriciously unless its action is willful and unreasoning and without consideration of facts or circumstances.” *Gordon v. Me. Comm’n on Pub. Def. Servs.*, 2024 ME 59, ¶ 11, 320 A.3d 449 (quotation marks omitted). Although Mick Land’s arguments have some force, they are ultimately requests that we weigh the evidence differently, which is not our role. *See Friends of Lamoine v. Town of Lamoine*, 2020 ME 70, ¶ 21, 234 A.3d 214 (“Regarding the Planning Board’s ability to determine credibility and to weigh evidence, we will not substitute our judgment for that of the Planning Board.”)

⁶ As support for some of these arguments as well as the arguments addressed above, Mick Land relies on statements made by individual Board members at Board meetings. For example, to support its contention that “the Planning Board decision was based on appeasement of the homeowners and not on verifiable safety concerns,” Mick Land cites to the statements of individual Board members. “But ‘[the Board’s decisions] should be reviewed based upon what it accomplishe[d] and the [Board’s] stated justifications,’ not a review of the [Board’s] deliberations.” *Narowetz v. Bd. of Dental Prac.*, 2021 ME 46, ¶ 20 n.8, 259 A.3d 771 (quoting *Kan. State Network, Inc. v. FCC*, 720 F.2d 185, 191 (D.C. Cir. 1983)); *see also Murray v. City of Portland*, 2023 ME 57, ¶ 17, 301 A.3d 777 (“We also cannot treat the comments that individual Planning Board members made during the hearing as factual findings of the whole Planning Board.”)

⁷ As to Mick Land’s argument that the Board “redesign[ed]” its project, when a developer concludes that a condition imposed by the administrative decisionmaker is unacceptable, the developer may choose not to proceed with the project.

The entry is:

Judgment affirmed.

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York County Superior Court docket numbers AP-2024-5 and AP-2024-25
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