ZONING ORDINANCE

CITY OF WATERVILLE, MAINE

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ARTICLE 1. INTRODUCTION

1.1. Authority.

1.1.1. Pursuant to authority conferred by Title 30-A MRSA Sections 4352 and 4353, as amended from time to time, the following ordinance is enacted by the city council.

1.2. Title.

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

1.3. Purpose.

1.3.1. The purpose of this ordinance is to promote the health, safety, and general welfare of the residents of the city; to encourage the most appropriate use and prevent the

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

1.4. Jurisdiction.

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

1.5. Minimum requirements established.

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

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

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

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

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

"This is to certify that this is the Official Zoning Map referred to in Article 2, Section 2.1 of Ordinance ~~13-1989~~ 1-2010 of the City of Waterville, Maine, and effective ~~April 1, 1990~~ _____, 2010.

2.1.3. If, in accordance with the provisions of this ordinance and title 30-A MRSA as amended, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on said map promptly after the amendment has been approved by the city council with an entry on the official zoning map ~~as follows:~~

~~"On _____ by official action of the City Council, the following (change) changes were made in the Official Zoning Map."~~
~~(Brief description of nature of change) which entry~~

indicating the number of the ordinance that revised the zoning map and the date that the ordinance was adopted. Each revised official zoning map shall be signed by the mayor and attested by the city clerk. [Duplicate copies of the official map need not be signed.]

2.1.4. No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this ordinance and punishable as provided under Article 6, Section 6.~~2~~1.

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

2.2. Replacement of the official zoning map.

2.2.1. In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the city

council, by resolution, may adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the mayor, attested by the city clerk, and bearing the seal of the city under the following words:

"This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted as part of Ordinance No. ~~13-1989~~ 1-2010 of the City of Waterville, Maine."

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

2.3. Zoning districts.

2.3.1. For the purposes of this ordinance, the City of Waterville is divided into the following classes of use districts, or zones, as shown on the official zoning map.

2.3.1.A. Residential districts.

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

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

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

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

2.3.1.A.(5) Rural residential district (R-R), minimum lot twenty thousand (20,000) square feet.

2.3.1.B. Institutional districts (INST).

2.3.1.C. Commercial districts.

2.3.1.C.(1) Commercial district (C-A).

2.3.1.C.(2) General commercial district (C-B).

2.3.1.C.(3) Heavy commercial district (C-C).

2.3.1.C.(4) Highway commercial district (C-D).

2.3.1.D. Industrial districts.

2.3.1.D.(1) General industrial district (IND).

2.3.1.D.(2) Industrial Park district (I-P).

2.3.1.D.(3) Airport Industrial district (A-I).

2.3.1.D.(4) Downtown Industrial (D-I).

2.3.1.E. Resource Protection district (RP).

2.3.1.F. ~~(Reserved.)~~ Transitional district (T).

2.3.1.G. Contract Zoned Districts (CZD).

2.3.1.H. Airport district (AIR).

2.4. Interpretation of district boundaries.

2.4.1. Where uncertainty ~~may~~ arises as to the boundaries of districts as shown on the official zoning map, the following rules ~~shall~~ apply:

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

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

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

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

ARTICLE 3. DEFINITIONS

3.1. General definitions.

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

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

"City" means the City of Waterville.

"Municipal officers" ~~shall~~ means the mayor and council.

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

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

The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

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

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

3.2. Additional definitions.

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

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

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

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

2. Required off-street parking: See Section 4.3.~~25~~21 of this ordinance.

3. Signs as provided in Section 4.3.~~33~~26.

Aggrieved person or party: A person who ~~participates in a hearing, if one is held under this ordinance, and who~~ suffers a particularized injury as a result of the grant or denial of a permit, approval, or variance under this ordinance.

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

Air emissions: See Section 4.3.2. Air emissions. ~~The emission of dust, ash, smoke or other particulate matter, fumes, vapors or gases and chemicals which can cause damage to human or animal health, vegetation, or property by reason of concentration or toxicity, which can cause soiling beyond property boundaries, or which fail to meet or cannot meet the standards set by the Maine Department of Environmental Protection.~~

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

Amusement center: Any private, commercial premises which are maintained or operated primarily for the amusement, patronage, or recreation of the public containing four (4) or more table sports, pinball machines, video games, or similar mechanical or electronic games, whether activated by coins, tokens, or discs, or whether activated through remote control by the management.

Animal husbandry: Keeping and raising of animals for sale or for any commercial use. ~~This definition also includes boarding kennels.~~ See Section 4.3.3 Animal husbandry and boarding kennels.

Apartment: See "dwelling unit".

Apartment house: See "dwelling, multifamily"~~, apartment~~.

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

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

~~Area of special flood hazard: The land in the floodplain having a one percent or greater chance of flooding in any given year.~~

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

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

Auto service station~~ (formerly filling station)~~: Building and premises where gasoline or any other automobile engine fuel~~ (stored only in underground tanks)~~, kerosene, or motor oil and lubricants or grease (for operation of motor

vehicles), batteries, tires, and automobile accessories may be supplied and dispensed at retail, and where, in addition, the following services may be rendered and sales made and no other:

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

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

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

4. Radiator cleaning and flushing;

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

6. Greasing and lubrication;

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

8. Minor servicing and repair of carburetors;

9. Emergency wiring repairs;

10. Adjusting and repairing brakes;

11. Motor adjustments;

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

~~13. Provision of road maps and other informational material to customers; provision of restroom facilities.~~

Uses permissible at ~~a filling~~ auto service stations do not include major body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes,

smoke or other characteristics to an extent greater than normally found in ~~filling~~ auto service stations.

An ~~filling~~ auto service station is not a repair garage or a body shop. See Section 4.3.4. Automobile Business.

Auto repair garage: A place where, with or without the attendant sale of engine fuels, the following services may be carried out: general repair and equipping, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service, such as body frame or fender straightening and repair, overall painting and undercoating of automobiles, or hiring, selling or storing motor vehicles.

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

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

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

Basement: ~~The enclosed area underneath a structure, typically having a masonry floor and walls which comprise the structure's foundation, having less than half its clear height below the average grade of the adjoining ground a clear height up to the joists supporting the floor directly above is three (3) feet or greater.~~ Any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

Bed and breakfast inns: ~~A single-family dwelling in which the resident or residents of the dwelling provide short term overnight lodging to paying guests in a maximum of nine (9) guest rooms located within the dwelling or permitted attached structures.Breakfast shall be the only meal served and shall be limited to overnight guests. Commercial kitchens and rentals for more than two (2) weeks in duration in a calendar year are prohibited. The inn shall function like a private home with house guests. A bed and breakfast inn with two (2) guest rooms or less shall be considered an accessory to the principal use of the dwelling; a bed and breakfast inn with three (3), but not more than nine (9) bedrooms, shall be allowed under the conditions and regulations applicable to home occupations.~~ See Section 4.3.5 Bed and breakfast inns.

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

~~Boarding house: Any residential structure where lodging or lodging and meals are provided for compensation for a period of at least two (2) weeks and where a family residing in the building acts as proprietor or owner and where there are no provisions for cooking in any individual room other than the main kitchen.~~

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

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

~~Body of water: The phrase "body of water" includes the following:~~

~~1. Pond or lake: Any inland impoundment, natural or manmade, which collects and stores surface water.~~

~~2. Stream or river: A free-flowing drainage outlet with a defined channel lacking terrestrial vegetation and flowing water for more than three (3) months during the year.~~

~~Bottle club: An establishment where no alcoholic beverages are sold but where members, guests, or customers provide their own alcoholic beverages, paying a fee or other consideration for admission or membership to the bottle club and/or for "set ups".~~

Buildable area: See "Net residential acreage".

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

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

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

Campground: See Section ~~4.3.8.H(1)~~ 4.3.7 Campgrounds.

~~Certificate of occupancy: A document certifying that the premises comply with provisions of the zoning and/or building ordinances.~~

~~Change of use: The change from an existing to another use, including without limitation, the addition of a new use to an existing use.~~

~~Channel: A natural or artificial watercourse with definite beds and banks to confine and conduct continuously or periodically flowing water.~~

~~Channel flow: Water flowing within the limits of the defined channel.~~

~~Club: Any voluntary association of persons organized for social, religious, benevolent, recreational, literary, scientific, or political purposes, whose facilities, especially a clubhouse, are open to members and not the general public, and not generally engaged in activities customarily carried on by a business or for pecuniary gain. This term shall include fraternities, sororities and social clubs generally.~~

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

Code enforcement officer: The official responsible for administering and enforcing this ordinance. ~~Reference to the code enforcement officer may be construed in accordance with the definition set forth in section 2-112 of the Revised Code of Ordinances of the City of Waterville.~~

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

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

~~Commercial center: Commercial premises owned or managed as a single entity, which accommodate more than one retail or service business, including professional offices, and contain between (2,500) and (10,000) square feet of gross floor area.~~

~~Commercial complex: Commercial premises owned or managed as a single entity, which accommodate more than one retail or service business including professional offices, and contain more than ten thousand (10,000) square feet of gross floor area, including department stores and grocery stores with more than ten thousand (10,000) square feet of gross floor area.~~

~~Commercial use: Connected with the buying or selling of goods or services or the provision of facilities for a fee.~~

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

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

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

by the Department of Human Services pursuant to the provisions of Maine State Statutes.

~~Constructed: Includes built, erected, enlarged, altered, reconstructed, moved, or any physical operation on the premises which are required for construction. Excavation, fill, paving, drainage, and the like shall be considered as part of construction.~~

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

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

Daycare centers: See Section 4.3.9 Daycare centers. ~~Facilities providing daycare for children under sixteen (16) years of age. In Residential-B, -C, and -D zones, no more than twenty (20) children may be served at any given time. Daycare centers in commercial, Transitional, and Rural Residential zones, and in schools and churches in any zone, are not restricted to twenty (20) children. Daycare centers in Residential and Transitional zones are subject to the performance standards contained in 4.3.42.~~

~~Decorative changes: Repainting, residing, re-roofing; adding, removing or replacing trim, railings, or other nonstructural architectural details; or adding, removing, changing the location of windows and doors.~~

~~Drive-up/drive-through: An accessory use which, by design, physical facilities, service, or by packaging procedures, encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.~~

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

Dwelling, two-family: A ~~detached~~ residential building used or intended to be used by not more than two (2) families living independently of one another.

Dwelling, multifamily: A dwelling or group of dwellings in one structure designed for or occupied by three (3) or more families living independently of one another with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling unit, residential: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping, and toilet facilities. The term includes mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units. [This definition is from the Guidelines for Municipal Shoreland Zoning Ordinances.] ~~A "dwelling unit" means any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, time-share units, and apartments. Notwithstanding the provisions of this paragraph, leased dwelling units are not subject to subdivision review if the units are otherwise subject to municipal review at least as stringent as that required under this ordinance.~~

~~Earth, earth products: The term "earth" shall include topsoil (loam), sand, gravel, clay, peat, rock, or other minerals.~~

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

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

~~Expansion: In relation to a building, expansion shall mean enlargement of floor area, or enlargement of building enclosure. Including all extensions such as but not limited to attached: decks, garages, porches and greenhouses. In relation to use, expansion shall mean the addition of weeks or months to a business' operating season, the hours to a business day, the use of more floor or ground area, or the provision of additional seats or seating capacity.~~

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

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

~~Exterior walls, traditional site-built appearance: Siding materials such as clapboards, shingles, and shakes, including synthetic or metal siding manufactured to closely resemble clapboards, shingles and shakes. This term shall also include masonry, brick, stucco, and wood board and batten.~~

~~Extractive industries: The excavation, processing, or storage of soil, topsoil, peat, loam, sand, gravel, rock, or other mineral deposits, not including the following:~~

~~1. The excavation of material incidental to approved construction of buildings, driveways, or parking areas.~~

~~2. The excavation of material incidental to and at the site of construction or repair of streets.~~

~~3. The excavation, processing or storage of more than fifty (50) cubic yards of materials on a lot within a one-year period.~~

Family: One or more persons occupying a dwelling unit and living as a single house-keeping unit.

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

~~Filling: Depositing or dumping any matter on or into the ground or water.~~

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

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

~~Flea market: The indoor or outdoor sale of new or used merchandise, customarily involving tables, or space, leased or rented to individual vendors. A flea market is a principal commercial use, and is differentiated from "yard sales" and "used merchandise sales" which are defined separately.~~

~~Floating slab: A reinforced concrete slab which is designed to withstand pressures from both below and above.~~

~~Flood: A temporary rise in stream flow or tidal surge that results in water overtopping its banks and inundating adjacent areas.~~

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

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

~~Flood-proofing: A combination of structural provisions, changes, or adjustments to properties subject to flooding, primarily for the reduction or elimination of flood damage to properties, water and sanitary facilities, structures, and contents of buildings.~~

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

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

Foundation: The supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frost walls.

Frontage, road: The linear distance measured along the front lot line which separates a lot from a public street or a private road approved in accordance with Section 4.3.22 ~~but not including a private driveway providing access to more than one lot. On any lot bounded on more than one property line by a road, the road frontage shall be that property line of the lot designated as "road frontage" in any building permit application for that lot.~~

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

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

Garage sale: See "Yard sale".

~~Grade: In relation to buildings, the average of the finished ground level at the center of each wall of the building.~~

~~Grade beam: That part of a foundation system (usually within a building without a basement) which supports the exterior wall of the super structure, commonly designed as a beam which bears directly on the column footings, or may be self-supporting. The grade beam is located at the ground surface and is well drained below.~~

~~Gravel pit: A plot of land from which the subsoil is removed for sale or for use on another parcel.~~

~~Groundwater: All of the water found beneath the surface of the ground. For purposes of aquifer protection, this term refers to the slowly moving subsurface water present in the aquifers and recharge areas.~~

~~Health institution: A hospital, clinic, nursing home, boarding care facility and any other place that offers treatment or diagnosis of human ailments, other than a professional office.~~

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

High water line or elevation, normal: ~~Along lakes, ponds and tidal water the elevation at which vegetation changes from predominantly aquatic to predominantly terrestrial; and along rivers and streams the highest elevations on the bank of a channel at which the water left a definite mark.~~ That line which is apparent because of the character of the soil or the vegetation due to the prolonged action of the water. It is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial.

Home occupation. ~~An occupation conducted in a dwelling unit as an accessory use, subject to the provisions and performance standards of this ordinance.~~ See Section 4.3.14 Home occupations.

Hotel or Motel: A commercial building or group of buildings built to accommodate, for a fee, travelers and other transient guests who are staying for a limited duration, with sleeping rooms, with or without cooking facilities, each rental unit having its own private bathroom and its own separate entrance leading either to the outdoors or to a common corridor or hallway. A hotel or motel may include restaurant facilities where food is prepared and meals served to its guests and other customers.

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

~~Impervious surface: That portion of a lot or site which is or will be improved with principal or accessory buildings and structures and driveways, parking lots, pedestrian walkways, signs and other improvements on the surface of the ground which are more impervious to water than the natural surface of the lot or site.~~

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

~~Industrial park: A large tract of land that is planned, developed and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utilities needs, aesthetics, and compatibility.~~

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

~~Inn: A building which contains a dwelling unit occupied by an owner or resident manager in which up to ten (10) lodging rooms or lodging rooms and meals are offered to the general public for compensation, and in which entrance to bedrooms is made through a lobby or other common room. The term "inn" includes such terms as guest house, lodging house, and tourist house, but not bed and breakfast, hotel or motel.~~

~~Junk: Waste or discarded material.~~

~~Junkyard: A yard, field, or other area used for the storage, keeping, sorting, processing, baling, or abandonment of junk including, but not limited to, the following:~~

~~1. Discarded, worn out or junk plumbing, heating supplies, household appliances and furniture;~~

~~2. Discarded, scrap, and junked lumber;~~

~~3. Old or scrap copper, brass, rope, rags, batteries, motor vehicle parts, paper trash, rubber, or plastic debris, waste, and all scrap iron, steel, and other scrap ferrous or nonferrous material;~~

~~4. Garbage dumps, waste dumps, and private sanitary landfills;~~

~~5. Includes automobile graveyards.~~

~~Lagoon: An artificial enlargement or creation of a water body, primarily by means of dredging and excavation.~~

~~Land use area: A circumscribed area of land, within which a land use activity is conducted and beyond which that land use activity is not conducted on any given parcel or lot of land.~~

~~Loading space, off-street: Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in the computation of required off-street parking space.~~

~~Leachable materials: Materials including, but not limited to, solid wastes, sludges, industrial wastes, and agricultural wastes capable of releasing contaminants into the surrounding environment.~~

Lots:

Lot status:

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

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

Lot, legal nonconforming: A single lot of record which, at the effective date of adoption or amendment of this ordinance does not meet the lot area, lot area per dwelling unit, lot coverage, ~~or~~ frontage, or other dimensional requirements of the district in which it is located. It is

allowed solely because it was in lawful existence at the time ~~this~~ that Ordinance 2-1971 ~~ordinance~~ or subsequent amendments took effect.

Lot types:

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

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

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

Lot lines:

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

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

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

Lot measurements:

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

Lot depth: The depth of a lot ~~shall be considered to be~~ is the distance between the midpoints of two straight lines, one line connecting the foremost points of the side lot

lines in front and the other line connecting the rearmost points of the side lots lines in the rear. See the definition of "rear" lot line above.

Lot width, minimum: ~~The width of a lot shall be considered to be the distance between the straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard.~~The closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines are side lot lines.

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

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

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

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

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

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

~~(Diagram Illustrating Lot Lines)~~

~~Editor's note: The "Diagram Illustrating Lot Lines" is not included herein, but is on file and available for inspection in the office of the city clerk.~~

~~Materially: In an important regard or degree; substantially.~~

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

Mineral extraction: ~~Any operation within any twelve-month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and transports the material away from the extraction site.~~ See Section 4.3.10 Earth material removal regulations.

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

Mobile homes: Mobile homes include:

Newer mobile homes: Those single- or double-wide units constructed after June 15, 1976, which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development Standards, meaning structures, transportable in one or more sections, which, in the traveling mode, are fourteen (14) ~~body~~ feet or more in width and are seven hundred fifty (750) or more square feet in area, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein; except that the term shall include any structure which meets all the requirements of this paragraph, except the size requirement and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the national Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq.

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

~~Manufactured housing~~ Mobile home park: A tract of land of two (2) or more acres which is used ~~or intended to be used~~ for the ~~purpose of supplying to the public parking spaces for~~ placement of three (3) or more ~~manufactured housing units~~ mobile homes or older mobile homes according to the requirements of Section 4.3.~~20~~17 of this ordinance.

~~Manufactured housing~~ Mobile home space: An area within a ~~manufactured housing~~ mobile home park containing at least the minimum square footage required per family ~~according to the district's dimensional requirements~~ and designed to accommodate one ~~manufactured housing unit~~ mobile home or older mobile home.

Modular homes: Those units which the manufacturer certifies are constructed in compliance with 10 MRSA 9042, as amended, the State's Manufactured Housing Act and regulations, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning or electrical systems contained therein. Modular homes must be a minimum of 24 feet wide by 40 feet long. This requirement is intended to assure that modular homes are compatible with site-built homes and do not have the appearance of single-wide mobile homes.

Motel: See "hotel".

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

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

Nonconforming, legal ~~building or structure~~: Any lot, use of land, or building~~s~~ legally in existence at the time that

Ordinance 2-1971 or subsequent amendments took effect, ~~of adoption of this ordinance~~ which does not conform to the provisions of this ordinance ~~for the district in which it is located~~. [See also lot status.]

~~Nonconforming use: Any use of land or buildings in existence at the time of adoption or amendments to this ordinance which does not conform to the provisions of this ordinance for the district in which it is located.~~

~~Normal high water mark: That line on the shores and banks of non-tidal waters which is apparent because of the contiguous different character of the soil or the vegetation due to the prolonged action of the water. Relative to vegetation, It is the line where the vegetation changes from predominantly aquatic to predominantly terrestrial. (By way of illustration, aquatic vegetation includes, but is not limited to, the following plants and plant groups: water lily, pond lily, pickerel-weed, cattail, wild rice, sedges, rushes, and marsh grasses; and terrestrial vegetation includes, but is not limited to, the following plants and plant groups: upland grasses, aster, lady slipper, wintergreen, partridge berry, sarsaparilla, pines, cedars, oaks, ashes, alders, elms, and maples). In places where the shore or bank is of such character that the high water mark cannot be determined easily (rock slides, ledges, rapidly eroding or slumping banks), the normal high water mark shall be estimated from places where it can be determined by the above method.~~

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

~~Nursing home: Any licensed dwelling in which three (3) or more aged, ill, infirm, incurable, or injured persons are housed and furnished with meals and nursing care for compensation.~~

Open space~~ land~~:

1. Any area of land, the preservation or restriction of the use of which would conserve scenic resources, enhance

public recreation opportunities, promote game management, or preserve wildlife.

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

~~Parking lot: A parcel of land designed for the parking of motor vehicles, excluding trailer parks.~~

~~Parking space, off-street: For the purpose of this ordinance, an off-street parking space shall consist of a space with a minimum area of one hundred fifty-five (155) square feet (minimum 8.5' X 18.5'), exclusive of drives, aisles, or entrances, adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room.~~

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

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

~~Permitted use: The use of any building or land in a manner subject to express conditions and limitations as to that use under this ordinance.~~

~~Personal property: Property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence and is not attached to, or affixed~~

~~to, the ground or a structure. It does not include merchandise which was purchased for resale or obtained on consignment.~~

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

~~Plat: A map of a city, section, or subdivision, showing the location and boundaries of individual parcels of land subdivided into lots, with streets, alleys, easements, and any other requirements, usually drawn to scale.~~

~~Premises: Land with or without buildings and structures thereon.~~

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

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

Private road: See Section 4.3.22 Private roads. ~~A minor residential street serving no more than three (3) dwelling units, which is not intended to be dedicated as a public street. This definition includes driveways serving as few as one (1) dwelling unit when there is insufficient frontage on a public street. Private roads are subject to the performance standards of this ordinance.~~

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

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

~~Public utility: Those essential public services such as, but not limited to, water, electricity, telephone, gas, and transportation, whether publicly or privately owned, which are regulated by the Maine Public Utilities' Commission, the Maine Department of Transportation, or the Federal Communications Commission. The provisions of this ordinance shall apply to those buildings and structures located outside of public rights-of-way, but shall not apply to facilities, either above or below ground, lying wholly within public rights-of-way.~~

~~Public transportation: The transportation of persons rather than goods or commodities.~~

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

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

Recent floodplain soils: Recent floodplain soils include the following soils as described and identified by the national Cooperative Soil Survey: Alluvial land, Hadley silt loam, Limerick silt loam, Ondawa fine sandy loam, Podunk fine sandy loam, Rumney fine sandy loam, Saco silt loam, Suncock loamy sand, and Winooski silt loam.

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

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

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

~~Religious institution: A building or structure, or groups of buildings or structures which by design and construction are primarily intended for conducting organized religious services and accessory uses associated with the mission of the institution. Accessory uses include, but are not limited to, schools, meeting halls, and kitchens.~~

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

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

~~Restaurant: An establishment where meals are prepared and served to the public for consumption for compensation.~~

~~1. Standard restaurant. The business involving the preparation and serving of meals for consumption on the premises requiring moderate amounts of time between the period of ordering and serving the meal.~~

~~2. Fast food restaurant. A business involving the preparation and serving of meals on the premises or off the premises, normally requiring short amounts of time between the ordering and serving [of] the meals which is prepackaged or presented in such a manner that it can be readily taken off the premises where sold.~~

~~3. Drive-in restaurant. A restaurant which may contain indoor and/or outdoor seating and/or serving of meals for consumption on the premises in the motor vehicle or off the premises, normally requiring short amounts of time between the period of ordering and serving of the meal which is prepackaged or presented in such a manner that it can be readily eaten off the premises where sold.~~

~~Retail: Sale to the ultimate consumer for direct use or consumption and not for resale.~~

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

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

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

~~Satellite receiving dish: An exterior dish antenna designed to receive signals from satellites.~~

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

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

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

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

Shore frontage: The length of a lot bordering on a water body measured in a straight line between the intersections of the lot lines with the shoreline at normal high-water elevation.

Shoreland: All land areas within two hundred fifty (250) feet, horizontal distance, of the normal high water ~~mark~~ line of the Kennebec River~~,~~ and the Messalonskee Stream~~, and wetlands of ten (10) or more contiguous acres designated on the official zoning and shoreland zoning appendix to the official zoning map~~; within seventy-five (75) feet, horizontal distance, of the normal high-water line of streams as defined; and within ~~fifty (50)~~ twenty-five (25) feet, horizontal distance, of the normal high-water line of minor waterways designated on the shoreland zoning appendix to the official zoning map or as defined.

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

Shoreline: The normal high-water line.

~~Sign: Any notice or advertisement, directional, pictorial, or otherwise, or part thereof, used as an indoor or outdoor display for the purpose of making anything known and which is directed at persons outside the premises.~~

~~Sludge: Residual materials produced by water or sewerage treatment processes, by domestic septic tanks, or by industrial processes.~~

~~Solid waste: Useless, unwanted, or discarded solid material without sufficient liquid content to be free-flowing. This includes, but is not limited to rubbish, garbage, scrap materials, junk and refuse, and recyclable materials.~~

~~Exception;~~ Special exception: ~~A use which would not be appropriate generally or without restriction in a particular district, but which, in the opinion of the board of zoning appeals, if controlled as to number, location, relation to the neighborhood or standards of performance, would promote the public safety, health, convenience or welfare. An exception shall be allowed in a district only if the regulations for that district specifically permit it, subject to the approval of the board of zoning appeals, and only when the board finds that such use meets all of the requirements applicable to it as specified in this ordinance.~~ A use which is allowed subject to the approval of the code enforcement officer. In order to approve the use, the code enforcement officer must find that it meets all applicable performance standards.

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

~~Story: That portion of a building included between the surface of any floor and the surface of the floor or the roof next above it. A basement shall be considered as a story for the purpose of height measurement where more than one-half of its height is above the average level of the adjoining ground.~~

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

Street: An existing state, county, or city way or a ~~street~~road dedicated for public use and shown upon a subdivision plan duly approved by the planning board, accepted by the city council, and recorded in the Kennebec

County Registry of Deeds. The term "street" also includes a road dedicated for public use, built and accepted by the city council and shown on a plan duly recorded in the Kennebec County Registry of Deeds prior to the establishment of the planning board. The term "street" ~~shall~~does not include ways which have been discontinued, vacated, or abandoned.

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

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

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

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

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

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

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

Timber harvesting: The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees is regulated pursuant to Section 4.3.25.H(5) Clearing of vegetation for development. ~~trees from their growing site and the attendant operation of cutting and skidding machinery, but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction.~~

~~Tourist home: A building in which more than one but not more than nine (9) guest rooms are used to provide or offer overnight accommodations for transient guests for compensation.~~

~~Trade establishment: The offering within a building or on the premises of goods or commodities for sale. The servicing of goods incidental to the selling of such goods is permitted provided that such service, which by nature of noise, odor, or as a heavy generator of traffic, is not detrimental to the immediate neighborhood.~~

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

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

Usable open area: See "Open space ~~land~~".

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

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

~~1. That the land in question cannot yield a reasonable return unless a variance is granted.~~

~~2. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;~~

~~3. That the granting of a variance will not alter the essential character of the locality;~~

~~4. That the hardship is not the result of action taken by the applicant/or prior owner;~~

~~5. That the variance is the minimum variance that will make possible reasonable use of the land, building, or structure; and~~

~~6. That a variance may only be granted for a use permitted in a particular zone.~~

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

~~Vehicle sales: Any business which involves a parking or display area for the sale of new or used cars, trucks, motorcycles, campers, farm equipment, recreational vehicles, mobile homes, or similar products.~~

~~Veterinary animal hospital or clinic: A place used for the care, diagnosis, and treatment of sick, ailing, infirm, or injured animals and may include overnight accommodations on the premises for treatment, observation and/or recuperation. It may also include boarding that is incidental to the principal activity or use.~~

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

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

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

Wetland: Any swamps, marshes, bogs and similar areas.

1. Wetlands are areas inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

~~2. For the purposes of the Shoreland Zoning Ordinance, wetland means areas of ten (10) or more contiguous acres designated on the zoning appendix to the official zoning map.~~

~~3~~2. For the purposes of the Resource Protection District, wetland means the above and areas of two (2) or more contiguous acres of forested wetland within the shoreland zone of the Kennebec River or the Messalonskee Stream designated on the shoreland zoning appendix to the official zoning map.

~~4~~3. Wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

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

~~Yard: A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from thirty (30) inches above the general ground level of the graded lot upward; provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction and visibility.~~

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

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

ARTICLE 4. GENERAL PERFORMANCE STANDARDS

4.1. Zoning affects every building and use.

4.1.1 Conformity to requirements of zoning ordinance.

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

4.1.1.B. The provisions of this ordinance ~~shall~~ apply equally to all uses of land and to all buildings and structures. ~~It is stated and understood that the~~ The provisions of this ordinance ~~shall~~ apply to all departments of the City of Waterville and ~~shall~~ apply to any quasi-municipal corporation such as, but not limited to, the water, sewer, and sewerage treatment corporations. The permit fees set forth in ~~6.4.9. of~~ this ordinance and the

application fees and performance guarantees set forth in Articles 5 and 6 ~~respectively~~ of the Subdivision and Site Plan Review Ordinance do not apply to the City of Waterville and quasi-municipal corporations.

4.1.2. Division of lots by zoning.

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

4.1.3. Aviation clearances.

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

4.2. Nonconforming uses.

4.2.1. Uses permitted.

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

Such land, building or structure may be repaired, maintained, and improved but the area in nonconforming use may not be extended or expanded except in accordance with Section 4.2.5 below.

4.2.2. Discontinuance of nonconforming use.

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

4.2.3. Rule of precedence.

Whenever a nonconforming use is superseded by a permitted use of a structure, or structure and land in combination, such structure or combination of land and structure shall thereafter conform to the requirements of the district and the nonconforming use may not thereafter be resumed.

4.2.4. Transfer of ownership.

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

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

4.2.~~5~~6. ~~Public hearing and approval of the zoning board of appeals.~~The code enforcement officer may issue a permit for the following modifications to existing lawful nonconforming land, buildings, and structures. ~~require a public hearing and a permit issued by the zoning board of appeals provided that m~~. Modifications to nonconforming land, buildings, and structures in the shoreland area shall be in conformance with the provisions of Section 4.3.~~39~~25.H Shoreland performance standards and 4.3.25.K Nonconformance.
~~4.2.5.A.~~

(1) Expansion of the floor area in nonconforming use within an existing structure.
~~4.2.5.B.~~

(2) Structural alteration and addition to a building in nonconforming use or exceeding maximum lot coverage restrictions, provided that the addition meets all building and parking setback requirements.
~~4.2.5.C.~~

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

4.2.~~5.E~~7. ~~A~~ The zoning board of appeals may allow a conforming use ~~shall be allowed~~ to expand ~~that use~~ into a zone where it would be nonconforming, provided that:

~~4.2.5.E~~

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

~~4.2.5.E~~

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

~~4.2.5.E~~

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

~~4.2.5.E~~

(4) The ~~board of zoning appeals~~ zoning board of appeals may require appropriate conditions and safeguards as to the use of the land.

4.2.~~5.F~~8. Any legal nonconforming use of a structure or structure and premises may~~, as a special exception,~~ be changed to another nonconforming use provided that the ~~board of~~ zoning board of appeals ~~shall~~ finds that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the ~~board of~~ zoning board of appeals may impose appropriate conditions and safeguards in accordance with the provisions of this ordinance. With respect to such changes in shoreland areas, the ~~board of~~ zoning board of appeals ~~shall~~ must find that the proposed use is in conformance with the provisions of Section 4.3.~~39.G.~~25.H Shoreland performance standards and 4.3.25.K Nonconformance.

4.2.~~6~~9. Nonconformance by reason of lack of required off-street parking or off-street loading space.

A building or structure which is nonconforming as to the requirements for off-street parking space shall not be enlarged or altered to create additional dwelling units~~; or~~, seats, ~~as in the case of public assembly; or~~ floor area, ~~as in the case of commercial, industrial, and business institutions or recreational buildings~~, or

accommodations, ~~as in the case of hotels, motels, and tourist homes~~, unless required off-street parking is provided for such addition or enlargement.

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

4.2.~~7~~10. Nonconforming lots of record.

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot laid out and duly recorded ~~or registered~~ on the effective date of ~~this ordinance~~ Ordinance 2-1971 as amended and having an area of not less than five thousand (5,000) square feet and a frontage of not less than fifty (50) feet, notwithstanding limitations imposed by other provisions of this ordinance; provided, however, that such lot was held in separate ownership from that of adjoining land. Variance of yard setback requirements shall be obtained only through action of the ~~board of~~ zoning board of appeals upon finding that the variance requirements contained in Section 6.~~11~~2.5.D have been met. [See the provisions for septic systems.]

4.2.~~8~~11. Contiguous lots in continuous ownership.

If two (2) or more lots ~~or combinations of lots and portions of lots~~ with continuous frontage in ~~single~~ common ownership are of record at the time of adoption of this ordinance, such lands shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of such parcel shall be used or sold not in compliance with the requirements for lot width, frontage, and area stated in this ordinance. See Section 6.2.5.D(3)(d).

4.3. Performance standards~~, general and specific~~.

4.3.1. Access to property.

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

4.3.1.B. ~~Where the proliferation of access points from subdivisions, commercial and/or industrial developments to public ways tends to cause traffic hazards, congestion, and other manifestations of strip development, the planning board may require that a developer dedicate a fifty-foot strip adjacent to and running the length of the public way to the use of the controlled public access and landscaping. This strip shall not be considered as part of the required setback. If required, such an access roadway shall be constructed in accordance with minimum city standards and shall connect in a proper fashion with the roadways of adjoining developments.~~The proliferation of access points from developments to public ways causes traffic hazards and congestion. Therefore, in congested areas, the planning board may require the developer to dedicate a fifty-foot-wide strip of land adjacent to the public way for controlled access and landscaping. This strip, which shall run along the entire road frontage of the parcel to be developed, shall be constructed in accordance with minimum city street standards and shall connect in a proper fashion with the roadways of adjoining developments. Access roadways shall not be considered part of the required setback.

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

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

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

4.3.1.C. ~~Single- and two-family dwellings: Driveways, roads, rights-of-way, or other means of access from single- and two-family dwellings to public or private ways shall~~

~~not have an average slope in excess of (8) percent within (50) feet of the point of intersection. The angle of intersection between the access road and the way shall not be less than sixty (60) degrees, nor exceed one hundred twenty (120) degrees.~~Residential driveways which are less than 500 feet in length and serve no more than 2 dwelling units shall have an average slope of (8) eight percent or less within (50) feet of the point of intersection with a public or private street. The angle of intersection between the driveway and the public or private street shall be sixty (60) degrees or more.

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

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

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

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

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

4.3.1.D(5) Any exit driveway or ~~driveway~~ lane shall be so designed in profile and ~~grading~~ grade and so located as to provide the following minimum sight distance measured in each direction. The measurements shall be from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of ten (10)

feet on the curb line or edge of shoulder, with the height of the eye three and three-fourths (3.75) feet to the top of an object four and one-half (4.5) feet above the pavement.

Allowable speed (Miles per hour)	Required Sight Distance (Feet)
25	160
35	240
40	275
45	325
50	350
55	425

Unless the board waives this requirement, the developer shall provide the planning board with a letter from a licensed professional engineer stating that the driveway not only provides the above minimum sight distance, but also meets the standards of the American Association of State Highway and Transportation Officials (AASHTO). The developer shall also provide the board with a letter from the city engineer to the effect that the driveway meets these sight distance standards.

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

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

4.3.1.D(8) Angles. Driveways used for two-way operation shall intersect the road at an angle of ninety (90) degrees or as near ninety (90) degrees as site conditions will permit and in no case less than sixty (60) degrees ~~or more than one hundred twenty (120) degrees~~. Driveways used by vehicles in one direction of travel (right-turn only) shall not form an angle smaller than forty-five (45) degrees with the road.

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

	One-Way Operation Driveways* Width in Feet	Two-Way Operation Driveways* Width in Feet
Three to ten dwelling units	10 to 15	15 to 25
Ten dwelling units or over	15 to 25	20 to 35
Commercial and industrial	15 to 30	25 to 35

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

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

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

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

4.3.1.D(13) Stacking or queuing space standards for drive-through businesses. Stacking or queuing spaces shall be located on-site and shall not be located within the required parking setbacks. Stacking or queuing spaces shall not interfere with the stall and aisle space requirements as described in the off-street parking and loading requirements, Section 4.3.2~~5~~1, and may not block fire doors.

4.3.1.D~~(14)~~(13)(a) Banks or other commercial uses. There shall be a minimum of eight (8) spaces for the first drive-in window and two (2) spaces for each additional window.

4.3.1.D~~(15)~~(13)(b) Drive-~~up~~through restaurant. There shall be eleven (11) spaces for the drive-up window, with a minimum of five (5) of those spaces for the ordering station. In addition, wherever possible, there shall be an escape lane for those wishing to exit the drive-through before ordering.

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

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

4.3.~~12~~1.D(16) Corner clearances.
~~4.3.12.A. For purposes of traffic safety in all districts, no building, structure, or visual obstruction may be erected and no vegetation may be maintained between three (3) to ten (10) feet above the plane through the curb grades of intersecting streets within a triangle, two (2) sides of which are the edges of public ways for twenty (20) feet measured from their point of intersection or in the case of rounded street corners, the point of intersection of their tangents.~~

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

~~**4.3.3. Accessory uses.**~~

~~An accessory use shall not include any use injurious or offensive to the neighborhood as initially determined by the building inspector.~~

~~Parking or storage for more than one commercial vehicle is specifically prohibited as an accessory use in all residential districts except as an accessory to a home occupation as approved under the specific performance standards section.~~

4.3.~~4~~2. Air emissions.
~~No emission of dust, ash, smoke, or other particulate matter, fumes, vapors, or gases, and or chemicals shall be allowed which can cause damage to human or animal health, vegetation, or property by reason of concentration or toxicity, which can cause soiling or staining of persons or property beyond property boundaries, or which fail to meet or cannot meet the standards set by the Maine Department of Environmental Protection.~~

~~In all cases, air pollution and control abatement shall comply with applicable minimum federal, state, and local requirements, including receipt of all required permits, and detailed plans shall be submitted to the code enforcement officer for approval before the a permit is granted. In case of doubt, the code enforcement officer may employ such independent, recognized consultant necessary, at the expense of the applicant, to assure compliance with performance standards. and all other requirements of this ordinance related to the public health, safety, and welfare and the abatement of nuisances. Violations of these standards shall be considered as public nuisances.~~
~~**4.3.24. Odorous and toxic matter.**~~
The emission of odorous or toxic matter in such quantities as to be readily detectable at any point along ~~the~~ lot lines so as to produce a public nuisance or hazard is prohibited. Such activities will comply with applicable minimum federal, state, and local requirements and detailed

plans shall be submitted to the code enforcement officer for approval before a permit is granted. Violations of this standard shall be considered ~~as~~ public nuisances.

4.3.~~5~~3. Animal husbandry and boarding kennels.

4.3.~~5~~3.A. Animal husbandry and boarding kennels as defined in this ordinance shall require a lot area of at least five (5) acres.

4.3.~~5~~3.B. Structures or pens for housing or containing the animals (such as but not limited to chicken coops, barns, ~~byres,~~ stables, or dog runs) shall be located not less than five hundred (500) feet from the nearest residence existing at the time of permit issuance (other than the dwelling on the same lot).

4.3.~~5~~3.C. All pens, runs, or kennels, and other facilities shall be designed, constructed, and located on the site in a manner that will minimize the adverse effects upon the surrounding properties. Among the factors that shall be considered are the relationship of the use to the topography, natural and planted horticultural screening, the direction and intensity of the prevailing wind, the relationship and location of the residences and public facilities on nearby properties, and other similar factors.

4.3.~~5~~3.D. The owner or operator of a use approved under these standards shall maintain the premises in a clean, orderly, and sanitary condition at all times. No garbage, ~~offal,~~ feces, or other waste material shall be allowed to accumulate on the premises. ~~The premises shall be maintained in such a manner that they will not provide a breeding place for insects, vermin, or rodents.~~

4.3.~~5~~3.E. Temporary storage containers for any kennel ~~or veterinary~~ wastes containing or including animal excrement shall be kept tightly covered at all times and emptied not less frequently than once every four (4) days. Such containers shall be made of steel or plastic to facilitate cleaning, and shall be located in accordance with the setbacks required for outdoor runs.

4.3.~~5~~3.F. All enclosed kennels shall be constructed of materials to provide for cleanliness, ease of maintenance, and noise control.

4.3.~~5~~3.G. ~~If o~~ Outdoor dog runs ~~are created, they~~ shall be completely fenced ~~in~~ and shall be paved with cement, asphalt, or similar material to provide for cleanliness and ease of maintenance.

4.3.~~5~~3.H. Any incineration device for burning excrement-soaked waste papers, and/or animal organs or remains shall be located in accordance with the setbacks required for outdoor runs and shall have chimney vents not less than thirty-five (35) feet above the average ground elevation. The applicant shall also provide evidence that he has obtained approval from the Maine Department of Environmental Protection for the proposed incinerator, and that it meets state standards for particulate emissions, flue gas temperature, and duration of required flue temperatures.

4.3.~~5~~3.I. Animal husbandry shall be conducted according to acceptable agriculture practices as established and determined by the Maine Department of Agriculture.

4.3.~~5~~3.J. All other relevant "good neighbor" performance standards in this ordinance (such as but not limited to noise and odor) shall be observed.

~~4.3.26. Public garages and motor vehicle service stations.~~
4.3.4. Automobile businesses.

4.3.~~26~~4.A. Application. Any person desiring to ~~use any premises or to erect,~~ construct, convert, or alter any new or existing ~~building or~~ structure for use as a public garage, carwash, convenience store with gas pumps, or ~~motor vehicle~~ auto service station shall make application ~~in writing~~ to the ~~zoning board of appeals~~ planning board for a permit ~~for said use~~. ~~Said permit shall be granted if all of the requirements of this ordinance are met. If, however, site plan review by the planning board is required either under Section 6.16 or as a condition of a contract zone, no review by the zoning board of appeals is required.~~ [See the definitions of auto service station and automobile business at Section 3.2 additional definitions.]

4.3.~~26~~4.B. Required information. The application for the use permit shall contain the following information:

4.3.~~26~~4.B(1) Site plan in accordance with that required for building permits.

4.3.~~26~~4.B(2) The location of the premises, the building or buildings and structures thereon, or to be constructed ~~or erected~~ thereon.

4.3.~~26~~4.B(3) The width of the street or streets upon which said premises abut.

4.3.~~26~~4.B(4) The location, and present use of all buildings within two hundred (200) feet of the boundary lines of the premises for which the use permit is desired.

4.3.~~26~~4.B(5) The manner in which carwash, waste, drainage and storm water, as well as petroleum products, are to be disposed of.

4.3.~~26~~4.B(6) The location of street entrances to, exits from, and driveways on the premises, and the precise location of all tanks, pumps, lifts, and other fixed equipment and appurtenances.

4.3.~~26~~4.B(7) Regulations. Except where so indicated, every public garage, carwash, convenience store with gas pumps, and ~~motor vehicle~~ auto service station, the premises whereon the same are situated, and the use thereof, shall be subject to and comply with the following restrictions and regulations.

4.3.~~26~~4.B(8) The site plan also shall show, and there shall be constructed and maintained, a ~~curbed or grassed area~~ landscaped island at least five (5) feet wide, extending across the front and any other street line abutting the public sidewalk, and no motor vehicles, signs or other objects or devices shall be parked or placed upon or permitted to obstruct any public sidewalk area.

4.3~~.26~~4.B(9) On any premises upon which there is located a public garage, carwash, or ~~motor vehicle~~ auto service station, all services or repairs to ~~or for~~ motor vehicles shall be conducted within the confines of a building. ~~There is excepted from this provision~~ However, the sale and supply of oil and gasoline, the inspection and filling of tires and batteries, and other services customarily incidental to the sale of gasoline, oil and automobile supplies and accessories, which do not include repairs, installations and replacements may be conducted outside.

4.3.~~26~~4.B(10) ~~In any public garage, carwash, or motor vehicle service station, storage facilities for gasoline, oil or other flammable materials in bulk shall be located wholly underground. Notwithstanding the preceding sentence, a~~Any person covered by the provisions of Section 4.3.~~15~~11, Fire and explosive hazards, may apply for a permit to erect above ground containers for liquefied petroleum gases and flammable and combustible liquids. An application for a permit for an above ground container must be submitted to the code enforcement officer. Plans must conform to the current NFPA standard 30 or 58, whichever is applicable, and the fire chief must certify conformity to said standards on the face of the plan.

4.3.~~26~~4.B(11) Every gasoline or oil tank, pump or filling appliance which is situated or erected out of doors shall be located at least fifteen (15) feet from any street line and at least ten (10) feet from the side and rear line of the premises whereon the same is situated. No gasoline pump shall be located or permitted within any enclosed or semi-enclosed building.

4.3.~~26~~4.B(12) ~~Illumination and~~ Lighting situated on or directed upon public garages, carwashes, convenience stores with gas pumps, or ~~motor vehicle~~ auto service stations shall be only by floodlights ~~only~~ which are adjusted so that the light therefrom does not shine on any street or residential property. Such floodlights shall be extinguished ~~during closed business operations on said lot;~~ when those businesses are not in operation. ~~Safety or protection~~ Security lights may be used after closing time ~~providing~~ provided the illumination therefrom does not extend beyond the premises. ~~for which such safety or protected light is provided.~~

4.3.~~6~~5. Bed and breakfast inns.

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

Breakfast shall be the only meal served and shall be served only to overnight guests. Commercial kitchens and

provisions for cooking in guest rooms are prohibited. A victular's license is required.

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

4.3.~~6~~5.B. The application for approval of a bed and breakfast inn shall include a scale drawing of the lot showing the location of existing buildings, existing and proposed parking, and existing or proposed sewerage disposal systems.

4.3.~~6~~5.C. There shall be no less than one parking space for each rental room in addition to the spaces required for the dwelling unit.

4.3.~~6~~5.D. There shall be one bathroom provided for the rental rooms, in addition to the bathroom for the dwelling unit.

4.3.~~6~~5.E. Each rental room shall have not less than one hundred twenty (120) square feet~~ horizontal dimensions~~.

4.3.~~6~~5.F. Each rental room, stairwell, and hallway on each level shall be equipped with a ULC approved smoke detector.

~~**4.3.7. Buffer areas.**~~

~~No industrial or commercial buildings or uses shall be established in or about a residential use, unless a landscaped buffer strip is provided to visually screen the uses. Where no natural vegetation can be maintained or due to varying site conditions, the landscaping may consist of fences, walls, tree plantings, hedges, or combinations thereof. Where a potential safety hazard to small children would exist, physical screening, barriers shall be used to deter entry to those premises. The buffer areas shall be maintained and vegetation replaced within one growing season to ensure continuous year-round screening. Specific requirements may be found elsewhere in this ordinance.~~

4.3.~~8~~6. Camping or recreational ~~trailers~~ equipment.

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

~~4.3.8.A. As used in this ordinance, camping and recreational equipment is defined as and shall include the following:~~

~~4.3.8.A.1. "Travel trailer" is a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses. When factory equipped for the road, it shall have a body width not exceeding eight (8) feet, and a body length not exceeding twenty-eight (28) feet.~~

~~4.3.8.B. "Pickup coach" is a structure designed primarily to be mounted on a pickup truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational and vacation uses.~~

~~4.3.8.C. "Camping trailer" is a canvas, or other folding structure mounted on wheels and designed for travel, recreation and vacation use.~~

~~4.3.8.D. "Motor home" is a portable, temporary dwelling to be used for travel, recreation, and vacation constructed as an integral part of a self-propelled vehicle.~~

~~4.3.8.E. "Boat" is a small water craft not exceeding thirty (30) feet.~~

~~4.3.8.F. "Boat trailers", "horse trailer" and so-called "box" or "utility trailers" with less than forty (40) cubic foot capacity.~~

4.3.~~8G~~6B. Any owner of camping ~~and~~ or recreational equipment may park or store such equipment on private residential property subject to the following conditions:

4.3.~~8.G~~6.B(1) At no time shall such parked or stored camping ~~and~~ or recreational equipment be occupied or used for living, sleeping, or housekeeping purposes.

4.3.~~8.G~~6.B(2) If the camping ~~and~~ or recreational equipment is parked or stored outside of a garage, it shall be parked or stored ~~to the side or rear~~ at least ten (10) feet from

~~any and~~ all side or rear boundary lines and ~~. Placement in the side yard is permissible, provided it is~~ suitably screened.

4.3.~~8.G~~6.B(3) Notwithstanding the provisions of S~~ubs~~ection 4.3.~~8.G~~6.B(2), camping and recreational equipment may be parked anywhere on the premises for loading or unloading purposes.

4.3.~~8.G~~6.B(4) The ~~board of~~ zoning board of appeals may grant a variance to the setback requirements of ~~subs~~Section 4.3.~~8.G~~6.B(2) if it finds that the variance requirements of Section 6.~~11~~2.5.D have been met.

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

4.3.~~8.H~~7. Campgrounds.

4.3.~~8.H(1)~~7.A A campground ~~shall mean~~ is land ~~upon which~~ accommodating one or more tents ~~are erected~~ or recreational vehicles ~~are parked~~ for temporary dwelling use on sites arranged specifically for that purpose and for the use of which ~~sites~~ a fee is charged.

~~4.3.8.H(1)(a) "Recreational vehicle" shall mean travel trailer, pickup coach, camping trailer, and motor home.~~

~~4.3.8.H(1)(b) "Recreational vehicle site" shall mean a parcel of land for the placement of a single recreational vehicle.~~

~~4.3.8.H(1)(c) "Tent site" shall mean a parcel of land for the placement of a single tent.~~

4.3.~~8.H(2)~~7.B No recreational vehicle or tent shall be used for temporary dwelling except in an approved campground.

4.3.~~8.H(3)~~7.C ~~In any district in which campgrounds are permitted, t~~The following minimum standards ~~shall~~ apply:

4.3.~~8.H(3)(a)~~7.C(1) Campgrounds shall provide water and sewerage systems, sanitary stations, and convenience facilities in accordance with the regulations set forth by the Maine Department of Human Services.

4.3.~~8.H(3)(b)~~7.C(2) Campgrounds shall contain a minimum of five thousand (5,000) square feet (not including roads and driveways) for each recreational vehicle site and a minimum of ~~two thousand five~~ twenty-five hundred (2,500) square feet (not including roads and driveways) for each tent site. No recreational vehicle or tent site located within two hundred fifty (250) feet of the normal high water ~~mark~~ line of a major waterway shall be less than five thousand (5,000) square feet, not including roads and driveways.

4.3.~~8.H(3)(c)~~7.C(3) No single site shall be less than fifty (50) feet in width.

4.3.~~8.H(3)(d)~~7.C(4) Recreational vehicle and tent sites and utility and service buildings shall be set back a minimum of seventy-five (75) feet from the exterior lot lines of the campground and seventy-five (75) feet from the normal high water ~~mark~~line of any water~~way~~ body.

4.3.~~8.H(3)(e)~~7.C(5) All campgrounds shall be completely screened from abutting properties and from public roads by a twenty-five foot wide buffer of evergreen vegetation planted to attain a height of not less than six (6) feet within five (5) years ~~an area not less than twenty-five (25) feet in width and six (6) feet in height with vegetation from adjacent land areas and from public roads,~~except that safe visual clearances shall be provided at each vehicular entrance to and exit from the campground.

4.3.~~8.H(3)(f)~~7.C(6) A minimum of ~~three hundred (300)~~ one hundred fifty-five (155) square feet of off-street parking space plus adequate maneuvering space shall be provided for each recreational site. ~~otherwise, a minimum of one hundred fifty-five (155) square feet of off-street parking shall be provided.~~

4.3.~~9~~8. Cluster developments/planned unit developments.

4.3.~~9~~8.A. Purpose. The purpose of these provisions is to allow for new concepts of housing development. ~~where variations of design may be allowed.~~ Notwithstanding other provisions of this ~~and other~~ ordinance~~s~~ relating to dimensional requirements, the planning board, in reviewing ~~and approving~~ proposed residential developments~~located in the city~~, may modify ~~those provisions related to~~ dimensional requirements ~~to permit innovative approaches to housing and environmental design~~ in accordance with the following standards. ~~The terms cluster developments and planned unit developments are used interchangeably herein.~~ This section shall not be construed as granting variances to relieve hardship. [See the definition of cluster development/planned unit development in Section 3.2.]

4.3.~~9~~8.B. Application procedure. The planning board may allow subdivided development on reduced lot sizes in return for open space where the board determines that the benefits of the cluster approach prevent the loss of natural features or preserve the rural character of the area without increasing the net density of the development. The developer shall follow the procedures outlined in the site plan review and subdivision ordinance of the City of Waterville and shall submit a written application to the board for a cluster development. Two (2) sketch plans shall be submitted with one layout as a standard subdivision and a second as a cluster development indicating open space and significant natural features. Each lot in the standard subdivision shall meet the minimum lot size and lot width requirements. The number of dwelling units in the cluster development shall in no case exceed the number of dwelling units in the standard subdivision.

4.3.~~9~~8.C. The written statement shall describe the natural features which will be preserved or enhanced by the cluster approach. Natural features include, but are not limited to, moderate-to-high value wild life and waterfowl habitats, moderate-to-high yield aquifers and important or natural historic sites. The statement shall also compare the impacts upon the city from each plan. Examples of the impacts are the municipal cost for roads, school busing, solid waste removal, utility efficiencies, recreational opportunities, protection of flood water storage areas, environmental impacts on sensitive lands.

4.3.~~9~~8.D. The board shall determine whether to allow the subdivision to be developed in accordance with the clustered standards of this section based upon written findings that:

4.3.~~9~~8.D(1) The site contains natural features of the type described above which are worthy of preservation; and

4.3.~~9~~8.D(2) Those natural features could not adequately be preserved in a standard subdivision layout; or

4.3.~~9~~8.D(3) A clustered development will permit more efficient creation and utilization of infrastructure and provision of municipal and quasi-municipal services than would a standard subdivision layout.

4.3.~~9~~8.E. Basic requirements for cluster developments:

4.3.~~9~~8.E(1) Cluster developments shall meet all site plan review and subdivision requirements and all other applicable city ordinances and performance standards, except those dealing with lot layout and dimensions.

4.3.8~~9~~.E(2) Allowable density shall be based on net residential density, and shall be calculated in the following manner:

4.3.~~9~~8.E(2)(a) Determine the net residential area of the parcel as prescribed in ~~this ordinance,~~ Section 4.3.~~22~~19 Net residential acreage calculation.

4.3.~~9~~8.E(2)(b) For single-family cluster developments, divide the net residential acreage by the minimum lot size required in the district to obtain the net residential density. If individual lots are then reduced in size, the residual open space accumulated by modifying space and bulk requirements and the areas which are subtracted from the gross area to calculate net residential area shall be designated as open space.

4.3.~~9~~8.E(2)(c) For multiple-family cluster developments, divide the net residential acreage by the minimum area per family required in the district to obtain the net residential density.

4.3.~~9~~8.E(3) The minimum area of land in a cluster development shall be ten (10) acres except where there is

public water and sewer, in which case the minimum area shall be five (5) acres.

4.3.~~9~~8.E(4) ~~Each building shall be an element of an overall plan for site development.~~ The plan shall identify the location of all proposed roads, structures, parking areas, foot paths, ~~open~~ common open space, and private yards ~~space~~ related to individual dwelling units. ~~Only developments having a total site plan for structures will be considered. In respect to the placement of buildings and treatment of spaces, paths, roads, service and parking, the developer shall take into consideration all requirements of this section and of other relevant sections of this ordinance and the site plan review and subdivision ordinance.~~

4.3.~~9~~8.E(5) No building shall be constructed on soil types classified by the State Conservation Service as being poorly or very poorly drained.

4.3.~~9~~8.E(6) Where a cluster development abuts a body of water, a usable portion of the shoreline, as well as reasonable access to it, shall be a part of the common land.

4.3.~~9~~8.E(7) All dwelling units in a cluster development shall be connected to a common water supply and distribution system, either public or private, unless the developer clearly demonstrates to the planning board that:

4.3.~~9~~8.E(7)(a) The costs of providing a common water supply and distribution system are prohibitive;

4.3.~~9~~8.E(7)(b) Adequate groundwater is available at all locations proposed for individual water systems; and

4.3.~~9~~8.E(7)(c) The groundwater source(s) proposed for individual water systems is safe from both on-site and off-site contamination.

4.3.~~9~~8.E(8) All structures with required plumbing ~~in the development~~ shall be connected to a public sanitary sewer system, if available, or to a private central collection and treatment system in accordance with minimum standards set forth in the State of Maine Plumbing Code unless the developer ~~shall~~ clearly demonstrates to the planning board that:

4.3.~~9~~8.E(8)(a) The cost of connection to a public sanitary sewer system or of providing a central collection and treatment system are prohibitive;

4.3.~~9~~8.E(8)(b) Adequate soils and land area are available at all locations proposed for individual septic systems;

4.3.~~9~~8.E(8)(c) The proposed individual septic systems shall in no way endanger groundwater supplies which are currently being utilized as a water source for any existing development; and

4.3.~~9~~8.E(8)(d) The proposed individual septic systems shall in no way endanger groundwater supplies which will be utilized by any common or individual water system in the cluster development.

4.3.~~9~~8.E(9) Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography, south-facing slopes, and natural drainage areas, in accordance with an overall plan for site development and landscaping, and will be compatible in terms of physical size, visual impact, intensity of use, and proximity to other structures and uses within the zone.

4.3.~~9~~8.E(10) Utilities shall be installed underground wherever possible.

4.3.~~9~~8.F. Dedication and maintenance of common open space and facilities.

4.3.~~9~~8.F(1) Common open space shall be dedicated upon approval of the project. There shall be no further subdivision of this land which shall be used only for noncommercial recreation, agriculture, or conservation. However, easements for public utilities or structures accessory to noncommercial recreation, agriculture, or conservation may be permitted.

4.3.~~9~~8.F(2) Common open space shall be shown on the ~~development~~ plan with appropriate notation ~~on the plan~~ to indicate that it shall not be used for future building lots ~~and that a part or all of the common open space may be dedicated for acceptance by the municipality~~.

4.3.~~9~~8.F(3) If any or all of the common open space is to be reserved for use by the residents of the subdivision, the

bylaws of the proposed homeowners' association shall specify maintenance responsibilities and shall be submitted to the planning board prior to approval.

4.3.~~9~~8.F(4) Covenants for mandatory membership in the homeowners' association setting forth the owners' rights, interests, and privileges in the association and the common land, shall be reviewed by the planning board and included in the deed for each lot at least by reference.

4.3.~~9~~8.F(5) The association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of open space, other common and recreational facilities, and municipal assessments.

4.3.~~9~~8.F(6) The developer or subdivider shall maintain control of the common property and be responsible for its maintenance at least until development sufficient to support the association has taken place.

~~**4.3.10. Reserved.**~~

~~**4.3.11. Construction standards.**~~

~~All construction must meet the standards of the following, if applicable, and as hereafter amended:~~

~~4.3.11.A National Electrical Code, 1987, as revised from time to time, (NEC), published by the National Fire Protection Association. (Chapter 9, Revised Code of Ordinances of the City of Waterville)~~

~~4.3.11.B Code For Safety to Life in Buildings and Structures, 1985, as revised from time to time, (ANSI/NFPA 101), published by the National Fire Protection Association. (Chapter 10, Revised Code of Ordinances, City of Waterville)~~

~~4.3.11.C. The BOCA Basic National Building Code, 1987, as revised from time to time, published by the Building Officials and Code Administrators. (Chapter 7, Revised Code of Ordinances, City of Waterville)~~

4.3.~~42~~9. Daycare centers~~ located in residential zones~~.

4.3.~~42~~9.A. Definition. ~~As defined in section 3.2.~~ Facilities providing daycare for children under sixteen (16) years of age.

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

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

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

4.3.~~42~~9.B. Intent. Daycare centers function as schools and, therefore, are appropriately located in residential areas. The operator of a daycare center may reside in the facility, but is not required to do so.

4.3.~~42~~9.C. Off-street parking.

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

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

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

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

4.3.9.C(5) The parking standard is one (1) space per teacher or employee plus one (1) space for every six (6) children.

4.3.~~42~~9.D. Screening requirements. Dumpsters shall be screened~~ if the daycare center abuts a residence~~, and parking shall be landscaped along the street line.

4.3.~~42~~9.E. There shall be no more than one (1) sign, and that sign shall be no larger than five (5) by twenty-four (24) inches, as a permitted accessory use.

4.3.~~42~~9.F. Hours of operation. Daycare centers serving more than six (6) children may be operated only from 6:00 a.m. to 7:00 p.m. Six (6) or fewer children may be cared for at any time.

4.3.~~42~~9.G. Review.

4.3.~~42~~9.G(1) The ~~zoning board of appeals~~ code enforcement officer may not grant a daycare center permit until the proposed business has been inspected and approved by the fire department. A five-pound fire extinguisher with a minimum 2A-10BC rating shall be installed in the~~ business area of the residence~~ daycare center.

4.3.~~42~~9.G(2) In addition to the findings required for a special exception permit (Section~~ 6.2.3~~5.20.2), the ~~board~~ code enforcement officer ~~shall~~ must further find that the proposed daycare center:

4.3.~~42~~9.G(2)(a) Would not create or aggravate a traffic hazard. No traffic shall be generated by such daycare center in greater volumes than normally would be expected in the neighborhood where the daycare center would be located. The ~~zoning board of appeals~~code enforcement officer may require the applicant to submit a traffic impact analysis by a professional engineer. The report shall include an estimate of the traffic that would be generated by the daycare center, as well as actual traffic counts on the street where the daycare center would be located;

4.3.~~42~~9.G(2)(b) Would be in conformance with applicable building, housing, plumbing, ~~or~~ and other safety codes, ~~including municipal minimum lot size and building setback requirements for new construction~~ and Title 22 MRSA Chapter 32.

4.3.~~42~~9.G(3) ~~The zoning board of appeals shall review the special exception permit issued for each daycare center~~

~~annually, and may revoke or suspend the special exception permit of any daycare center found to be in violation of conditions set at the time of approval. Between scheduled reviews~~If a complaint is received concerning a daycare center, the code enforcement officer will investigate. If the complaint has merit, the ~~zoning board of appeals~~ code enforcement officer ~~will review the daycare center and~~ may revoke or suspend the permit. ~~Notice of any hearings under this subsection shall meet the standards provided for in Article 6, sections 6.15.4 and 5 of this ordinance.~~

4.3.~~13~~10. Earth material removal regulations.

4.3.~~13~~10.A. Filling, grading, lagooning, dredging, ~~excavation~~ excavating, processing, and ~~storage~~ storing of soil, earth, loam, sand, gravel, rock, peat, or any other mineral or organic deposits which would result in erosion, sedimentation, or impairment of water quality and fish and aquatic life is prohibited.

4.3.~~13~~10.B. Exclusions. Nothing herein shall be deemed to apply to normal excavation operations incidental to construction activities for which a valid permit is held.~~The planning board may waive any or all of the following requirements when less than fifty (50) cubic yards of earth removal within any twelve-month period is proposed to be removed, screened, or stored.~~ In addition, normal agricultural operations, including creation of fire ponds, shall not be considered "earth material removal".

~~4.3.13.C. Applications to the planning board for a site plan review permit for the excavation, screening or storage of soil (including top soil), peat, loam, sand, gravel, rock or other mineral deposits shall be accompanied by a plan prepared according to the site plan review and subdivision ordinance and shall be in compliance with applicable state laws and accompanied by all required state permits and/or licenses.~~

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

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

In addition, all soil disturbance within the shoreland zone must be in accordance with Section 4.3.25.H(8) Mineral exploration and extraction and 4.3.25.I(3)(b)(1)(g).

4.3.~~13~~10.D. The applicant shall submit to the ~~code enforcement officer~~ planning board plans for the proposed extraction site prepared according to the site plan review and subdivision ordinance, including all property lines and names of abutting owners and ways, ~~appropriate contour data,~~ and grades existing and proposed upon completion of the extraction operation. ~~and detailing~~ Plans shall show proposed fencing, buffer strips, signs, lighting, parking and loading areas, entrances, and exits, together with a written statement of the proposed rehabilitation and restoration of the site upon completion of the operation.

4.3.~~13~~10.E. These plans and statement shall be submitted with the recommendations of the ~~code enforcement officer~~ city engineer ~~to the planning board for its consideration~~ with respect to the effect of the proposed operation upon existing and foreseeable traffic patterns within the city, ~~upon~~ existing or approved land uses which may be affected by the operation, and implementation of comprehensive plan policies. ~~The planning board may recommend changes to the applicant for resubmission to the planning board.~~

4.3.~~13~~10.F. The planning board shall render a written decision specifying whether, and under what conditions, the proposed operation would be permitted. The planning board may require that the applicant provide a performance guarantee of the type approved in the site plan review and subdivision ordinance, payable to the city in such an amount and upon such conditions as the planning board may determine to be adequate to indemnify the city against any claims arising from the proposed operations and to assure satisfactory performance of all conditions imposed or otherwise applicable.

4.3.~~13~~10.G. ~~Any operation involving the excavation, screening or storage of soil (including topsoil, peat, earth, loam, sand, gravel, rock or other mineral deposits) in operation at the time of this ordinance becomes effective, may continue to operate unless and until abandoned for one year.~~ If abandoned for one year,

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

4.3.~~13~~10.H. The planning board shall ~~specify such requirements in any site plan review permit issued for earth material removal as it deems necessary or desirable~~attach conditions of approval to assure compliance with the following requirements:

4.3.~~13~~10.H(1) No part of any extraction operation shall be permitted within one hundred (100) feet of any property or street line, except that drainage ways to reduce runoff into or from the extraction area may be allowed up to fifty (50) feet from such line. Natural vegetation shall be left and maintained on the undisturbed land.

4.3.~~13~~10.H(2) If any standing water accumulates, the site must be fenced in a manner adequate to keep children out. Measures shall be taken to prevent or halt the breeding of harmful insects.

4.3.~~13~~10.H(3) No slopes steeper than three (3) feet horizontal to one foot vertical shall be permitted at any extraction site unless a fence of at least four (4) feet high is erected to limit access to those locations.

4.3.~~13~~10.H(4) Before commencing removal of any earth materials, the owner or operator of the extraction site shall present evidence to the planning board of adequate insurance against liability arising from proposed extraction operations, and that insurance shall be maintained throughout the period of operation.

4.3.~~13~~10.H(5) To the extent required for restoration, any topsoil and subsoil suitable for purposes of restoring vegetation shall~~, to the extent required for restoration,~~ be stripped ~~from the location from the extraction operations~~ and stored on site until operations have ceased. Such stockpiles shall be protected from erosion according to the soil erosion control standards of the site plan review and subdivision ordinance. See also 4.3.25.H(6) Erosion and sedimentation control and 4.3.25.H(8) Mineral exploration and extraction, if the site is located in the shoreland zone.

4.3.~~13~~10.H(6) Sediment shall be trapped by diversion, silting basins, terraces, and other measures designed by a professional engineer.

4.3.~~13~~10.H(7) The sides and bottom of cuts, fills, channels, and artificial water courses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to the Maine Soil and Water Conservation Commission, Technical Guide, Standards and Specifications.

4.3.~~13~~10.H(8) Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The applicant shall submit written approval from the Department of Inland Fisheries and Wildlife, as applicable, prior to consideration by the planning board.

4.3.~~13~~10.H(9) The hours of operation at any extraction site shall be limited as the planning board deems advisable to ensure operational compatibility with residents of the city.

4.3.~~13~~10.H(10) Load vehicles shall be suitably covered to prevent dust and contents from spilling or blowing from the load, and all trucking routes and methods shall be subject to approval by the director of public works.

4.3.~~13~~10.H(11) All access/egress roads leading to/from the extraction site to public ways shall be treated with suitable materials to reduce dust and mud for a distance of at least one hundred (100) feet from those public ways.

4.3.~~13~~10.H(12) No equipment, debris, junk, or other material shall be permitted on an extraction site except those directly related to active extraction operations, and any temporary shelters or buildings erected for such operations and equipment ~~used in connection therewith~~ shall be removed within thirty (30) days following completion of active extraction.

4.3.~~13~~10.H(13) Following the completion of extraction operations at any ~~extraction site or any one or more~~ locations within any extraction site, ground levels and grades shall be established in accordance with the approved plans filed with the planning board so that:

4.3.~~13~~10.H(13)(a) All debris, stumps, boulders and similar materials shall be removed and disposed of in an approved location or, in the case of inorganic material, buried and covered with a minimum of two (2) feet of soil, provided these standards are in accordance with DEP regulations.

4.3.~~13~~10.H(13)(b) The extent and type of fill shall be appropriate to the use intended. The applicant shall specify the type and amount of fill to be used.

4.3.~~13~~10.H(13)(c) Storm drainage and watercourses shall leave the location at the original natural drainage points and in a manner such that the amount of drainage at any point does not significantly increase.

4.3.~~13~~10.H(13)(d) At least four (4) inches of topsoil or loam shall be retained or obtained to cover all disturbed areas. ~~which~~ Disturbed areas shall be reseeded and properly restored to a stable condition adequate to meet the provisions of the "Environmental Quality Handbook, Erosion and Sediment Control", as amended or revised, published by the Maine Soil and Water Conservation Commission.

~~**4.3.14. Electromagnetic interference.**~~

~~4.3.14.A. No use, activity, or process shall be conducted which produces electromagnetic interference in the transmission or reception of electrical impulses beyond the lot lines, including radio and television. In all cases, federal, state, and local requirements shall be met. Violations of this standard are considered as public nuisances.~~

4.3.~~15~~11. Fire and explosive hazards.

4.3.~~15~~11.A. Sprinkler systems, fire alarm systems, and key boxes.

4.3.~~15~~11.A.(1) The fire chief shall determine whether or not a building or structure shall have a sprinkler system or a fire suppression system meeting the requirements of the International Building Code and the National Fire Protection Association Code.

4.3.~~15~~11.A.(2) The fire chief and/or code enforcement officer shall determine whether or not a building or

structure shall have a fire alarm system. The fire chief has the discretion to require fire alarm systems to connect to the Waterville Communication Center and/or Central Fire Station.

4.3.~~15~~11.A.(3) When access to or within a structure or an area is unduly difficult because of secured openings, or when immediate access is necessary for lifesaving or fire-fighting purposes, a key box will be installed in an accessible location designated by the fire chief. The key box shall be a type approved by the fire chief and shall contain keys to gain necessary access as required by the fire chief. The key box will be connected to the local fire alarm that will signal the fire department when the box is opened or ~~tampered with~~disturbed. The alarm will be transmitted to the Waterville Area Communications Center and/or Central Fire Station.

4.3.~~15~~11.B. Storage, utilization, or manufacture of free burning and intense burning solid materials or products is permitted provided that these materials or products are stored, utilized, or manufactured within completely enclosed buildings having incombustible walls and protected throughout by an automatic fire extinguishing system.

4.3.~~15~~11.C. The storage, utilization or manufacture of flammable liquids or materials which produce flammable or explosive vapors or gases, including finished products in original sealed containers, shall be permitted in accordance with all applicable federal, state, and local regulations.

4.3.~~15~~11.D. Tanks or other underground storage facilities abandoned or not in use for a period exceeding one (1) year shall be removed at the expense of the owner of the property. Alternatively, ~~or~~ the owner shall otherwise assure that safe conditions are present.

4.3.~~16~~12. Height ~~and area~~ regulations.

4.3.~~16~~12.A. Building heights shall be ~~limited to type of construction and~~ restricted to the limits of usefulness of the City's fire fighting equipment. When issuing a building permit, the issuing officer shall give serious consideration to the recommendation of the Fire Chief.

~~4.3.16.B. No lot area, building setback, parking or loading area, or other space required by these regulations for any one lot or building shall be occupied or used in the computation or dimensional requirements of any other lot or building, or shall be reduced to a smaller size than that required by the regulations. Consult section 4.3.22. for computation of net residential area.~~

4.3.~~40~~13. Homeless shelters.

4.3.~~40~~13.A. Definition. As used in this section, "homeless shelter" means emergency housing for persons who lack a "fixed, regular, and adequate nighttime residence."

4.30.~~40~~13.B. Intent. Persons seeking to locate a homeless shelter within the community shall first investigate possible sites within approximately a half-mile radius of the downtown. In order to best serve the homeless, the shelter should be located near the majority of the social service facilities which provide assistance to the homeless. It is assumed that most of the homeless do not own cars, and need to be housed within easy walking distance of those services.

4.3.~~40~~13.C. Homeless shelters are discouraged in areas of any zoning district in which a significant portion of the existing housing units are single-family dwellings.

4.3.~~40~~13.D. Homeless shelters must provide sufficient and effective supervision to clients.

4.3.~~40~~13.E. Homeless shelters must have sufficient off-street parking spaces for supervisors, housekeeping staff, and social service workers expected to provide assistance at the shelter. The parking standard is one (1) space for every three (3) shelter beds with a minimum of two (2) spaces regardless of the number of beds.

4.3.~~40~~13.F. Homeless shelters must provide space for sleeping purposes in accordance with standards specified in ~~section 15-15(b) of the housing code of the city~~4-4d.1 of the Property Maintenance Ordinance. This floor area requirement will determine the number of persons allowed to stay in any shelter.

4.3.~~40~~13.G. The ~~board of zoning appeals~~ planning board shall receive public comment on the proposed homeless

shelter~~. In addition to the findings required for a special exception permit (6.12.2.), the board shall further find that the proposed shelter:~~ and shall find that the proposed shelter:

4.3.~~40~~13.G(1) Would not create or aggravate a traffic hazard;

4.3.~~40~~13.G(2) Would not hamper pedestrian circulation;

4.3.~~40~~13.G(3) Would permit convenient access to commercial shopping facilities, medical facilities, public transportation, fire protection and police protection;

4.3.~~40~~13.G(4) Would be in conformance with applicable building, housing, plumbing, or other safety codes and including municipal minimum lot size and building setback requirements for new construction.

4.3.~~17~~14. Home occupations.

4.3.~~17~~14.A. Definition: An occupation conducted in a dwelling unit as an accessory use, subject to the provisions and performance standards below.

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

4.3.~~17~~14.B. The purpose of the home occupations provisions is to permit the conduct of only those businesses which are reasonably compatible with the residential district in which they are located. Any home occupation which is accessory to and compatible with a residential use in those districts where permitted as a special exception shall be approved by the ~~board of zoning appeals~~ code enforcement officer after ~~public hearing and~~ due notice is given, provided that:

4.3.~~17~~14.B(1) Not more than two (2) persons including the owner of the home shall be engaged in such occupation.

4.3.~~17~~14.B(2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its owner-occupant. Not more than five hundred (500) square feet or twenty-five (25) percent of the floor area of the dwelling unit, whichever is less, shall be used in the conduct of the home occupation. The floor area of garages, common areas, basements, and accessory structures may not be used in calculating total area of the dwelling unit.

4.3.~~17~~14.B(3) There shall be no change in the outside appearance of the dwelling, no outside storage of materials, and no visible conduct of such home occupation other than one (1) sign, no larger than five (5) by twenty-four (24) inches. The sign must be affixed to the home, not free-standing.

4.3.~~17~~14.B(4) The sale of goods is permitted only when incidental to the providing of services. No service to animals or automobiles [including, but not limited to, washing, painting, or repairing] is allowed. In addition, no taxicab companies are allowed.

4.3.~~17~~14.B(5) No traffic shall be generated by such home occupation in greater volumes than normally would be expected in the neighborhood where the home occupation would be located. The ~~zoning board of appeals~~ code enforcement officer may require the applicant to submit a traffic impact analysis by a professional traffic engineer. The report shall include an estimate of the traffic that would be generated by the home occupation, as well as actual traffic counts on the street where the home occupation would be located.

4.3.~~17~~14.B(6) Any need for parking generated by the conduct of such occupation shall be met off the street in the side or rear yard, not ~~and other than~~ in the required front yard. The ~~zoning board of appeals~~ code enforcement officer may deny a home occupation permit if the required parking area would be so large as to render the land use incompatible with the general character of the neighborhood.

4.3.~~17~~14.B(7) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, or odor~~, or electrical interference detectable to the normal senses off the lot if the occupation is~~

~~conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes any fluctuations in line voltage off the premises~~.

4.3.~~17~~14.B(8) The ~~zoning board of appeals~~ code enforcement officer may not grant a home occupation permit until the proposed business area has been inspected by the fire department. Additionally, home occupations must store an operable fire extinguisher within the business area.

4.3.~~17~~14.B(9) The ~~zoning board of appeals~~ code enforcement officer ~~shall review the special exception permit issued for each home occupation three (3) years after issuance and every three (3) years thereafter, and~~ may revoke or suspend the special exception permit of any home occupation found to be in violation of conditions set at the time of approval.
~~Between scheduled reviews, if a complaint is received concerning a home occupation, the code enforcement officer will investigate. If the complaint has merit, the zoning board of appeals will review the home occupation and may revoke or suspend the permit. Notice of any hearings under this subsection shall meet the standards provided for in Article 6, sections 6.15.4 and 5 of this ordinance.~~

4.3.~~18~~15. Hydrogeologic assessment of groundwater impacts.

4.3.~~18~~15.A. When a hydrogeologic assessment is submitted in accordance with the site plan review and subdivision ordinance, the assessment shall contain at least the following information:

4.3.~~18~~15.A(1) A map showing the basic soils types.

4.3.~~18~~15.A(2) The depth to the water table at representative points throughout the development site.

4.3.~~18~~15.A(3) Drainage conditions throughout the development site.

4.3.~~18~~15.A(4) Data on the existing groundwater quality, either from test wells in the development or from existing wells on neighboring properties.

4.3.~~18~~15.A(5) An analysis and evaluation of the impacts of the development on groundwater resources. ~~In the case of residential developments, the evaluation shall, at a minimum, project nitrate-nitrogen concentrations. For developments within the watershed of a stream or river, projections of phosphate impacts shall also be calculated.~~

4.3.~~18~~15.A(6) The location of any subsurface wastewater disposal systems and drinking water wells within the development and within two hundred (200) feet of the subdivision boundaries.

4.3.~~18~~15.B. Projections of groundwater quality shall be made at any wells within the development and at the development's boundaries or at a distance of five hundred (500) feet from potential contamination sources, whichever is a shorter distance.

4.3.~~18~~15.C. Projections of groundwater quality shall be based on the assumption of drought conditions (assuming sixty (60) percent of annual average recharge from precipitation).

~~4.3.18.D. No development shall increase any contaminant concentration in the groundwater to more than half of the primary drinking water standards. No development shall increase any contaminate concentration in the groundwater or to more than the secondary drinking water standards.~~

~~4.3.18.E. If existing groundwater quality already exceeds the primary standards, and the development is to be served by on-site groundwater supplies, the applicant shall demonstrate how water quality will be improved or treated.~~

~~4.3.18.F. If existing groundwater quality already exceeds the secondary standards, the development shall not cause the concentration of the parameters in question to exceed one hundred fifty (150) percent of the ambient concentration.~~

4.3.~~18~~15.~~G~~D. Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the ~~map~~ plan submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on

the final plan, and as restrictions in the deeds to the affected lots.

4.3.~~18~~15.~~H~~E. If the development is within one thousand five hundred (1,500) feet of a public water line, the development must connect to the line at the developer's expense.

4.3.~~19~~16. Lighting (glare).

4.3.~~19~~16.A. Lighting may be used which serves security, safety, and operational needs but which does not directly or indirectly produce deleterious effects on abutting property or which would impair the vision of a vehicle operator on adjacent roadways. Lighting fixtures shall be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or residents of adjacent dwellings. ~~All such activities shall comply with federal and state regulations.~~ Adequate buffers using either natural landscape or artificial screening are required to prevent unnecessary or undesirable light from being directed from lot lines onto adjacent properties.

4.3.~~20~~17. Mobile homes and ~~older mobile homes~~ mobile home parks.

4.3.~~20~~17.A. ~~General prohibitions~~ Single-wide mobile homes.

4.3.~~20~~17.A(1) No single-wide mobile home or older mobile home shall be occupied permanently in the City of Waterville as a residence for living, sleeping, cooking, or for carrying on any occupation except in the Rural-Residential zone or in a properly licensed mobile home park.

4.3.17.A(2) A single-wide mobile home or older mobile home may be occupied as a temporary residence, not to exceed a period of one year, during residential construction on a lot for which a building permit has been issued.

A single-wide mobile home or older mobile home may be used as a temporary office incidental to construction on or development of the premises on which the single-wide mobile home or older mobile home is located, for a period of one year, ~~and~~ with the option of renewing for one year at the discretion of the code enforcement officer.

See also 4.3.29 Temporary structures.
~~4.3.20.B. Permits. The following provisions shall apply to permits pertaining to mobile homes and older mobile homes:~~

~~4.3.20.B(1) Individual mobile home or older mobile home. No person shall occupy or use a mobile home or older mobile home without first having obtained a valid certificate of occupancy from the code enforcement officer, as provided in section 6.5. The landowner shall be responsible for obtaining this certificate.~~

~~4.3.20.B(2) Manufactured housing park permits required. No person shall construct, maintain, operate, or alter any manufactured housing park in the City of Waterville unless such person has a valid certificate issued by the enforcement officer after authorization of such permit by the board of zoning appeals. Said permit shall be granted if all the requirements of this ordinance are met.~~

4.3.17.B. Review of mobile home parks. Mobile home park site plans and revisions and expansions to mobile home parks must be reviewed and approved by the planning board in accordance with the procedures outlined in the site plan review and subdivision ordinance.

4.3.~~20~~17.C. Site plans for mobile home parks. ~~Initial~~Applications shall be accompanied by a set of plans drawn to scale showing the following information:

4.3.~~20~~17.C(1) The area and dimension of the tract of land;

4.3.~~20~~17.C(2) The maximum number, location, and size of all ~~manufactured housing unit~~ mobile home or older mobile home spaces;

4.3.~~20~~17.C(3) The location of any existing or proposed buildings or structures;

4.3.~~20~~17.C(4) The location and width of roadways and walkways;

4.3.~~20~~17.C(5) The location of water, sewer, and electrical lines and the sewage disposal system if public sewerage is not available.

~~4.3.20.C(6) The board of zoning appeals will not approve the initial application for a manufactured housing park until receiving a favorable recommendation by the planning board, after it has reviewed the site plan in accordance with the procedures outlined in the site plan review and subdivision ordinance.~~

~~4.3.20.D. Renewal applications. Renewal applications shall be accompanied by plans drawn to scale showing any proposed extensions or alterations. Extensions or alterations shall be subject to review and recommendation of the planning board before approval of the board of zoning appeals.~~

~~4.3.20.D(1) The making of extensions or alterations without such approval shall be cause for immediate revocation of the manufactured housing park permit. The enforcement officer, after inspection of the premises, may issue a renewal of the manufactured housing park permit on his own authority if no alterations or extensions are proposed and if the manufactured housing park complies with the provisions of this ordinance on or before July 1st of each year.~~

4.3.~~20~~17.~~E~~D. Location of ~~manufactured housing~~ mobile home parks. ~~No permit for manufactured housing shall be issued to any person to establish a manufactured housing park elsewhere than in the RR district.~~ Mobile home parks are permitted only in the Rural Residential zone.

4.3.~~20~~17.~~F~~E. ~~Manufactured housing~~ Mobile home park requirements. ~~Manufactured housing~~ Mobile home parks~~, where permitted under the provisions of this section,~~ shall conform to the following minimum standards~~ in addition to all pertinent state and local health requirements~~:

4.3.~~20~~17.~~F~~E(1) Location. No ~~manufactured housing unit~~ mobile home or ~~manufactured housing~~ mobile home park shall be so located as to be:

4.3.~~20~~17.~~F~~E(1)(a) Inaccessible from all-weather roads;

4.3.~~20~~17.~~F~~E(1)(b) Close to swamps or other potential breeding places for insects or rodents;

4.3.~~20~~17.~~F~~E(1)(c) On poorly drained land or on land unsuitable for septic systems~~tank disposal of sewage provided~~, if public sewerage is unavailable;

4.3.~~20~~17.~~F~~E(1)(d) On land subject to flooding, erosion, or fire, traffic safety, or general welfare problems; or

4.3.~~20~~17.~~F~~E(1)(e) On land which is exposed to chronic nuisances such as noise, smoke, fumes, or odors.

4.3.~~20~~17.~~F~~E(2) Access. No ~~manufactured housing~~ mobile home park shall be developed unless adequate access is provided for ~~manufactured housing units~~ mobile homes, ~~or older mobile homes and attached vehicles,~~ fire-fighting equipment, fuel delivery, refuse and garbage collection, and other vehicles. Where the ~~manufactured housing~~ mobile home park does not abut directly on a street, paved access roads located within a right-of-way of not less than fifty (50) feet shall be provided.

4.3.~~20~~17.~~F~~E(3) Area. The area of every ~~manufactured housing~~ mobile home park shall be not less than two (2) acres including the provision for:

4.3.~~20~~17.~~F~~E(3)(a) Necessary access and internal roads;

4.3.~~20~~17.~~F~~E(3)(b) Adequate off-street parking for motor vehicles;

4.3.~~20~~17.~~F~~E(3)(c) Essential services, play areas, and maintenance and office facilities.

4.3.~~20~~17.~~F~~E(4) Grading. Every lot used for a ~~manufactured housing~~ mobile home park shall be pre-graded and drained for disposal of surface and storm water.

4.3.~~20~~17.~~F~~E(5) Screening of ~~manufactured housing~~ mobile home parks. A green strip at least twenty-five (25) feet in width and up to fifty (50) feet in width, if in conformity with 30-A MRSA section 4358(3) as amended from time to time, shall be maintained adjoining the boundary of the property and planted with trees or shrubs to provide a permanent screen.

4.3.~~20~~17.~~F~~E(6) Street construction. Every access road and service street within a ~~manufactured housing~~ mobile home park shall ~~have a right-of-way at least thirty-two (32) feet, pavement width of not less than twenty (20) feet, and shall have a well drained stabilized surface maintained in good repair and well lighted at night, if streets are to become town ways~~ meet city street standards, if the street

is to be accepted by the city. If streets are to be private ways, the rights of way must be a minimum of twenty-three (23) feet in width and paved as required for city streets. Roads shall have a gravel base at least twelve (12) inches in depth.

4.3.~~20~~17.~~F~~E(7) Individual ~~manufactured housing~~ mobile home and older mobile home spaces. No individual ~~manufactured housing~~ mobile home or older mobile home space shall contain less than five thousand (5,000) square feet of land, and such space shall be not less than fifty (50) feet in width and one hundred (100) feet in depth. The bounds of each space shall be clearly marked and the space shall be well surfaced or seeded to provide adequate drainage beneath and adjacent to any ~~manufactured housing~~ mobile home or older mobile home parked thereon.

Each space shall provide for:

4.3.~~20~~17.~~F~~E(7)(a) A continuing potable supply of safe and sanitary water;

4.3.~~20~~17.~~F~~E(7)(b) Connection to adequate sewerage and storm water disposal systems;

4.3.~~20~~17.~~F~~E(7)(c) Adequate electric power service; and

4.3.~~20~~17.~~F~~E(7)(d) ~~Must comply~~ Compliance with state sanitary and health requirements for ~~manufactured housing~~ mobile home parks;

4.3.~~20~~17.~~F~~E(7)(e) At least ~~one hundred fifty-five (155) square feet of each trailer space shall be provided as~~ two off-street motor vehicle parking spaces per unit. One additional parking space for each six (6) units shall be provided off-street in an easily accessible area of the mobile home park. Such parking spaces shall have well drained, stabilized, or paved surfaces maintained in good repair.

4.3.~~20~~17.~~F~~E(8) Parking of ~~manufactured housing~~ mobile homes or older mobile homes:

4.3.~~20~~17.~~F~~E(8)(a) No ~~manufactured housing~~ mobile home or older mobile home shall be parked nearer than fifteen (15) feet from the side of any mobile home space, and there shall be not less than thirty (30) feet between any

~~manufactured housing unit~~ mobile home or older mobile home and any service building.

4.3.~~20~~17.~~F~~E(8)(b) No ~~manufactured housing unit~~mobile home or older mobile home or service building shall be placed or permitted within one hundred (100) feet of any public street, or within thirty (30) feet of a boundary line of ~~such lot or area~~ a mobile home park. Every ~~manufactured housing unit~~ mobile home or older mobile home shall be set back twenty (20) feet from the right-of-way line of all mobile home park streets.

4.3.~~20~~17.~~F~~E(9) Recreation area. No less than one hundred (100) square feet of recreation space per unit shall be provided and restricted in every ~~manufactured housing~~ mobile home park exclusively to recreational and playground use. Such recreation areas shall be protected from streets and parking areas, and shall have a well drained surface in good repair.

4.3.~~20~~17.~~F~~E(10) Utility services. Every ~~manufactured housing unit~~mobile home or older mobile home shall be provided with adequate hygiene and sanitation facilities. Water supply and service, plumbing, sewage disposal and treatment, electric power and bottled gas service, heating equipment and fuels, refuse and garbage storage and disposal, and insect and rodent control shall be provided in full conformity with all pertinent state and local health regulations.

~~4.3.20.G. Additional general provisions. The following additional general provisions apply to manufactured housing parks as follows:~~

~~4.3.20.G(1) The regulation of this section shall not apply to manufactured housing units or older mobile homes in the hands of dealers as stock in trade for sale, so long as such manufactured housing units or older mobile homes remain unoccupied, except that no manufactured housing unit or older mobile home shall be stored in a manufactured housing park.~~

~~4.3.20.G(2) When unoccupied and temporarily stored, the regulations of this section shall not apply to manufactured housing units or older mobile homes that are unoccupied and stored temporarily in buildings, garages, or on private~~

~~property if said manufactured housing unit or older mobile home is not visible from any public street or way.~~

4.3.17.E(11) No unoccupied mobile home or older mobile home shall be stored in a mobile home park.

4.3.~~20~~17.~~H~~F. ~~Manufactured housing~~Mobile homes on house lots outside of mobile home parks. ~~The purpose of this section is to establish minimum standards for the placement of mobile homes on house lots outside of mobile home parks and to require that~~ Mobile homes must be compatible with site-built homes and~~Only mobile homes that meet the following requirements are permitted~~:

4.3.~~20~~17.~~I~~F(1) ~~Complies~~ Must comply with current United States Department of Housing and Urban Development or International Building Code standards.

4.3.~~20~~17.~~I~~F(2) Must have a permanent foundation. Permanent foundation means all of the following:

4.3.~~20~~17.~~I~~F(2)(a) A full, poured concrete or masonry foundation;

4.3.~~20~~17.~~I~~F(2)(b) A poured concrete frost wall or mortared masonry frost wall, with or without a concrete floor;

4.3.~~20~~17.~~I~~F(2)(c) A reinforced, floating concrete pad. The code enforcement officer ~~for which the municipality~~ may require an engineer's certification if ~~it~~ the pad is to be placed on soil with high frost susceptibility; and

4.3.~~20~~17.~~I~~F(2)(d) Any foundation which~~, pursuant to the building code of the municipality,~~ is permitted for other types of single-family dwellings.

4.3.~~20~~17.~~I~~F(3) Must have a pitched shingled roof. Pitched shingled roof means a roof with a pitch of two (2) or more vertical units for every twelve (12) horizontal units of measurement and which is covered with asphalt or bierglass composition shingles or other materials, but specifically excludes corrugated metal roofing materials.

4.3.~~20~~17.~~I~~F(4) Siding. The siding may be either clapboards, shingles or shakes, including synthetic or metal siding manufactured to closely resemble clapboards, shingles, and shakes. It may also be masonry, wood, board

and batten, or texture 1-11 exterior plywood, but shall not include artificial masonry or fake board and batten made from metal. No other siding is permitted.

4.3.~~20~~17.~~I~~F(5) Oil storage tanks. Any oil storage tank must be placed in either the basement, crawl space, or an attached garage. No oil storage tank can be placed so that it is visible from adjacent properties or any street.

4.3.~~20~~17.~~J~~G. Penalty for violation. Any person found guilty of violating any provision of this section shall be subject to a penalty of not more than one hundred dollars ($100.00) for each offense. Each day in which a violation is proved to exist shall constitute a separate offense under this section.

4.3.~~21~~18. Multifamily developments.
Multifamily developments [consisting of three or more dwelling units] ~~as allowed in the regulations for each respective zone after notice and public hearing~~ may be authorized by the ~~board of zoning appeals~~ planning board subject to the following requirements. ~~If, however, site plan review by the planning board is required either under Section 6.16 or as a condition of a contract zone, no review by the zoning board of appeals is required.~~

4.3.~~21~~18.A. Uses permitted: Dwelling units and accessory uses. The following uses ~~shall be~~ are permitted in multifamily dwellings but only sufficient to serve the residents:

4.3.~~21~~18.A(1) Coin-operated washing machines and dryers;

4.3.~~21~~18.A(2) Lockers or additional storage space;

4.3.~~21~~18.A(3) Recreational room or lounge;

4.3.~~21~~18.A(4) Vending machines.

4.3.~~21~~18.B. Area and bulk requirements:

Multifamily Construction:*

Districts‡

RA	RB	RC	RD	RR	Commer-cial

Minimum Land: Sq. Ft. Per Family	7,500	5,000	3,750	2,500/ first bedroom† plus 500/ each additional bedroom	7,500	‡
Min. Lot Size New Construction	5 acres	1 acre	15,000 sq. ft.	15,000 sq. ft.	22,500 sq. ft.	‡
Min. Frontage	100 ft.	100 ft.	75 ft.	100 ft.	150 ft.	‡
Min. Setbacks [Feet]:						
Front	20	20	10	10	50	‡
Side	15	10	10	10	25	‡
Rear	30	30	20	20	25	‡
Usable Open Area	50%	40%	35%	30%	50%	‡
Max. Bldg. Coverage	20%	25%	30%	35%	30%	‡
Parking space per unit **						

*This table applies to both new construction and conversions of existing buildings. However, for conversions with no increase in building footprint only minimum land per dwelling unit, usable open area, maximum building coverage, and parking spaces per unit apply. For new construction, all apply.

†Includes efficiency apartments.

** See Section 4.3.~~25~~21 Off-street parking and loading requirements.

‡Commercial Zones: Same criteria as required in existing commercial zones.

Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

4.3.~~21~~18.C Design standards.

4.3.~~21~~18.C(1) Storage. All storage, including containers for organic waste, shall be completely screened from view from any public right-of-way or any adjoining residential

property. Screening shall consist of evergreen plantings or a ~~sightly wall or~~ visually appealing fence. ~~The concentration of all~~ All organic rubbish ~~or storage~~ shall be contained in airtight, vermin-proof containers. ~~which shall be similarly screened from view.~~

4.3.~~21~~18.C(2) Landscaping. Any part ~~or portion~~ of the site which is not used for buildings, other structures, loading or parking spaces, sidewalks, or designated storage areas shall be planted with an all season ground cover and ~~shall be~~ appropriately landscaped with trees, shrubs, and flowering plants in accordance with an overall landscape plan ~~which shall be a part of the required site plan~~.

~~4.3.21.C(3) The city engineer shall report to the board with respect to grades, drainage, sewerage, road surfacing, and traffic patterns for the proposed development.~~

~~4.3.21.C(4) All utilities may be required to be underground if in the opinion of the board the development area so requires.~~

4.3.~~21~~18.C(3~~5~~) Yard lighting shall be provided by the developer to illuminate the premises without affecting adjacent residential areas.

4.3.18.C(4) Access shall be provided in accordance with the street standards contained in Article 12 of the Subdivision and Site Plan Review Ordinance, unless the planning board waives those requirements. See also Section 4.3.1 Access to property.

~~4.3.21.D Required site plan for multifamily developments. Each application for a special exception hereunder shall be accompanied by a site plan in duplicate for each individual multifamily unit or complex of such units, which plan shall show all building locations, driveways, service and off-street parking areas, and open spaces, and such other data and dimensions, including a landscaped plan, that are necessary to make a determination under the above requirements and those outlined in the site plan review and subdivision ordinance.~~

4.3.~~21~~18.D~~E~~. Review and approval. The planning board shall review the site plan ~~, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and~~

~~circulation, drainage, sewerage, and water systems, and the proposed operation~~ in accordance with the ~~standards of review outlined in the~~ provisions of the Site Plan Review and Subdivision Ordinance.

4.3.~~21~~18.E~~F~~. ~~Conditions~~ The planning board may require enhancements such as, but not limited to, landscaping, ~~architectural design, type of construction,~~ lighting, fencing, planting screens, ~~operational control,~~ improved traffic circulation, and ~~highway~~ street access restrictions~~,~~ ~~and increased yard or parking requirements may be required by the planning board or zoning board of appeals~~ upon written findings of fact that these are necessary to fulfill the ~~purpose and~~ intent of ~~this~~ the Site Plan Review and Subdivision ~~o~~Ordinance.

4.3.~~22~~19. Net residential acreage calculation. ~~The net~~ Net residential acreage shall be calculated for cluster developments by taking the total of the lot and subtracting, in order, the following:

4.3.~~22~~19.A. Fifteen (15) percent of the area of the lot to account for roads and parking.

4.3.~~22~~19.B. Portions of the lot which, because of existing land uses or lack of access, are isolated and unavailable for building purposes or for use in common with the remainder of the lot, as determined by the planning board.

4.3.~~22~~19.C. Portions of the lot shown to be in a floodway as designated in the national flood insurance rate ~~boundary and floodway~~ map prepared by the Federal Emergency Management Agency ~~Insurance Administration~~.

4.3.~~22~~19.D. Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage, or subsoil conditions such as, but not limited to, the following:

(1) Slopes greater than thirty-three (33) percent;

(2) Organic soils;

(3) Wetland soils;

(4) Fifty (50) percent of the poorly drained soils unless the applicant can demonstrate specific engineering

techniques to overcome the limitations to the satisfaction of the planning board.

4.3.~~22~~19.E. Portions of the lot subject to rights-of-way or easements other than utility easements serving the lot.

4.3.~~22~~19.F. Portions of the lot located in the Resource Protection District.

4.3.~~22~~19.G. Portions of the lot covered by surface waters.

4.3.~~22~~19.H. Portions of the lot utilized for stormwater management facilities.

4.3.~~23~~20. Noise.

4.3.~~23~~20.A. The maximum permissible sound pressure level of any continuous, regular, frequent, or intermittent source of sound produced by any activity shall be limited by the time period and land use which it abuts [listed below]. Sound levels shall be measured at least four (4) feet above the ground at the property boundary of the source.

Sound Pressure Level Limits
Using the Sound Equivalent Level
of One Minute (leg 1) (Measured in
dB(a) scale)

	7:00 a.m. to 9:00 p.m.	9:00 p.m. to 7:00 a.m.
Residential.....	55	45
Commercial.....	65	55
Industrial.....	70	60

4.3.~~23~~20.B. Noise shall be measured by a meter set on the A-weighted response scale, fast response. The meter shall meet the American National Standards Institute (ANSI S1 4-1961) "American Standard Specification for Neural Purpose Sound Level Meters."

4.3.~~23~~20.C. No person shall engage in construction activities on a site abutting any residential use between the hours of 9:00 p.m. and 7:00 a.m. ~~Otherwise~~ However, the following activities ~~shall be~~ are exempt from these regulations:

4.3.~~23~~20.C(1) Sound emanating from public road construction and maintenance activities~~ conducted between 7:00 a.m. and 10:00 p.m~~.

4.3.~~23~~20.C(2) Sound emanating from safety signals, warning devices, emergency pressure-relief valves and other emergency activities.

4.3.~~23~~20.C(3) Traffic noise on public roads, or noise created by airplanes and railroads.

4.3.~~23~~20.C(4) Temporary use of such machinery as, but not limited to, chain saws, lawnmowers, and snowmobiles.

4.3.~~23~~20.D. Violations of these standards ~~shall be~~ are considered ~~as~~ public nuisances.

4.3.~~25~~21. *Off-street parking and loading requirements.*

4.3.~~25~~21.A. Off-street parking requirements. Off-street parking shall be provided either by means of open air spaces, each having an area of at least one hundred fifty-five (155) square feet (minimum 8.5' x 18.5') plus maneuvering space, or by garage space. Off-street parking shall be provided and maintained in the case of new construction, alterations, and changes of use according to the following minimum requirements:

4.3.~~25~~21.A(1) Residential structures [other than those specified below]: Two (2) parking spaces for each dwelling unit, plus one (1) additional parking space for every six (6) units.

Apartments in the Commercial-A zone: one parking space per residential unit, such space to be located within 1,000 feet of the building entrance and to be reserved for the exclusive use of the apartment occupant.

Subsidized elderly housing: One (1) parking space per unit.

4.3.~~25~~21.A(2) Motels and hotels: One parking space for each guest room.

4.3.~~25~~21.A(3) Hospitals, nursing homes, and assisted living facilities: One parking space for each five hundred (500) square feet of floor area or major fraction thereof, exclusive of cellars.

4.3.~~25~~21.A(4) ~~Service establishments and~~ Retail stores: One parking space per two hundred (200) square feet of sales space.

4.3.21.A(5) Service establishments including banks [See the definition of service establishment in Section 3.2]: One parking space per two hundred (200) square feet of floor area.

4.3.~~25~~21.A(~~5~~6) Auditoriums, assembly halls, funeral homes, churches, restaurants, other eating establishments, places of indoor amusement or recreation: One parking space per three (3) seats or sixty (60) inches of permanent bench space and one for each thirty-six (36) square feet of area with temporary seating facilities. Theaters: One (1) parking space per four (4) seats.

4.3.~~25~~21.A(~~6~~7) Fraternities, private clubs and lodges: One parking space for every five (5) members.

4.3.~~25~~21.A(~~7~~8) Offices and clinics for medical, dental, and other professional practitioners: One parking space per two hundred (200) square feet of floor area.

4.3.~~25~~21.A(~~8~~9) Home occupations: As required by the ~~zoning board of appeals~~code enforcement officer.

4.3.~~25~~21.A(~~9~~10) Warehouses and industrial buildings with floor area over two thousand (2,000) square feet: One parking space for each thousand (1,000) square feet of floor area or major fraction thereof, or one parking space for each two (2) employees.

4.3.~~25~~21.A(~~10~~11) Daycare centers: One (1) space per teacher or employee plus one (1) space for every six (6) children.

4.3.~~25~~21.A(~~11~~12) Shared parking. When a development is before the planning board for site plan review, the planning board may reduce the number of required off-street parking spaces if two or more uses on the site share parking. To reduce the required spaces by more than 10%, the developer must provide a written report from a Professional Traffic Operations Engineer demonstrating ample parking.

4.3.~~25~~21.B. Off-street parking locations.

4.3.~~25~~21.B(1) Required off-street parking in all districts shall be located on the same lot with the principal building or use, with the exception of parking for apartments in the Commercial-A zone and as allowed by either the planning board or the ~~zoning board of appeals~~ code enforcement officer. ~~The zoning board of appeals~~ Either the planning board or the code enforcement officer may waive or modify the parking requirements if the parcel upon which a building is located is within 300 feet of an existing public parking area or a private parking area controlled by the developer for the sole use of the occupants of his building. Measurement of distance of parking areas from a principal building or use shall be along lines of public access.

4.3.~~25~~21.B(2) Required off-street parking spaces shall be set back from all property lines, front, rear, and side, not less than five (5) feet. Commercial vehicles parked in residential zones shall be parked a minimum of ten (10) feet from any property line.

4.3.~~25~~21.C. Off-street loading requirements. Off-street loading berths shall be provided and maintained in the case of new construction, alterations, and changes of use according to operational requirements.

4.3.~~25~~21.D. Off-Street parking restrictions in residential zones.

4.3.~~25~~21.D (1) No more than one commercial vehicle, registered as such by a state, may be parked on any lot in a residential zone. Such vehicle must be operable, registered, and solely for the use of the occupants of the residential property.

4.3.~~25~~21.D (2) No maintenance or repair of commercial vehicles is allowed in residential zones.

4.3.~~25~~21.D (3) The trailers of tractor trailer trucks may not be parked in any residential zone.

4.3.~~25~~21.D(4) Commercial vehicles parked in the Residential-A (R-A) zone shall weigh no more than 5,000 pounds gross vehicle weight. Commercial vehicles parked in all other residential zones shall weigh no more than 34,000

pounds registered gross vehicle weight. Commercial vehicles parked in residential zones shall be parked a minimum of ten (10) feet from any property line.

4.3.~~41~~22. Private roads.

4.3.~~41~~22.A. Definition. A "private road" is a minor residential street serving no more than three (3) dwelling units, which is not intended to be dedicated as a public street. This definition includes driveways serving as few as one (1) dwelling unit, when there is insufficient frontage on a public street.

4.3.~~41~~22.B. Review. Private roads must be approved by the planning board. The planning board shall obtain a written report from a review team which includes the city engineer, public works director, the fire department, and a code enforcement officer.

4.3.~~41~~22.C. Submissions. Required submissions include:

4.3.~~41~~22.C.(1) A plan showing the private way, all lots to be served by the private way, and all abutting properties.

4.3.~~41~~22.C.(2) An actual field survey of the boundary lines of the properties to be served by the private road made and certified by a licensed land surveyor or a registered civil engineer.

4.3.~~41~~22.C.(3) A street plan, cross section, and drainage plan for private ways serving two (2) or three (3) lots.

4.3.~~41~~22.C.(4) The notation requirement of subdivision ordinance section 6.10, private roads.

4.3.~~41~~22.C.(5) The plan shall be labeled "Plan of a Private Road" and shall provide an approval block for the signatures of the planning board members.

4.3.~~41~~22.D. Standards. The planning board has the authority to set standards as stringent as those contained in the subdivision ordinance regardless of whether or not the proposed private road will serve a subdivision as defined. At a minimum, private roads must meet the standards contained in section 12.3.3.A. of the subdivision ordinance except as modified below:

4.3.~~41~~22.D.(1) Right-of-Way: Fifty (50) feet minimum. The planning board has the authority to require a wider right-of-way if site conditions warrant, or if there is a reasonable possibility that the road might become a collector in the future.

4.3.~~41~~22.D.(2) Travel way:

4.3.~~41~~22.D.(2)(a) Serving one (1) dwelling unit: Fourteen (14) feet wide with one turnout every five hundred (500) feet to provide space for two (2) vehicles to pass.

4.3.~~41~~22.D.(2)(b) Serving two (2) or three (3) dwelling units: Twenty (20) feet wide.

4.3.~~41~~22.D.(3) Road base: A minimum of eighteen (18) inches of gravel composed of a fifteen-inch sub-base of bank run gravel and a three-inch upper base of screened processed gravel.

4.3.~~41~~22.D.(3)(a) Untreated aggregate surface course: A minimum of six (6) inches of surface aggregate with a cross slope of six (6) percent (three-quarters of an inch drop per foot of road width). Gravel roads will be treated with liquid calcium chloride at a rate of one (1) gallon per square yard with three-quarters of a gallon per square yard to be placed on road base prior to placement of surface course and one-quarter of a gallon to be applied to shaping of surface course.

4.3.~~41~~22.D.(3)(b) Recycled bituminous pavement: In lieu of an untreated aggregate surface course, a surface course of three (3) inches of recycled bituminous pavement with a cross slope of six (6) percent (three-quarters of an inch drop per foot of road width) may be used. Base course and surface course shall be treated with liquid calcium chloride as set forth in section 4.3.~~41~~22.D.(3)(a).

4.3.~~41~~22.D.(4) Paving: At the discretion of the planning board, except that the developer must provide a paved apron in the right-of-way of the intersecting public road from the edge of the public pavement to the outer edge of the public right-of-way.

4.3.~~41~~22.D.(5) Culvert: The developer must provide a culvert in the right-of-way of the intersecting public

road. The size, length, and location of the culvert must be approved by the planning board.

4.3.~~41~~22.D.(6) Curbs: If necessary to control drainage or erosion. At the discretion of the planning board.

4.3.~~41~~22.D.(7) Cul-de-sac: Cul-de-sacs must have a minimum diameter of sixty-five (65) feet. Maximum cul-de-sac length is one thousand (1,000) feet. Longer dead-end roads may be approved if they serve only one (1) dwelling unit. Alternatively, hammerhead or T turn-arounds may be approved by the planning board.

4.3.~~41~~22.D.(8) There shall be no more than two (2) private roads adjacent to each other at the public street line. In all instances where two (2) lots, created from a single parcel, have their private roads adjacent to each other at the street line, access to the lots shall be provided only by a single common private road, with a minimum travel width of twenty (20) feet.

4.3.~~41~~22.E. Maintenance agreement. If the private road will provide access to two (2) or three (3) lots a maintenance agreement specifying the rights and responsibilities of each lot owner must be recorded in the Kennebec County Registry of Deeds. The agreement, which will run with the land by means of covenants in deeds, will set forth the responsibility of each lot owner for the long-term maintenance, repair, snow plowing, lighting and replacement of the private road and, where appropriate, private water, sanitary, and storm sewer systems. Additionally, the property owners will be responsible for transporting garbage for city collection to the intersection of the private road and the public street.

No building permit will be issued for the construction of any dwelling unit on a private road until the road has been constructed and deemed complete by the review team, and there is proof that the maintenance agreement has been recorded as required.

4.3.~~41~~22.F. Further lot divisions utilizing the private road are prohibited without prior approval of the planning board.

4.3.~~41~~22.G. Notice of any hearings under this subsection shall meet the standards provided for in Article 8,

sections 8.1.5 and 6 of the Site Plan Review and Subdivision Ordinance.

4.3.~~27~~23. Recreational facilities.

All recreational facilities shall meet the provisions below:

4.3.~~27~~23.A. ~~There shall be provided a~~Adequate off-street parking shall be provided for the anticipated maximum attendance at any event.

4.3.~~27~~23.B. Containers and facilities for rubbish collection and removal shall be provided.

4.3.~~27~~23.C. Adequate screening, buffer areas, or landscaping ~~provisions~~ shall be built or planted~~, or~~ and maintained to protect adjacent residences from adverse noise, light, dust, smoke, and visual impact.

~~**4.3.28. Refuse disposal.**~~

~~4.3.28.A. The applicant shall provide for the disposal of all solid and liquid waste on a timely basis and in a manner provided for by federal and state law and the City of Waterville ordinances. Planning board shall consider the impact of particular industrial, medical, or chemical wastes or by-products upon the city's facilities in terms of volume, flammability or toxicity (and may require the applicant to dispose of such wastes elsewhere in conformance with all applicable state and federal regulations) The board may require the applicant to specify the amount and exact nature of all industrial or chemical and hazardous wastes to be generated by the proposed operation.~~

~~**4.3.29. Reserved.**~~

~~**4.3.30. Sanitary provisions.**~~

~~4.3.30.A. When not serviced by public sewerage system, the approval of building permit applications shall be subject to presentation of a completed Maine Department of Human Services Bureau of Health Engineering Site Evaluation Form (HHE-200) which evidences adequate soil conditions for subsurface wastewater disposal.~~

~~4.3.30.B. When two (2) or more lots or buildings in different ownership share a common subsurface disposal system, the system shall be owned and maintained in common by an owners' association. The covenants in the deed to each lot shall require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of this system.~~

~~4.3.30.C. No materials of any kind shall be permanently or temporarily placed or deposited directly into or in the floodplains of any river, stream, or pond or on the ice thereof where such material may fall or otherwise find its way into those watercourses, nor shall such material be placed or deposited directly in pits, wells or on ground surfaces, except in conformity with municipally approved sites and procedures.~~

~~4.3.30.D. Industrial or commercial wastewater may be discharged to municipal sewers only and in such quantities and/or of such quality as to be compatible with municipal sewage treatment operations. These waters may require pretreatment at the industrial or commercial site in order to render them amenable to the municipal treatment processes. Pretreatment includes, but is not limited to, screening, grinding, sedimentation, pH adjustment, surface skimming, chemical oxidation and reduction and dilution. The disposal of industrial or commercial wastewaters by means other than the municipal sewage system shall comply with the laws of the State of Maine concerning water pollution. Washwater, or other process water carrying stone dust, stone particles, silt, or other mineral matter will not be accepted into the municipal system.~~

4.3.~~31~~24. Screening and landscaping requirements. ~~, commercial and industrial districts.~~

4.3.24.A. Screening in commercial and industrial zones.

A wall or fence of solid and uniform appearance or a compact evergreen hedge planted so as to attain a height of not less than six (6) feet within five (5) years shall be planted and maintained to conceal the following uses abutting residential uses or districts:

Contractor's yards for storage of supplies and equipment;

Off-street parking and loading areas;

Exposed storage areas;

Exposed machinery;

Sand and gravel extractions; and

Areas used for the storage and collection of discarded automobiles, auto parts, metals, or any other articles of salvage or refuse.

~~4.3.31.B. Consult the appropriate district for specific requirements.~~

4.3.~~32~~24.B. ~~Screening and landscaping requirements, residential.~~ Screening in residential zones.

4.3.~~32.A~~24.B(1) Walls or fences not exceeding six (6) feet in height may be erected on property lines in residential zones, subject to the ~~conditions providing~~ criteria for corner clearances [Section 4.3.1.D(16) Corner clearances] and shall be visually appealing ~~sightly~~, of uniform appearance, and well maintained.

4.3.~~32~~24.B(2) Fences or screening exceeding six (6) feet in height may be erected on property in residential zones only upon approval of the ~~board of zoning appeals~~ code enforcement officer subject to the following conditions. The erection of such fence or screen:

4.3.~~32.A(1)~~24.B(2)(a) ~~The erection of such fence or screen s~~Shall not constitute a safety hazard.

4.3.~~32.A(2)~~24.B(2)(b) ~~The erection of such fence or screen s~~Shall not adversely affect neighboring property values.

4.3.~~32.A(3)~~24.B(2)(c) ~~The construction of such screen or fence s~~Shall be of sufficiently sturdy construction to warrant its height.

4.3.~~32~~24.B(3) Outdoor in-ground pools ~~will~~ must be enclosed by a fence not less than six (6) feet in height and designed to prevent ingress by children. Fences exceeding six (6) feet in height are allowed only if the ~~board of zoning appeals~~ code enforcement officer finds that the

requirements of S~~ubs~~ection ~~4.3.32.A(1), (2) and (3)~~ 4.3.~~32~~24.B(2) above are met.

4.3.~~39~~25. Shoreland zoning.

4.3.~~39~~25.A. Purpose. The purpose of this ordinance is to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, plant, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland waters; to conserve natural beauty and open space; and to anticipate and to mitigate the impacts of development in shoreland areas.

4.3.~~39~~25.B. Applicability. This ordinance applies to all land areas:

4.3.~~39~~25.B(1) Within two hundred fifty (250) feet, horizontal distance, of the normal high-water line of the Kennebec River and the Messalonskee Stream;

~~4.3.39.B(2) Within two hundred fifty (250) feet, horizontal distance, of the upland edge of any wetland of ten (10) or more contiguous acres designated on the shoreland zoning appendix to the official zoning map;~~

4.3.~~39~~25.B(~~3~~2) Within seventy-five (75) feet, horizontal distance, of the normal high-water line of streams and tributary streams as defined; and

4.3.~~39~~25.B(~~4~~3) Within twenty-five (25) feet, horizontal distance, of the normal high-water line of minor waterways designated on the shoreland zoning appendix to the official zoning map or as defined. Minor waterways are regulated by Maine DEP pursuant to the Natural Resources Protection Act.

4.3.~~39~~25.B(~~5~~4) This ordinance also applies to any structure built on, over, or abutting a dock, wharf, or pier, or other structure extending beyond the normal high-water line of a water body~~, or within a wetland~~.

4.3.~~39~~25.C. Planning board review. No structure shall be erected, expanded, or moved, no new lot shall be created,

no topography shall be altered by excavation or filling, and no natural vegetation shall be cleared until plans have been submitted to and approved by the planning board. Activity abutting minor waterways, however, need not be reviewed by the planning board; it is subject to Maine DEP regulations pursuant to the Natural Resources Protection Act.

4.3.~~39~~25.D. Site plan required. ~~There shall be filed~~ The developer shall file with the planning board a written application for approval of a contemplated use in the shoreland ~~area~~ zone, ~~which application shall be~~ accompanied by a twenty-five dollar ($25.00) application fee, and a site plan of suitable scale containing the following information in addition to information required in Section 6.~~16~~4. Site plan review~~ purpose~~.

4.3.~~39~~25.D(1) The actual size, shape, and location of the lot to be built upon or used;

4.3.~~39~~25.D(2) The exact size and location of all existing and proposed structures and off-street parking and loading areas, and/or the exact size and location of existing and proposed areas within which land use activities are to be conducted, together with the existing and proposed use of all structures and land areas;

4.3.~~39~~25.D(3) The exact distance, measured horizontally, of any existing or proposed structure or land use area from each lot line and from the normal high water ~~mark~~line;

4.3.~~39~~25.D(4) The method of sanitary waste disposal and exact size and location of any subsurface waste disposal facilities. See 4.3.~~39~~25.H(12) Septic waste disposal;

4.3.~~39~~25.D(5) A soils report, as required in Section 4.3.~~35.A~~28. See 4.3.~~39~~25.H(14) Soils;

4.3.~~39~~25.E. Other pertinent information. Any other pertinent information which will assist the planning board in considering adequately the effect that the proposed use may have on the quality and integrity of the city's waterways and their adjacent shorelands, including but not limited to:

4.3.~~39~~25.E(1) The type and ~~exact~~ location of existing and proposed vegetative cover~~, the exact location of~~ and

existing and proposed cleared land, together with the location of land to be cleared during construction and the period of time such land will remain unvegetated;

4.3.~~39~~25.E(2) Contours, at not greater than five-foot intervals, showing the existing and proposed surface topography and drainage, together with the methods to be used for alteration of the topography, including provisions made to prevent and control erosion and sedimentation; and

4.3.~~39~~25.E(3) The elevation of the lowest floor (including basement).

4.3.~~39~~25.F. Planning board finding. The planning board shall, after submission of a completed application, including all information requested, approve the issuance of a permit by the code enforcement officer~~ or make a favorable recommendation to the board of zoning appeals as required by this ordinance~~, if it makes a positive finding based on the information presented to it that the proposed use:

4.3.~~39~~25.F(1) Will maintain safe and healthful conditions;

4.3.~~39~~25.F(2) Will not result in water pollution, erosion, or sedimentation of surface waters;

4.3.~~39~~25.F(3) Will not result in damage to spawning grounds, fish, aquatic life, bird, and other wildlife habitat;

4.3.~~39~~25.F(4) Will adequately provide for the disposal of all wastewater;

4.3.~~39~~25.F(5) Will conserve shoreland vegetation;

4.3.~~39~~25.F(6) Will conserve visual as well as actual points of access to waters;

4.3.~~39~~25.F(7) Will protect archaeological and historic resources as designated in the comprehensive plan;

4.3.~~39~~25.F(8) Will avoid problems associated with floodplain development and use; and

4.3.~~39~~25.F(9) ~~Is~~ Will be in conformance with the provisions of 4.3.~~39~~25.H, Shoreland performance standards.

4.3.~~39~~25.G. Conditions of approval. Conditions such as, but not limited to, types and coverage of vegetation, increased setbacks and yards, specified sewage disposal facilities, period of operation and operational controls, specified drainage and erosion control measures, locations of piers, docks, parking and signs, and flood-proofing of structures, may be required by the planning board upon findings that these are necessary to fulfill the purpose and intent of this ordinance. The planning board has the authority to require more stringent standards than contained herein, based upon amendments to the Mandatory Shoreland Zoning Act or rules and regulations issued by the ~~appropriate administrative agency~~ Maine Department of Environmental Protection subsequent to the adoption of this ordinance.

4.3.~~39~~25.H. Shoreland performance standards.

4.3.~~39~~25.H(1) Agriculture.

4.3.~~39~~25.H(1)(a) All spreading of manure shall be accomplished in conformance with "~~Maine Guidelines for Manure and Manure Sludge Disposal on Land~~Manure Utilization Guidelines" published by the~~ University of Maine and the Maine Soil and Water Conservation Commission~~ Maine Department of Agriculture, ~~in July 1972~~on November 1, 2001, or subsequent revisions thereof. A violation of these guidelines shall be considered a violation of this ordinance.

4.3.~~39~~25.H(1)(b) Manure shall not be stored or stockpiled within seventy-five (75) feet horizontal distance of the normal high-water line of the Kennebec River, the Messalonskee Stream, streams, or tributary streams~~, or wetlands~~. ~~Within five (5) years of the effective date of this ordinance all manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water. Existing facilities which do not meet the setback requirement may remain, but must meet the no discharge provision within the above five-year period.~~

4.3.~~39~~25.H(1)(c) Agricultural activities involving tillage of soil greater than twenty thousand (20,000) square feet in surface area, or the spreading, disposal or storage of manure within the shoreland zone shall require a ~~soil and~~

~~water c~~Conservation ~~p~~Plan to be filed with the planning board. Nonconformance with the provisions of said plan shall be considered a violation of this ordinance. See also Section 4.3.~~34~~27, Soil tillage.

4.3.~~39~~25.H(1)(d) There shall be no new tilling of soil within seventy-five (75) feet, horizontal distance, of the normal high-water line of the Kennebec River, ~~or~~ the Messalonskee Stream, or streams, or within twenty-five (25) feet, horizontal distance, of the normal high-water line of tributary streams~~ or wetlands~~. ~~Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.~~

4.3.~~39~~25.H(1)(e) ~~After the effective date of this ordinance, newly established~~ Livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance, of the normal high-water line of the Kennebec River, ~~or~~ the Messalonskee Stream, or streams, or within twenty-five (25) feet, horizontal distance, of the normal high-water line of tributary streams~~ or wetlands~~. ~~Livestock grazing associated with ongoing farm activities, which is not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a soil and water conservation plan.~~

4.3.~~39~~25.H(2) Alteration of waterways. Dredging and filling of waterways require permits from the Maine Department of Environmental Protection.

4.3.~~39~~25.H(3) Archaeological sites. Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places, as determined by the planning board, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment at least twenty (20) days prior to action being taken by the planning board. The planning board shall consider comments received from the Commission prior to rendering a decision on the application.

4.3.~~39~~25.H(4) Campgrounds shall conform to Section 4.3.~~8.H~~7 Campgrounds and the minimum requirements imposed under state licensing procedures.

4.3.~~39~~25.H(5) Clearing of vegetation for development.

4.3.~~39~~25.H(5)(a) Except to allow for the development of permitted uses, within a strip of land extending seventy-five (75) feet, horizontal distance, inland from the high-water line of the Kennebec River, the Messalonskee Stream, streams, or tributary streams, ~~or the upland edge of a wetland,~~ a buffer strip of vegetation shall be preserved as follows:

4.3.~~39~~25.H(5)(a)(1) There shall be no cleared opening greater than two hundred fifty (250) square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ~~ten (10)~~ six (6) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created.

4.3.~~39~~25.H(5)(a)(2) Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. ~~Adjacent to the Kennebec River, the Messalonskee Stream, streams, tributary streams and wetlands~~ A "well distributed stand of trees~~ and other vegetation~~" is defined as maintaining a minimum rating score of eight (8) per twenty-five foot by twenty-five foot square (625-square feet) area. The score is determined by the following rating system:

Diameter of Tree at 4 1/2 Feet Above Ground Level (inches)	Points
2 to 4	1
Greater than 4 to 12	2
Greater than 12	4

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

Other natural vegetation also must be well distributed. "Other natural vegetation" is defined as existing vegetation under three (3) feet in height and other ground cover, and retaining at least three (3) saplings less than two (2) inches in diameter at four and one-half (4 1/2) feet above ground level for each 25-foot by 25-foot rectangular area. If three (3) saplings do not exist, no

woody stems less than two (2) inches in diameter can be removed until 3 saplings have been recruited into the plot.

4.3.~~39~~25.H(5)(a)(3) Pruning of tree branches on the bottom one-third of the tree is permitted.

4.3.~~39~~25.H(5)(a)(4) In order to maintain a buffer strip of vegetation, when the removal of storm damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

4.3.~~39~~25.H(5)(b) At distances greater than seventy-five (75) feet, horizontal distance, from the normal high-water line of the Kennebec River~~,~~ or the Messalonskee Stream~~, tributary streams, or the upland edge of a wetland,~~except to allow for the development of permitted uses, there shall be permitted on any lot, in any ten-year period, selective cutting of not more than forty (40) percent of the volume of trees four and one half (4 1/2) inches or more in diameter, measured four and one-half (4 1/2) feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

~~The planning board may approve timber harvesting within the shoreland zone in excess of the forty (40) percent limitation upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such exemption is necessary for good forest management, and is carried out in accordance with the purposes of the Mandatory Shoreland Zoning Act. The Planning Board must also notify the Maine Department of Environmental Protection of any permits issued for timber harvesting in excess of forty (40) percent.~~

4.3.~~39~~25.H(5)(b)(1) In no event shall cleared openings for development, including but not limited to, principal and accessory structures, driveways, and sewage disposal areas, exceed in the aggregate twenty-five (25) percent of the lot

area or ten thousand (10,000) square feet, whichever is greater, including land previously developed. This provision shall not apply to areas classified Shoreland B or Shoreland C.

4.3.~~39~~25.H(5)(b)(2) Cleared openings legally in existence on the effective date of this ordinance may be maintained, but shall not be enlarged, except as permitted by this ordinance.

4.3.~~39~~25.H(5)(b)(3) Fields and other cleared areas which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

4.3.~~39~~25.H(6) Erosion and sedimentation control.

4.3.~~39~~25.H(6)(a) All activities which involve filling, grading, excavation, or other similar activities which result in un-stabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the planning board for approval and shall include, where applicable, provisions for:

4.3.~~39~~25.H(6)(a)(1) Mulching and re-vegetation of disturbed soil.

4.3.~~39~~25.H(6)(a)(2) Temporary runoff control features such as hay bales, silt fencing, or diversion ditches.

4.3.~~39~~25.H(6)(a)(3) Permanent stabilization structures such as retaining walls or riprap.

4.3.~~39~~25.H(6)(b) In order to create the least potential for erosion, development shall be designed to fit with the topography and soil of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

4.3.~~39~~25.H(6)(c) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

4.3.~~39~~25.H(6)(d) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

4.3.~~39~~25.H(6)(d)(1) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.

4.3.~~39~~25.H(6)(d)(2) Anchoring the mulch with netting, peg and twine, or other suitable method may be required to maintain the mulch cover.

4.3.~~39~~25.H(6)(d)(3) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

4.3.~~39~~25.H(6)(e) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty-five-year storm or greater, and shall be stabilized with vegetation or lined with riprap.

4.3.~~39~~25.H(7) Essential services. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

4.3.~~39~~25.H(8) Mineral exploration and extraction.

4.3.~~39~~25.H(8)(a) Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the code enforcement officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes shall be immediately capped, filled, or secured by other equally effective measures so as to restore disturbed areas and to protect the public health and safety.

4.3.~~39~~25.H(8)(b) Mineral extraction may be permitted in accordance with Section 4.3.~~13~~10 Earth Material Removal Regulations under the following conditions:

4.3.~~39~~25.H(8)(b)(1) A reclamation plan shall be filed with and approved by the planning board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of 4.3.~~39~~25.H(8)(b)(3) below.

4.3.~~39~~25.H(8)(b)(2) ~~Unless authorized pursuant to the Natural Resources Protection Act, Title 38, M.R.S.A., Section 480-C, n~~No part of any extraction operation, including drainage and runoff control features, ~~shall be~~ is permitted within seventy-five (75) feet of the normal high-water line of the Kennebec River, Messalonskee Stream, streams, or tributary streams~~, or the upland edge of a wetland~~. Extraction operations ~~shall~~ are not ~~be~~ permitted within one hundred (100) feet of any property line. See 4.3.~~13~~10.(H)(1) Earth material removal regulations.

4.3.~~39~~25.H(8)(b)(3) Within twelve (12) months following the completion of extraction operations at any extraction site [operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve-month period] ground levels and grades shall be established in accordance with 4.3.~~13~~10.H(13) and the following:

4.3.~~39~~25.H(8)(b)(3)(a) Only materials generated on-site may be buried or covered on-site.

4.3.~~39~~25.H(8)(b)(3)(b) The final graded slope shall be two to one (2:1) slope or flatter. See Section 4.3.~~13~~10.H(3).

4.3.~~39~~25.H(8)(b)(3)(c) All disturbed land areas shall be stabilized with vegetation native to the area. See 4.3.~~13~~10.H(13)(d).

4.3.~~39~~25.H(8)(b)(4) In keeping with the purposes of this ordinance, the planning board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

4.3.~~39~~25.H(9) Parking areas. See 4.3.~~25~~21. Off-street parking and loading requirements.

4.3.~~39~~25.H(9)(a) Parking areas shall meet the shoreline setback requirements for structures in the district in which the parking lots are proposed~~ such areas are located~~, except that the setback requirement for parking areas serving public boat launching facilities may be reduced to no less than fifty (50) feet from ~~either~~ the normal high-water line in Class A shorelands, ~~or the upland edge of a wetland~~ if the planning board finds that no other reasonable alternative exists.

4.3.~~39~~25.H(9)(b) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body and, where feasible, to retain all runoff on-site.

4.3.~~39~~25.H(9)(c) In determining the appropriate size of proposed parking facilities, the following shall apply:

4.3.~~39~~25.H(9)(c)(1) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

4.3.~~39~~25.H(9)(c)(2) Internal travel aisles: Approximately twenty (20) feet wide.

4.3.~~39~~25.H(10) Piers, docks, wharfs, bridges, and other structures and uses extending over or beyond the normal high-water line of a water body~~ or within a wetland~~.

4.3.~~39~~25.H(10)(a) Erecting permanent structures in, on, over or abutting water bodies shall require a permit from the Maine Department of Environmental Protection as required by law.

4.3.~~39~~25.H(10)(b) No new structure shall be built on, over, or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body ~~or within a wetland~~ unless the structure requires direct access to the water as an operational necessity. Boat houses must meet the structure setback requirement.

4.3.~~39~~25.H(10)(c) The facility shall be no larger in dimension than necessary to carry on the activity and be

consistent with existing conditions, use, and character of the area;

4.3.~~39~~25.H(10)(d) Structures built on, over, or abutting a pier, wharf, dock, or other structure extending beyond the normal high-water line of a water body ~~or within a wetland~~ shall not exceed twenty (20) feet in height above the pier, wharf, dock, or other structure.

4.3.~~39~~25.H(10)(e) Access from the shore shall be developed on soils appropriate for such use and constructed so as to control erosion;

4.3.~~39~~25.H(10)(f) The location shall not interfere with developed beach areas;

4.3.~~39~~25.H(10)(g) The facility shall be located so as to minimize adverse effects on fisheries;

4.3.~~39~~25.H(10)(h) No existing structures built on, over, or abutting a pier, dock, wharf, or other structure extending beyond the normal high-water line of a water body ~~or within a wetland~~ shall be converted to residential dwelling units in any district.

4.3.~~39~~25.H(10)(i) A thirty-foot wide channel in the center of the Messalonskee Stream shall be maintained unobstructed.

4.3.~~39~~25.H(11) Roads and driveways. The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts, and other related features:

4.3.~~39~~25.H(11)(a) Roads and driveways shall be set back at least seventy-five (75) feet from the normal high-water line of the Kennebec River, the Messalonskee Stream, streams, or tributary streams~~, or the upland edge of a wetland~~, unless no reasonable alternative exists as determined by the planning board. If no other reasonable alternative exists, the planning board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body or tributary stream. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use

of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body~~,~~ or tributary stream~~, or wetland~~.

4.3.~~39~~25.H(11)(b) On slopes of greater than twenty (20) percent, the road and/or driveway setback shall be increased by ten (10) feet for each five (5) percent increase in slope above twenty (20) percent. This paragraph ~~shall neither~~ does not apply to approaches to water crossings ~~nor~~ or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline due to an operational necessity.

4.3.~~39~~25.H(11)(c) Existing public roads may be expanded within the legal road right-of-way regardless of ~~its~~ the required setback from a water body or tributary stream.

4.3.~~39~~25.H(11)(d) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical and shall be graded and stabilized in accordance with the provisions contained in 4.3.~~39~~25.H (6) Erosion and sedimentation control.

4.3.~~39~~25.H(11)(e) Road and driveway segments shall have grades no greater than ten (10) percent except for short segments of less than two hundred (200) feet.

4.3.~~39~~25.H(11)(f) In order to prevent road and driveway surface drainage from directly entering water bodies or tributary streams, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two (2) times the average slope in width, between the outflow point of the ditch or culvert and the normal high-water line of a water body~~,~~ or tributary stream~~, or upland edge of a wetland~~. Road and driveway surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

4.3.~~39~~25.H(11)(g) Ditch relief (cross drainage) culverts, drainage dips, and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road, driveway, or ditch gains sufficient volume or head to erode the road,

driveway, or ditch. To accomplish this, the following shall apply:

4.3.~~39~~25.H(11)(g)(1) Ditch relief culverts, drainage dips, and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

Road Grade (Percent)	Spacing (Feet)
0 to 2	250
3 to 5	200 to 135
6 to 10	100 to 80
11 to 15	80 to 60
16 to 20	60 to 45
21 and above	40

4.3.~~39~~25.H(11)(g)(2) Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) percent or less.

4.3.~~39~~25.H(11)(g)(3) On road and driveway sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed across the road or driveway at approximately a thirty-degree angle down slope from a line perpendicular to the centerline of the road or driveway.

4.3.~~39~~25.H(11)(g)(4) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

4.3.~~39~~25.H(11)(h) Ditches, culverts, bridges, dips, water turnouts, and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

4.3.~~39~~25.H(12) Septic waste disposal.

4.3.~~39~~25.H(12)(a) All subsurface sewage disposal systems in shoreland areas shall be located in areas of suitable soil of at least one thousand (1,000) square feet in size and set back one hundred (100) horizontal feet from the normal high-water line.

4.3.~~39~~25.H(12)(b) No building permit shall be issued for any structure or use involving the construction, installation, or alteration of plumbing facilities unless a permit for such facilities has been secured by the applicant indicating conformance with the Maine State Plumbing Code~~ and the sanitary standards in 4.3.30 Sanitary provisions~~.

4.3.~~39~~25.H(12)(c) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules. In addition, clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body. No holding tank is allowed in the shoreland zone for a first-time residential use.

4.3.~~39~~25.H(13) Signs and billboards. See 4.3.~~33~~26 Sign regulations.

4.3.~~39~~25.H(13)(a) Signs and billboards. Billboards ~~shall be~~ are prohibited in Class A shorelands and stream protection districts.

4.3.~~39~~25.H(13)(b) Signs in Class A shorelands and stream protection districts shall not exceed two (2) such signs per premises, shall not be larger than two (2) square feet, shall not be higher than six (6) feet from the ground, and shall be limited to names of residents, notice of sale, and notice of no trespassing or hunting.

4.3.~~39~~25.H(14) Soils. All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, and water pollution, whether during or after construction.

Proposed uses requiring subsurface waste disposal and commercial or industrial development and other similar intensive land uses ~~shall~~ require a soils report.~~, as required in~~ See Section 4.3.~~35~~28 Soil suitability for construction. Suitability considerations shall be based primarily on criteria employed in the National Cooperative Soil Survey as modified by on-site factors such as depth to water table, depth to refusal, drainage conditions, and

other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

4.3.~~39~~25.H(15) Stormwater runoff.

4.3.~~39~~25.H(15)(a) All new construction and development shall be designed to minimize stormwater runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features such as berms, swales, terraces, and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwater.

4.3.~~39~~25.H(15)(b) Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

Repeal of Municipal Timber Harvesting Regulation. The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. section 438-B(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M.R.S.A section 438-B(5), the following provisions of this Ordinance are repealed:

In Section 4.3.25.J: Timber harvesting;

Section 4.2.25.H(16) Timber harvesting in its entirety; and

Definitions, the definitions of "forest management activities" and "residual basal area".

4.3.~~39~~25.H(16) Timber harvesting.

4.3.~~39~~25.H(16)(a) Timber harvesting shall conform with 4.3.~~39~~25.H(5), Clearing of vegetation for development. In addition, timber harvesting operations shall not create single clearcut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5,000) square feet they shall be at least one hundred (100) feet apart. Such clearcut openings shall be included in the calculation of total volume

removal. For the purposes of these standards volume may be considered to be equivalent to basal area.

4.3.~~39~~25.H(16)(b). No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a water body or tributary stream. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.

4.3.~~39~~25.H(16)(c) Timber harvesting equipment shall not use stream channels as travel routes except when:

4.3.~~39~~25.H(16)(c)(1) Surface waters are frozen; and

4.3.~~39~~25.H(16)(c)(2) The activity will not result in any ground disturbance.

4.3.~~39~~25.H(16)(d) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.

4.3.~~39~~25.H(16)(e) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

4.3.~~39~~25.H(16)(f) On slopes of up to ten (10) percent, except for water crossings, skid trails and exposed areas of mineral soil shall be located at least seventy-five (75) feet from the normal high-water line of a water body or tributary stream ~~upland edge of a wetland~~. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the water body or tributary stream ~~wetland~~, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet from the normal high-water line of a water body or tributary stream ~~upland edge of a wetland~~.

4.3.~~39~~25.H(17) Water quality. No activity shall deposit on or into the ground or discharge to the waters of the city any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body or tributary stream. See also 4.3.~~38~~30 Water quality impacts.

4.3.~~39~~25.I. Shorelands classified. See 4.3.~~39~~25.B Applicability.

4.3.~~39~~25.I(1) Class A, Class B, and Class C shorelands. For the purposes of this section, the shorelands of the Kennebec River and the Messalonskee Stream are divided into the following classes which are identified on the shoreland zoning appendix to the official zoning map:

4.3.~~39~~25.I(1)(a) Class A shorelands: Areas which~~, at the effective date of adoption of this section,~~ are not developed or which are developed less intensively than Class B shorelands. In Class A shorelands, the first one hundred (100) feet inland from the high-water line are subject to the restrictions of the Resource Protection District.

4.3.~~39~~25.I(1)(b) Class B shorelands: Areas which ~~at the effective date of adoption of this section,~~ are devoted to intensive residential, recreational, commercial or industrial activities or combinations of such activities.

4.3.~~39~~25.I(1)(c) Class C shoreland~~s~~: The Commercial-A and General industrial districts along the Kennebec River in which the natural bank of the river ~~has been~~ was altered and structurally stabilized to support industrial buildings [the Wyandotte Woolen Mill] ~~as of the effective date of this ordinance~~.

4.3.~~39~~25.I(~~3~~2) Stream protection district.

4.3.~~39~~25.I(~~3~~2)(a) The stream protection district includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream (as defined), exclusive of those areas within two hundred fifty (250) feet, horizontal distance, of the normal high-water line of the Kennebec River or the Messalonskee Stream~~ or within two hundred fifty (250) feet, horizontal distance, of the upland edge of a wetland of ten (10) or more contiguous acres~~. Where a stream and its associated

shoreland area is located within two hundred fifty (250) feet, horizontal distance, of the above water bodies~~ or wetlands~~, that land area shall be regulated under the terms of the shoreland district associated with that water body ~~or wetland~~. See Section 4.3.25.J(4) Uses permitted within the stream protection district and Section 4.3.25.J(5) Prohibited uses within the stream protection district.

4.3.~~39~~25.I(~~4~~3) Minor waterways. Minor waterways are those brooks designated on the shoreland zoning appendix to the official zoning map or as defined. See Maine Department of Environmental Protection regulations pursuant to the Natural Resources Protection Act.

~~4.3.39.I(2) Areas within two hundred fifty (250) feet, horizontal distance, of the upland edge of any wetland of ten (10) or more contiguous acres designated on the shoreland zoning appendix to the official zoning map.~~

4.3.~~39~~25.J. Structures, lots and uses in shoreland areas.

4.3.~~39~~25.J.(1) Dimensional requirements.

	Minimum Lot Area* (Square Feet)	Minimum Shore Frontage† (Feet)	Maximum Lot Coverage (percent)
Land Use			
Residential			
Class A	40,000	200	20
Class B	40,000	200	
Governmental, Institutional, Commercial, Industrial per Principal Structure*	40,000	~~2~~300	
Public and Private Recreation	40,000	200	20

Minimum Setback from Highwater ~~Mark~~Line

	Principal Structure (Feet)	Accessory Structure‡ (Feet)
Class A	100	100
Class B	~~50~~75	~~50~~75
Class C	25	25
Stream protection district	75	75
Tributary streams	75	75
Minor waterways	~~25~~**	~~25~~**
~~Wetland (10 or more acres)~~	~~75~~	~~75~~

*See 4.3.~~39~~25.J(1)(a).
†Measured in a straight line between the points of intersection of the side lot lines with the shoreline at normal high-water elevation.
‡See 4.3.~~39~~25.J(1)(b).
**See Maine Department of Environmental Protection regulations pursuant to the Natural Resources Protection Act.

4.3.~~39~~25.J(1)(a) If more than one (1) residential dwelling unit, ~~or more than one (1)~~ principal governmental, institutional, commercial, or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements ~~including the minimum lot area and shore frontage required by this section~~ shall be met for each additional dwelling unit, ~~or~~ principal structure, or use.

4.3.~~39~~25.J(1)(b) The following accessory structures are not subject to setback requirements: ~~boathouses,~~ piers, docks, wharves, bridges, uses projecting into water bodies as an operational necessity, and accessory public utility installations.

4.3.~~39~~25.J(1)(c) Land below the normal high-water line of a water body ~~or upland edge of a wetland~~ and land beneath roads serving more than two (2) lots shall not be included ~~toward~~ when calculating minimum lot area.

4.3.~~39~~25.J(1)(d) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.

4.3.~~39~~25.J(1)(e) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body ~~or upland edge of a wetland~~ shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

4.3.~~39~~25.J(1)(f) The water body ~~or wetland~~ setback provision shall not apply to structures which require direct access to the water as an operational necessity, such as piers, docks, and retaining walls, or to other functionally water-dependent uses.

~~[4.3.39.J(1)(g) Reserved.]~~

4.3.~~39~~25.J(1)(~~h~~g) Principal or accessory structures and expansions of existing structures shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

4.3.~~39~~25.J(1)(~~i~~h) The ~~first~~ lowest floor elevation or openings of all buildings and structures including basements shall be elevated at least one (1) foot above the elevation of the 100-year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils.

4.3.~~39~~25.J(1)(~~j~~i) Notwithstanding the requirements stated above, stairways or similar structures may be allowed, with a permit from the code enforcement officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width, that the structure does not extend below or over the normal high-water line of a water body ~~or upland edge of a wetland~~ (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-C), and that the applicant demonstrates that no reasonable access alternative exists on the property.

4.3.~~39~~25.J(2) Permitted uses. Permitted uses are those allowed in the zone indicated on the official zoning map, unless specifically prohibited in Sections 4.3.~~39.I Shorelands classified~~25.J(3) and J(5).

4.3.~~39.I(1)(d)~~25.J(3) Prohibited uses. The following uses are prohibited in the shorelands of the Kennebec River and the Messalonskee Stream ***unless connected to the sanitary sewer***.

4.3.~~39.I(1)(d)(1)~~25.J(3)(a) Auto washing facilities (surface water runoff must be directed to the stormwater sewer).

4.3.~~39.I(1)(d)(2)~~25.J(3)(b) Auto or other vehicle service and/or repair operations, including body shops.

4.3.~~39.I(1)(d)(3)~~ 25.J(3)(c) Chemical and bacteriological laboratories.

4.3.~~39.I(1)(d)(4)~~ 25.J(3)(d) Storage of chemicals, including herbicides, pesticides, or fertilizers other than amounts normally associated with individual households or farms.

4.3.~~39.I(1)(d)(5~~) 25.J(3)(e) Commercial painting, wood preserving, and furniture stripping.

4.3.~~39.I(1)(d)(6)~~ 25.J(3)(f) Dry cleaning establishments.

4.3.~~39.I(1)(d)(7)~~ 25.J(3)(g) Electronic circuit assembly.

4.3.~~39.I(1)(d)(8)~~ 25.J(3)(h) Laundromats~~, unless connected to a sanitary sewer~~.

4.3.~~39.I(1)(d)(9)~~ 25.J(3)(i) Metal plating, finishing, or polishing.

4.3.~~39.I(1)(d)(10)~~ 25.J(3)(j) Petroleum or petroleum product storage and/or sale, except storage on the same property as the use occurs and except for storage and sales associated with marinas.

4.3.~~39.I(1)(d)(11)~~ 25.J(3)(k) Photographic processing.

4.3.~~39.I(1)(d)(12)~~ 25.J(3)(l) Printing.

4.3.~~39.I(3)(b)~~25.J(4) Uses permitted within the stream protection district.

4.3.~~39.I(3)(b)(1)~~25.J(4)(a) Approval of the planning board is required for the following uses:

4.3.~~39.I(3)(b)(1)(a)~~25.J(4)(a)(1) Agriculture. See 4.3.~~39~~25.H(1) Agriculture.

~~4.3.39.I(3)(b)(1)(b) One- and two-family dwellings, provided that a variance from the setback requirement has been obtained from the zoning board of appeals~~.

~~4.3.39.I(3)(b)(1)(c) Small nonresidential facilities for educational, scientific, or nature interpretation purposes, provided that a variance from the setback requirement has been obtained from the zoning board of appeals.~~

4.3.~~39.I(3)(b)(1)(d)~~ 25.J(4)(a)(2) Permanent piers, docks, wharfs, bridges, and other structures and uses extending over or below the normal high-water line~~ or within a wetland~~.

4.3.~~39.I(3)(b)(1)(e)~~ 25.J(4)(a)(3) Public and private recreational areas involving minimal structural development.

4.3.~~39.I(3)(b)(1)(f)~~ 25.J(4)(a)(4) Road and driveway construction. See 4.3.~~39~~25.H(11) Roads and driveways.

4.3.~~39.I(3)(b)(1)(g)~~ 25.J(4)(a)(5) Filling and earthmoving of more than ten (10) cubic yards.

4.3.~~39.I(3)(b)(1)(h)~~ 25.J(4)(a)(6) Clearing of vegetation for approved construction and other allowed uses.

4.3.~~39.I(3)(b)(1)(i)~~25.J(4)(a)(7) Timber harvesting. See 4.3.~~39~~25.H(16) Timber harvesting.

4.3.~~39.I(3)(b)(2)~~ 25.J(4)(b) Approval of the code enforcement officer is required for the following uses:

4.3.~~39.I(3)(b)(2)(a)~~ 25.J(4)(b)(1) Filling and earthmoving of less than ten (10) cubic yards.

4.3.~~39.I(3)(b)(2)(b)~~ 25.J(4)(b)(2) Signs. See 4.3.~~39~~25.H(13) Signs and billboards and 4.3.~~33~~26 Sign regulations.

4.3.~~39.I(3)(b)(2)(c)~~ 25.J(4)(b)(3) Temporary piers, docks, bridges, and other structures and uses extending over or below the normal high-water line~~ or within a wetland~~.

4.3.~~39.I(3)(d)~~ 25.J(5) Prohibited uses within the stream protection district.

4.3.~~39.I(3)(d)(1)~~ 25.J(5)(a) Mineral exploration.

4.3.~~39.I(3)(d)(2)~~ 25.J(5)(b) Mineral extraction including sand and gravel extraction.

4.3.~~39.I(3)(d)(3)~~ 25.J(5)(c) ~~Multifamily h~~Housing.

4.3.~~39.I(3)(d)(4)~~ 25.J(5)(d) Commercial development.

4.3.~~39.I(3)(d)(5)~~ 25.J(5)(e) Industrial development.

4.3.~~39.I(3)(d)(6)~~ 25.J(5)(f) Governmental and institutional development, other than those uses specifically permitted in Section 4.3.~~39~~25.J(4) Uses permitted.

4.3.~~39.I(3)(d)(7)~~ 25.J(5)(g) Campgrounds.

4.3.~~39.I(3)(d)(8)~~ 25.J(5)(h) Parking facilities.

~~**4.3.39.I(3)(c) Variances.** The following use is permitted as approved by the zoning board of appeals in conformity with the requirements of Section 6.11 Variances and 4.3.39.L Variances:~~

4.3.~~39.I(3)(c)(1)~~ 25.J(5)(i) The installation of essential services is not permitted in a stream protection district, except to provide services to permitted uses within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

4.3.~~39~~25.K. Nonconformance. See Section 4.2 Nonconforming uses.

4.3.~~39~~25.K(1) Nonconforming structures:

4.3.~~39~~25.K(1)(a) Expansions: A nonconforming structure may be added to or expanded after obtaining a permit from the zoning board of appeals, if such addition or expansion does not increase the nonconformity of the structure.

4.3.~~39~~25.K(1)(b) ~~After January 1, 1989, i~~If any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream ~~upland edge of a wetland~~, that portion of the structure shall not be expanded in floor area or volume by thirty (30) percent or more during the lifetime of the structure.

4.3.~~39~~25.K(1)(c) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the planning board or its designee, basing its decision on the criteria specified in Section 4.3.25.K(1)(e) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure, it is not considered to be an expansion of the structure. ~~Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided:~~

~~4.3.39.K(1)(c)(1) That the structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the zoning board of appeals. The zoning board of appeals shall base its decision on the criteria specified in Section 4.3.39.K(1)(e) Relocation, below;~~

~~4.3.39.K(1)(c)(2) That the completed foundation does not extend beyond the exterior dimensions of the structure; and~~

~~4.3.39.K(1)(c)(3) That the foundation does not cause the structure to be elevated by more than three (3) additional feet.~~

4.3.~~39~~25.K(1)(d) No structure which is less than the required setback from the normal high-water line of a water body~~,~~ or tributary stream~~, or upland edge of a wetland~~

shall be expanded toward the water body~~,~~ or tributary stream~~, or wetland~~.

4.3.~~39~~25.K(1)(e) Relocation: A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the planning board or its designee~~zoning board of appeals~~, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the planning board or its designee~~zoning board of appeals~~ shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

When it is necessary to remove vegetation within the water setback area in order to relocate a structure, the planning board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

(a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover

was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

(b) Where feasible, when a structure is relocated on a parcel, the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

4.3.~~39~~25.K(1)(f) Reconstruction or replacement: Any nonconforming structure which is located less than the required setback from the normal high-water line of a water body~~,~~ or tributary stream~~, or upland edge of a wetland~~ and which is removed, or damaged, or destroyed by more than fifty (50) percent of the market value of the structure before such damage, destruction, or removal, may be reconstructed or replaced provided that a permit is obtained within one (1) year of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water setback requirement to the greatest practical extent as determined by the zoning board of appeals in accordance with the purposes of this ordinance. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity.

Any nonconforming structure which is damaged or destroyed by fifty (50) percent or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if~~with~~ a permit is obtained from the code enforcement officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent, the zoning board of appeals shall consider, in addition to the criteria in Section 4.3.~~39~~25.K(1)(e) Relocation above, the physical condition and type of foundation present, if any.
When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 4.3.25.K(1)(e) above.

4.3.~~39~~25.K(1)(g) Change of use of a nonconforming structure. The use of a nonconforming structure may not be changed to another use unless the zoning board of appeals,

after receiving a written application, determines that the new use will have no greater adverse impact on the water body or tributary stream ~~wetland,~~ or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the zoning board of appeals shall require written documentation from the applicant regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and functionally water-dependent uses.

4.3.~~39~~25.L. Variances. See 6.~~11~~2.5.D Variances. A copy of all variances granted by the zoning board of appeals shall be submitted to the Department of Environmental Protection within ~~fourteen~~ seven (~~14~~7) days of the decision.

4.3.~~33~~26. Sign regulations.

~~4.3.33.A. Reserved.~~

4.3.~~33~~26.~~B~~A. Signs in residential and institutional zones.

4.3.~~33~~26.~~B~~A(1) No sign in these zones shall be flashing or animated, no sign shall be illuminated by use of glaring light.

4.3.~~33~~26.~~B~~A(2) No sign shall be larger than sixteen (16) inches by twenty-four (24) inches for the identification of professional offices or for the advertising of other permitted uses. In any identifying type sign, each minor sign below the main sign shall not exceed five (5) inches by twenty-four (24) inches. Only one (1) sign shall be permitted per property, except that an identifying type sign which advertises more than one (1) business occupant of the property shall be considered one (1) sign.

4.3.~~33~~26.~~B~~A(3) Home occupations may have only one (1) sign which shall be no larger than five (5) by twenty-four (24) inches.

4.3.~~33~~26.~~B~~A(4) Exceptions to the size limitation may be made by the code enforcement officer in the case of institutional uses [including churches] ~~or agricultural~~

~~zones~~ provided that they are erected on the property to which the sign applies.

4.3.~~33~~26.~~B~~A(5) Exceptions to the size limitation may be made by the code enforcement officer for a temporary sign (no more than one (1) exception not to exceed six (6) months).

4.3.~~33~~26.~~B~~A(6) On single lots only one (1) real estate sign, i.e., for sale, for lease, etc., shall be permitted and shall not exceed three (3) feet by two (2) feet over-all dimensions. In cases where three (3) or more lots are for sale these signs shall not exceed four (4) feet by eight (8) feet.

4.3.~~33~~26.~~B~~A(7) Only the following advertising signs shall be permitted: signs pertaining to the sale, rent, or lease of rooms, apartments, houses, or property, and farm stands in ~~agricultural~~ Rural Residential zones.

4.3.~~33~~26.~~B~~A(8) Existing nonconforming funeral homes shall be permitted to have signs not to exceed twenty-four (24) by thirty-six (36) inches.

4.3.~~33~~26.~~C~~B ~~Requirements~~ Signs in commercial and industrial zones.

4.3.~~33~~26.~~C~~B(1) Free-standing signs advertising goods or services offered on the premises of a conforming business may be built in, or extend into, a required setback. The advertising space of such signs shall not exceed twelve (12) feet in height or twenty-five (25) feet in length. No more than three (3) advertising signs, having a combined area of less than three hundred (300) square feet, may be erected per one hundred (100) feet of ~~lot~~ road frontage. Both sides of such signs may be used for advertising.

4.3.~~33~~26.~~C~~B(2) No more than twenty (20) percent of a wall can be devoted to advertising. Signs attached to a wall shall not project above the roof or parapet line or extend beyond the wall line.

4.3.~~33~~26.~~C~~B(3) Total area of roof signs shall not be more than twenty (20) percent of the area of the wall directly in line with the face of the sign. Diagonal signs on roofs shall be limited to twenty (20) percent of the area of the smaller wall.

4.3.~~33~~26.~~C~~B(4) Existing nonconforming businesses shall be permitted to have signs with the size and lighting subject to the approval of the~~ board of zoning appeals~~ code enforcement officer.

4.3.26.B(5) Changeable signs.

4.3.26.B(5)(a) Where not other-wise controlled by the Maine Department of Transportation, the messages displayed on on-premises changeable signs in commercial and industrial zones may change as frequently as every five (5) seconds and no faster.

4.3.26.B(5)(b) Signs may not flash but may display continuous streaming of information or video animation.

4.3.26.B(5)(c) The display may comprise no more than 50% of the surface area of a changeable sign.

4.3.26.B(5)(d) No more than one changeable sign with 2 sides is allowed per lot of record.

4.3.26.B(5)(e) Changeable signs may not be located such that the message is readable from a controlled-access highway or ramp.

4.3.26.B(5)(f) The highest point of the display of a changeable sign may not exceed a height of 25 feet above either the centerline of the nearest public way or actual ground level adjacent to the sign, whichever is lower.

4.3.26.B(5)(g) The size, intensity of illumination, and acceptable rate of change between the time display and the temperature display of a time and temperature sign must comply with rules, policies, or guidelines adopted by the Maine Department of Transportation.

4.3.~~33~~26.~~D~~C. ~~Requirements~~ Signs in the industrial park zone.

4.3.~~33~~26.~~D~~C(1) One (1) identifying sign shall be permitted facing each public street and shall be located on the principal building of each industrial or other permitted use.

4.3.~~33~~26.~~D~~C(2) Identifying signs shall be permanently attached to, or constructed as part of, the face of the building or erected on a marquee. Signs or parts of signs shall not extend above the roof line of the building to which they are attached.

4.3.~~33~~26.~~D~~C(3) Area of signs. Signs shall not exceed one hundred (100) square feet in area for each three hundred (300) feet of ~~building~~ road frontage~~ on a street~~.

4.3.~~33~~26.~~E~~D. Off-premises business directional signs. A maximum of six (6) off-premises business directional signs may be permitted a business or institutional facility which is located in a commercial, industrial, or institutional zone, unless specifically prohibited below.

Off-premises business directional signs are prohibited for businesses and institutional facilities which either:

(1) Are located in the congested business area as defined in Section 4.2 of the Licenses and Permits Ordinance~~s 16-96(b), Chapter 16 of the Revised Code of Ordinances~~ (excluding businesses located on Front Street), or

(2) Have frontage on any of the following public ways:
a. Armory Road;
b. College Avenue;
c. County Road;
d. Kennedy Memorial Drive;
e. Main Street;
f. Trafton Road;
g. Water Street.

Manufacturing firms employing a minimum of one hundred (100) full-time employees on site in a general industrial zone are exempt from the frontage restrictions in this section.

Businesses located on Airport Road will only be allowed one (1) sign each with the sign to be located at the intersection of Kennedy Memorial Drive and Airport Road. Businesses located on Industrial Park Road will only be allowed one (1) sign each with the sign to be located at the intersection of Armory Road and Industrial Park Road.

The applicant must pay a one-time fee of five dollars ($5.00) to the City of Waterville. Upon receiving a

written statement from the code enforcement officer that the business is ~~an~~ eligible ~~one~~ under this section, the applicant may apply to the state department of transportation for a maximum of six (6) off-premises business directional signs. The size, shape, color, lighting, manner of display and lettering are subject to the regulations of the Department of Transportation. The applicant is responsible for obtaining the sign. The installation, and removal if the applicant fails to pay the required fees or maintain the signs, is the responsibility of the Department of Transportation.

Notwithstanding the limitations contained in this section, all hospitals are eligible for signs and may apply to the Department of Transportation for a wavier of the six-sign limitation on the grounds of unusual hardship in accordance with 23 MRSA section 1911(3). No other business or institutional facility is eligible for a waiver of any of the provisions of this ordinance.

The restrictions contained in this section shall not apply to the signs described in 23 MRSA, section 1913-a. Signs described therein are permitted subject only to applicable State statutes and regulations.

4.3.~~33~~26.~~F~~E. Signs shall be removed immediately ~~upon cessation of~~ after the businesses that they advertise cease to operate.

4.3.~~34~~27. Soil tillage.

4.3.~~34~~27.A. Where soil in excess of twenty thousand (20,000) square feet is tilled, such tillage shall be carried out in conformance with the provisions of a conservation plan which meets the standards of the State Soil and Water Conservation Commission and is approved by the Kennebec County Soil and Water Conservation District. The number of the plan shall be filed with the planning board. Nonconformance with the provisions of that conservation plan shall be considered to be a violation of this ordinance.

4.3.~~35~~28. Soil suitability for construction.

4.3.~~35~~28~~.A~~. In any instance where the code enforcement officer or city engineer doubts the capability of the soil to adequately accommodate proposed construction, ~~they~~ the

City may require that a soil test be made, at the owner's expense, ~~in order to identify the soil types,~~ by a soil scientist registered in the State of Maine.

If the soil type ~~which~~ is ~~identified and~~ classified as having "poor" or "very poor" suitability for the proposed use in the "Soil Suitability Guide for Land Use Planning in Maine", the ~~code enforcement officer or city engineer~~ City may require the developer to submit written evidence from a professional civil engineer, registered in the State of Maine, that the soil will be able to support all proposed pavement, structures, and utilities. This report may include recommended engineering measures to ensure that cracking, subsidence, or other failure will not result.

4.3.~~36~~29. Temporary structures.

4.3.~~36~~29.A. Temporary structures used in conjunction with construction work shall be permitted only during the period that construction work is in continuous process. Permits for temporary structures shall be issued for a six-month period and may be renewed by the code enforcement officer for an additional six-month period. See also Section 4.3.17.A(2) Single-wide mobile homes.

4.3.~~36~~29.B. Residing in the basement ~~of foundation structures~~ before completion of the ~~total~~ structure ~~shall be~~ is permitted ~~for a period of three (3) years from the date of issuance of a building permit subject to issuance of a temporary certificate of occupancy. The code enforcement officer may issue a temporary certificate of occupancy for two (2) additional one-year periods, if in his judgment, reasonable progress is being made and if nuisance conditions do not exist. Applications for permit extensions shall be made before the permit expires. The temporary certificate of occupancy may require such~~ subject to conditions and safeguards as may protect the safety of the occupants and the public. A valid plumbing permit ~~shall be~~ is required.

~~**4.3.37. Vibrations.**~~

~~4.3.37.A. No activity shall, as a result of normal operations, cause or create a vibration on a lot line or boundary line which is in excess of that indicated in the table below:~~

Frequency (cps.)	Vibrations	Displacement (inches)
	Steady State	Impact
Under 10	.0005	.0010
10 to 19	.0004	.0008
20 to 29	.0003	.0006
30 to 39	.0002	.0004
40 and over	.0001	.0002

Buildings shall not be subject to a velocity from blasting in excess of two (2) inches per second at the building. Violations of this standard shall be considered as public nuisances.

4.3.38 30. Water quality impacts.

4.3.38 30.A. No activity shall discharge materials into surface or ground waters so as to pollute those waters or to harm locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous or solid materials of such nature, quality, noxiousness, toxicity, or temperature that runoff, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm those waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness, or be harmful to human, animal, plant, or aquatic life.

4.3.38 30.B. All above ground storage facilities for fuel, chemicals, chemical or industrial wastes, or biodegradable raw materials shall be located on impervious pavement and shall be completely enclosed by an impervious dike which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into the storage area during a twenty-five-year storm, so that such liquid will not be able to spill onto or seep into the ground surrounding the paved storage area. Storage tanks for home heating oil and diesel fuel not exceeding two hundred seventy-five (275) gallons in size are exempt from this requirement.

4.3.38 30.C. All below ground tanks must meet the standards of the Maine Department of Environmental Protection.

4.3.38 30.D. See the performance standard for hydrogeologic assessments of groundwater impacts in Section 4.3.18 15.

ARTICLE 5. ZONING DISTRICT REQUIREMENTS

RESIDENTIAL

5.1. Low density residential district (R-A).

5.1.1. Purpose.

The R-A district is ~~established as a zoning district in which the principal use of the land is~~ principally for low density residential development. Any future development which would interfere with such low density residential use or which would not perform a neighborhood function is hereby prohibited.

5.1.2. *R-A Principal uses permitted.*

5.1.2.A. One-family dwellings. [Note: By definition, modular housing is allowed.]

5.1.2.B. Two-family dwellings and alteration of single-family dwellings to accommodate no more than two (2) families, provided that the parking standard and the dimensional requirements of the zone are met.

5.1.2.C. New multifamily dwellings and conversions of existing buildings to multifamily dwellings as provided in Section 4.3.18 and the Subdivision Ordinance. Notwithstanding the above, the code enforcement officer may approve conversions of existing buildings to create as many as three units, if those conversions do not constitute subdivisions.

5.1.2.~~C~~D Community living arrangements as defined in Section 3.2.

~~5.1.3. *Special exceptions.*~~
~~In the R-A district, the following uses are permitted as special exceptions as approved by the zoning board of appeals in conformity with the requirements of Section 6.12. If, however, site plan review by the planning board is required either under Section 6.16 or as a condition of a contract zone, no review by the zoning board of appeals is required.~~

5.1.~~3.A~~2.E. Private and public schools, ~~provided that~~ if adequately screened and fenced recreational areas are provided.

5.1.~~3.B~~2.F. Public service facilities including public parks and community centers. [See Section 5.19.2 for additional examples.]

5.1.~~3.C~~2.G. Churches, parish houses, rectories, convents.

5.1.~~3.D~~2.H. Public utility or communications installations for service in the zoning district in which it is proposed to be located. No cellular telephone towers are permitted.

~~5.1.3.E. New multifamily dwellings and conversions of existing buildings to multifamily dwellings as provided in Section 4.3.21.~~

5.1.~~4~~3. *R-A Dimensional requirements.**

Lot area, minimum....	15,000 sq. ft.
Area per family, minimum....	7,500 sq. ft.
Lot frontage, minimum....	100 ft.
Lot depth, minimum....	150 ft.
Front yard, minimum....	20 ft.
Side yard, principal building, minimum....	15 ft.
Rear yard, principal building, minimum....	30 ft.
Side and rear yard, accessory structure,** minimum....	10 ft.
Lot coverage of all buildings, maximum....	20% lot area
Usable open area, minimum....	50% lot area

*When International Building Code and NFPA .101 require the addition of a second means of egress to an existing building, stated setbacks do not apply.

**Detached private garages, swimming pools, and portable shelters are accessory structures.

A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

*Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

5.2. Medium density residential district (R-B).

5.2.1. *Purpose.*

The R-B district is ~~established as a zoning district in which the principal use of land is~~ principally for medium density residential development. Any future development which would interfere with such medium density residential use or which would not perform a neighborhood function is hereby prohibited.

5.2.2. *R-B Principal uses permitted.*

5.2.2.A. Any principal use permitted in the R-A district.

~~5.2.2.B. Churches, parish houses, rectories, convents, historical institutions or nonresidential philanthropic or charitable institutions of a public or semi-public nature.~~

5.2.2.~~C~~B. Double-wide newer mobile homes. No single-wide mobile homes or older mobile homes are allowed.

5.2.3. *R-B Special exceptions.*

In the R-B district, the following uses are permitted as special exceptions as approved by the ~~zoning board of appeals~~ code enforcement officer in conformity with the requirements of Section ~~6.12~~ 5.20. If, however, site plan review by the planning board is required either under Section 6.~~16~~4 or as a condition of a contract zone, no such

review by the ~~zoning board of appeals~~ code enforcement officer is required.

~~5.2.3.A. Construction of new multifamily dwellings and conversions of existing buildings to multifamily dwellings as provided in Section 4.3.21.~~

~~5.2.3.B. Private and public schools as prescribed for the R-A district.~~

~~5.2.3.C. Public service facilities including public parks and community centers. [See Section 5.15.5 for additional examples.]~~

~~5.2.3.D Home professions and occupations within a dwelling, as defined in Section 3.2 and as provided in Section 4.3.17.~~

~~5.2.3.E. Public utilities or communications installations as prescribed for the R-A district.~~

5.2.3.~~F~~A. Daycare centers~~ as defined in Section 3.2~~, subject to dimensional requirements of the zone and as provided in Section 4.3.~~42~~9.

5.2.3.B. Home occupations within a dwelling, as provided in Section 4.3.14 Home occupations.

5.2.4. *R-B Dimensional requirements.***

Lot area, minimum....	10,000 sq. ft.
Area per family, minimum....	5,000 sq. ft.
Lot frontage, minimum....	100 ft.
Lot depth, minimum....	100 ft.
Front yard, minimum....	20 ft.
Side yard, principal building, minimum....	10 ft.

Rear yard, principal building, minimum....	30 ft.
Side and rear yards, accessory structures including detached private garages*, minimum....	5 ft.
Lot coverage of all buildings, maximum....	25% lot area
Usable open area, minimum....	40% lot area

*Detached private garages, swimming pools, sheds, and portable shelters are accessory structures.

A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

**When International Building Code and NFPA .101 require the addition of a second means of egress to an existing building, stated setbacks do not apply.

** Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

5.3. General residential district (R-C).

5.3.1. *Purpose.*

The R-C district is ~~established as a zone in which the principal use of the land is~~ principally for medium density residential development. Any future development which would tend to over populate or further congest the district or destroy its essentially residential character is hereby prohibited.

5.3.2. *R-C Principal uses permitted.*

5.3.2.A. Any uses permitted in the R-B district, except double-wide newer mobile homes.

5.3.2.B. Homeless shelters in accordance with Section 4.3.13.

5.3.2.C. Historical institutions and nonresidential philanthropic or charitable institutions of a public or semi-public nature.

5.3.3. *R-C Special exceptions.*

In the R-C district, the following uses are permitted as special exceptions as approved by the ~~zoning board of appeals~~ code enforcement officer in conformity with the requirements of Section ~~6.12~~ 5.20 If, however, site plan review by the planning board is required either under Section 6.~~16~~4 or as a condition of a contract zone, no such review by the ~~zoning board of appeals~~ code enforcement officer is required.

5.3.3.A. Same as allowed in the R-B zone~~ and homeless shelters as defined and provided in Section 4.3.40~~.

5.3.4. *R-C Dimensional requirements.***

Lot area, minimum....	7,500 sq. ft.
Area per family, minimum....	3,750 sq. ft.
Lot frontage, minimum....	75 ft.
Lot depth, minimum....	100 ft.
Front yard, minimum....	10 ft.
Side yard, principal building, minimum....	10 ft.
Rear yard, principal building, minimum....	20 ft.
Side and rear yards, accessory structures including detached garages*, minimum . . .	5 ft.
Lot coverage of all buildings, maximum....	30% of lot area

Usable open area, minimum....	35% of lot area

*Detached private garages, swimming pools, sheds, and portable shelters are accessory structures.

A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

**When International Building Code and NFPA .101 require the addition of a second means of egress to an existing building, stated setbacks do not apply.

**Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

5.4. General residential district (R-D).

5.4.1. *Purpose.*

The R-D district is ~~established as a zone in which the principal use of the land is~~ principally for medium density residential development. It is characterized by large houses, many of which have been converted to multi-family dwellings.

5.4.2. *R-D Principal uses permitted.*

5.4.2.A. Any use permitted in the R-C district.

5.4.3. *R-D Special exceptions.*

In the R-D district, the following uses are permitted as special exceptions as approved by the ~~zoning board of appeals~~ code enforcement officer in conformity with the requirements of Section ~~6.12~~5.20. If, however, site plan review by the planning board is required either under Section 6.~~16~~4 or as a condition of a contract zone, no such review by the ~~zoning board of appeals~~ code enforcement officer is required.

5.4.3.A. Same as R-B.

5.4.3.B. Professional offices and occupations, except for properties abutting Pleasant (not including property also abutting and whose entrances face Park Street), Gilman and Dalton Streets, Pleasant Court, Sheldon Place, and Winter Street west of Pleasant Street. No display of merchandise or services shall be made in the windows or in any other manner to disclose the nature of the profession or service. The sale of goods on the premises is permitted only when incidental to the provision of the service. Dumpsters shall be screened if the professional office or occupation abuts a residence.

5.4.5. *R-D Dimensional requirements.***

Lot area, minimum	15,000 sq. ft.
Area per family, minimum	2,500 sq. ft. for one bedroom (or efficiency apartment) plus 500 square feet for each additional bedroom.
Lot frontage, minimum	100 ft.
Lot depth, minimum	100 ft.
Front yard, minimum	10 ft.
Side yard, principal building, minimum	10 ft.
Rear yard, principal building, minimum	20 ft.
Side and rear yards, accessory structures including detached garages*, minimum . . .	5 ft.

*Detached private garages, swimming pools, sheds, and portable shelters are accessory structures.

A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

**When International Building Code and NFPA .101 require the addition of a second means of egress to an existing, building, stated setbacks do not apply.

**Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

5.5. Rural residential district (R-R).

5.5.1. *Purpose.*
The R-R district is ~~established as a zoning district in which the principal use of the land is~~ principally for rural residential development, agriculture, forestry, and customary associated uses. Permitted in this district are certain uses unsuited to the more densely developed portions of the city. Large lots with ample space between buildings are required as a means of reducing fire hazards, and also to supply sufficient area for safe location of water supply and septic disposal systems on the same lot. Other purposes of this district include encouragement of appropriate recreational use of the land, reduction and prevention of soil erosion, and conservation of natural resources. The R-R zone also serves as a holding operation for future development and rezoning.

5.5.2. *R-R Principal and accessory uses.*

5.5.2.A. Any principal or accessory use permitted in any residential district except homeless shelters.

5.5.2.B. Single-wide and double-wide mobile homes and older mobile homes.

5.5.2.C. Mobile home parks subject to Section 4.3.17.

5.5.2.D. Nursing homes, assisted living facilities, and hospitals.

5.5.2.E. Veterinary hospitals on lots of not less than two (2) acres, provided that any building or area in which animals are kept is located at least one hundred (100) feet from any street or lot line.

5.5.2.F. Boarding kennels on lots of not less than five (5)

acres, provided that any building or area in which animals are kept is located at least one hundred (100) feet from any street or lot line and at least five hundred (500) feet from the nearest residence existing at the time of permit issuance (other than a dwelling on the same lot). See Section 4.3.3 Animal husbandry and boarding kennels.

5.5.3. *R-R Special exceptions.*

The following uses are permitted as special exceptions as approved by the ~~zoning board of appeals~~ code enforcement officer in conformity with the requirements of Section ~~6.12~~5.20. If, however, site plan review by the planning board is required either under Section 6.~~16~~4 or as a condition of a contract zone, no such review by the ~~zoning board of appeals~~code enforcement officer is required.

5.5.3.A. Same as allowed in the R-B district.

~~5.5.3.B. Nursing homes and hospitals.~~

~~5.5.3.C. Veterinary hospitals and kennels on lots of not less than two (2) acres, provided that any building or area in which animals are kept is located at least one hundred (100) feet from any street or lot line. See Section 4.3.5~~

5.5.3.~~D~~B. Outdoor recreational areas and facilities as defined in Section 3.2 and subject to Section 4.3.~~27~~23 Recreational facilities.

5.5.3.~~E~~C. Processing of agricultural products, provided there is no discharge or dumping of pollutants of any nature, except in conformity to state and federal regulations.

~~5.5.3.F. Mobile home parks subject to Section 4.3.20.~~

5.5.3.~~G~~D. Camping grounds subject to Section 4.3.~~8.H~~7 Campgrounds.

5.5.3.~~H~~E. Agriculture, including poultry and animal raising subject to Section 4.3.~~5~~3 Animal husbandry and boarding kennels.

5.5.3.~~I~~F. Any additional use compatible with an existing general use exception.

5.5.3.G. Cemeteries.

5.5.4. *R-R Dimensional requirements.**

Lot area, minimum....	20,000 sq. ft.
Area per family, minimum....	7,500 sq. ft.
Lot frontage, minimum....	150 ft.
Front yard, minimum....	50 ft.
Side yard, minimum....	25 ft.
Rear yard, minimum....	25 ft.
Lot coverage of all buildings, maximum....	30% of lot area
Usable open area, minimum....	50% of lot area

*When International Building Code and NFPA .101 require the addition of a second means of egress to an existing building, stated setbacks do not apply.

*Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

INSTITUTIONAL

5.6. Institutional districts.

5.6.1. Principal uses.

5.6.1.A. Educational facilities.

5.6.1.B. Social or civil activities.

5.6.1.C. Fraternal or religious facilities.

5.6.1.D. Hospitals, sanitariums, clinics, nursing homes, or other medical institutions or uses.

5.6.1.E. Recreation buildings or facilities for nonprofit organizations.

5.6.2. Accessory uses.

5.6.2.A. Parking lots.

5.6.2.B. Housing for institutional staff or recipients of institutional services.

~~5.6.2.C. Recreation buildings or facilities.~~

5.6.2.~~D~~C. Services incidental to the principal use.

5.6.3. *Institutional Dimensional requirements.**

Lot size . . . 2 acres
Frontage . . . 200 ft.
Front setback . 30 ft.
Side yard . . . 50 ft.
Rear yard . . . 50 ft.

*When International Building Code and NFPA .101 require the addition of a second means of egress to an existing building, stated setbacks do not apply.

*Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

COMMERCIAL

5.7. Commercial-A (C-A) district.

5.7.1. Description and purpose.

The C-A district is ~~used~~ principally for commercial establishments to which the public requires frequent and direct access. The C-A district is intended to encourage

the concentration of commercial development to the mutual advantage of both consumers and merchants and thus to promote public convenience and prosperity. ~~Any future development which would interfere with the growth or continuation of commercial activity is prohibited.~~

5.7.2. *C-A Permitted uses*.

5.7.2.A. Existing residential uses.

5.7.2.B. Conversion of a single-family dwelling to a two-family dwelling, or a single- or two-family dwelling to a three-family dwelling~~multifamily use~~. Notwithstanding, the requirements of Section 4.3.18 Multifamily developments, the code enforcement officer may approve conversions of existing residential buildings to create as many as three units. See also Section 5.7.2.K. Apartments below.

5.7.2.C. Business and professional offices.

5.7.2.D. Retail stores.

5.7.2.E. Commercial or public parking areas for automobiles.

5.7.2.F. Eating establishments, including places offering dancing and entertainment.

5.7.2.G. Service establishments such as bus terminals, taxi stands, drug stores, barber shops, beauty parlors, laundry agencies, appliance sales and repair shops, pressing and tailoring shops, and banks. See the definition of service establishment in Section 3.2.

5.7.2.H. ~~Theaters, H~~hotels, motels, and bed and breakfast inns in accordance with Section 4.3.5 Bed and breakfast inns.

5.7.2.I. Indoor recreational facilities and theaters.

~~5.7.2.J. Signs advertising goods or services offered on the premises as provided in Section 4.3.33.C.~~

5.7.2.~~K~~J. Printing and newspaper production.

5.7.2.~~L~~K. Apartments, except for ground floor level on Main Street between Spring Street and College Avenue in

accordance with the provisions of 4.3.18 Multifamily developments. ~~The requirements of Section 4.3.21 do not apply, provided however, a~~An individual apartment must contain not less than three hundred (300) square feet of habitable space as that term is defined in ~~Section 15-15 of the Revised Code of Ordinances of the City of Waterville~~ the Property Maintenance Ordinance. See Section 5.7.2.B above.

5.7.2.~~M~~L. Facilities, including clubhouses for nonprofit recreational, social, or fraternal organizations.

5.7.2.~~N~~M. Daycare centers.

5.7.2.N. Convenience stores with gas pumps and retailing and dispensing of automotive fuels in accordance with Section 4.3.4 Automobile businesses.

5.7.2.O. Homeless shelters in accordance with Section 4.3.13, except for ground floor level on Main Street between Spring Street and College Avenue.

5.7.3. *C-A Special exceptions*.

The following uses are permitted as special exceptions if approved by the ~~zoning board of appeals~~code enforcement officer in conformity with the requirements of Section ~~6.12~~5.20. If, however, site plan review by the planning board is required either under Section 6.~~16~~4 or as a condition of a contract zone, no such review by the ~~zoning board of appeals~~code enforcement officer is required.

5.7.3.A. Warehousing and light manufacturing uses ~~subsidiary~~ subordinate to retail establishments shall be permitted, provided that there shall be no nuisance created by emission of noise, vibration, electronic radiation, fumes, dust, or odor. The manufacturer will be his own prime retailer, and such manufacturing shall not include primary processing of raw materials.

~~5.7.3.B. Retailing and dispensing of automotive fuels only, and in accordance with Section 4.3.26.~~

~~5.7.3.C.B Homeless shelters as defined in Section 4.3.40, except for ground floor level on Main Street between Spring Street and College Avenue.~~

5.7.4. *C-A Prohibited uses*.

5.7.4.A. Service, repair, and sale of automobiles.

5.7.4.B. Boat and trailer sales and service.

5.7.4.C. Junk yards, including the storage of inoperative motor vehicles.

5.7.5. Off-street parking and loading requirements.

Off-street parking and loading space shall be provided as required in Section 4.3.~~25~~21 and shall be screened as provided in Section 4.3.~~31~~24.

5.7.6. *C-A Dimensional requirements*.
None, except that development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

5.7.7. Screening requirements.

5.7.7.A. A six-foot-high wall or fence of solid and uniform appearance, or a compact evergreen hedge planted so as to attain a height of not less than six (6) feet, shall be installed or planted and maintained ~~in all situations~~ to screen commercial and industrial uses from adjacent residential districts or uses.

5.7.~~8~~7.B. Alternate screening plan.

~~Either the zoning board of appeals or~~The planning board, if the project is under review by the planning board, or the code enforcement officer may~~, if requested by the applicant,~~ approve an alternate screening plan which makes use of other methods to meet the intent of this screening requirement.

5.8. Commercial-B (C-B) district.

5.8.1. Description and purpose.

The C-B district is ~~used~~ principally for commercial activity which would be incompatible with the concentration

of establishments in the C-A district because of their requirements for larger areas of land than are customarily available in the C-A district.

5.8.2. *C-B Permitted uses*.

5.8.2.A. Any use permitted in the Commercial-A district, except Section 5.7.2.~~L~~K Apartments.

5.8.2.B. Drive-in or outdoor service establishments.

5.8.2.C. Outdoor storage areas and self-storage units, subject to the provisions for screening in Section 4.3.~~31~~24 of this ordinance.

5.8.2.D. Wholesaling.

~~5.8.2.E. Advertising signs as provided in Section 4.3.33.C.~~

5.8.2.~~F~~E. Assisted living facilities.

5.8.2.F. Automotive sales, service, wash, and repairs (including retailing and dispensing of automotive fuels) in accordance with Section 4.3.4 Automobile businesses.

5.8.2.G. Sales and service of boats, trailers, snowmobiles, and all-terrain vehicles.

5.8.3. *C-B Accessory uses*.
Warehousing as accessory to a wholesaling establishment.

~~**5.8.4. Special exceptions.**~~

~~The following uses are permitted as special exceptions as approved by the zoning board of appeals in conformity with the requirements of Section 6.12. If, however, site plan review by the planning board is required either under Section 6.16 or as a condition of a contract zone, no review by the zoning board of appeals is required.~~

~~5.8.4.A. Automotive sales, service, wash and repairs (including retailing and dispensing of automotive fuels) in accordance with Section 4.3.26.~~

~~5.8.4.B. Sales and service of boats, trailers, snowmobiles and all-terrain vehicles.~~

~~5.8.4.C. Homeless shelters as defined in Section 4.3.40.~~

5.8.~~5~~4. C-B *Prohibited uses*.

Trucking terminals.

5.8.~~6~~5. Off-street parking and loading requirements.

Off-street parking and loading space shall be provided as required in Section 4.3.~~25~~21 of this ordinance.

5.8.~~7~~6. C-B *Dimensional requirements*.*

Lot size..... No minimum
Frontage..... No minimum
Front setback..... 30 feet
Side yard..... 50 feet
Rear yard..... 50 feet

*When International Building Code and NFPA .101 require the addition of a second means of egress to an existing building, stated setbacks do not apply.

*Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

5.8.~~8~~7. Screening requirements.

Adjacent to residential districts or uses, a buffer strip of evergreen plantings, at least twenty (20) feet in width and of an ultimate height of ten (10) feet, shall be planted and maintained, and a solid fence shall be constructed in conformity to Section 4.3.~~31~~24.A. ~~Either the zoning board of appeals or~~ The planning board may, if requested by the applicant, approve an alternate screening plan which makes use of other methods to meet the intent of this screening requirement.

5.9. Commercial-C (C-C) district.

5.9.1. Description and purpose.
The C-C district is ~~used~~ principally for establishments catering to the needs of motorists and users of motorized

equipment, including sales, service, and repair of motor vehicles.

5.9.2. *C-C Permitted uses*.

5.9.2.A. Any use permitted in the C-A and C-B districts, except Section 5.7.2.K Apartments.

~~5.9.2.B. Automotive sales, service, wash, and repair, as provided in Section 4.3.26.~~

~~5.9.2.C. Boat, trailer, and mobile home sales and service.~~

5.9.2.B. Mobile home sales and service.

5.9.2.~~D~~C. Contractors' storage yards subject to the screening provisions in Section 4.3.~~31~~24.

5.9.2.D. Veterinary hospitals.

5.9.2.E. Equipment rental.

5.9.3. Off-street parking and loading.
Off-street parking and loading space shall be provided as required in Section 4.3.~~25~~21.

5.9.4. *C-C Dimensional requirements*.*

Lot size..... No minimum
Frontage..... No minimum
Front setback.....30 feet
Side yard..... 20 feet
Rear yard..... 20 feet

*When International Building Code and NFPA .101 require the addition of a second means of egress to an existing building, stated setbacks do not apply.

*Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

5.9.5. Screening requirements.
A buffer strip of evergreen plantings at least twenty (20) feet in width and an ultimate height of ten (10) feet shall be planted and maintained and a solid fence shall be

constructed in conformity to Section 4.3.~~31~~24.A adjacent to residential districts or uses. ~~Either the zoning board of appeals or t~~The planning board may, if requested by the applicant, approve an alternate screening plan which makes use of other methods to meet the intent of this screening requirement.

~~**5.9.6. Special exceptions.**~~

~~The following uses are permitted as special exceptions as approved by the zoning board of appeals in conformity with the requirements of Section 6.12. If, however, site plan review by the planning board is required either under section 6.16 or as a condition of a contract zone, no review by the zoning board of appeals is required.~~

~~5.9.6.A. Homeless shelters as defined in Section 4.3.40.~~

~~5.9.6.B. Veterinary hospitals or clinics.~~

5.10. Commercial-D (C-D) district.

5.10.1. Description and purpose.

The C-D district is ~~used~~ principally for establishments which require exposure to a major highway and large areas of land on which to conduct their operations.

5.10.2. *C-D Permitted uses*.

5.10.2.A. Any use permitted in the C-A, C-B, and C-C districts except Section 5.7.2.K Apartments and homeless shelters.

~~5.10.2.B. Automotive sales, service, and repair, excluding, however, automobile junk yards and graveyards.~~

5.10.2.~~C~~B. Laboratories for research and testing, subject to restrictions regarding nuisance as provided in this ordinance.

5.10.2.~~D~~C. Shopping centers.

5.10.2.~~E~~D. Trucking, wholesaling, and warehousing.

5.10.3. Screening and landscaping requirements.

5.10.3.A. Wherever a C-D zoning district abuts a~~ny~~ residential district, a buffer strip of plantings at least fifty (50) feet in width and of an ultimate height of not less than twenty-five (25) feet shall be planted and maintained~~, provided however, if an adequate natural buffer strip of such width and height already exists, either on the residential or commercial side of the property line, this requirement shall not apply as long as the natural buffer strip remains adequate. When a C-D zone abuts a residential zone,~~ and a solid fence is required in conformity to Section 4.3.~~31~~24.A.

5.10.3.B. ~~In any C-D district, a~~ A landscaped strip at least fifteen (15) feet in width shall be provided along the street line ~~of a principal highway~~ and planted and maintained with appropriate street trees and flowering shrubs.

5.10.3.C. ~~Either the zoning board of appeals or t~~The planning board may, if requested by the applicant, approve an alternate screening plan which makes use of other methods to meet the intent of this screening requirement.

5.10.4. *C-D Dimensional requirements*.*

Lot size . . . 2 acres
Frontage . . . 200 ft.
Front setback .100 ft.
Side yard . . . 50 ft.
Rear yard . . .100 ft.

*When International Building Code and NFPA .101 require the addition of a second means of egress to an existing building, stated setbacks do not apply.

*Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

INDUSTRIAL

5.11. Industrial Park (I-P) district.

5.11.1. Description and purpose.

The industrial park (IP) district is principally ~~established as a zoning district in which it is intended that the principal use of the land shall be~~ for industrial and associated uses, ~~in the landscaped setting of an industrial park~~ with appropriate open spaces, building setbacks ~~of structures~~, and screened off-street parking and storage areas. ~~, and inclusion of such architectural and structural refinements as will add to the amenities of the district and the city. The regulations for this district are intended to encourage planned industrial development compatible with abutting residential or commercial districts; to provide a satisfactory relation between the operation of such uses and access thereto with existing and prospective roads and highways within the city as proposed in the comprehensive plan; to achieve maximum utilization of areas devoted to these uses by the substantial exclusion therefrom of such incongruous uses as residential, retail business, and the like; and to provide primary employment for the labor supply that is resident in the city and vicinity. Certain open areas favorably situated with respect to transportation and containing other factors conducive to industrial development are also included. This is for the purpose of reserving suitable land for the expansion and location of new industry and to enhance economic development and economic opportunities. Any future development which would interfere with orderly growth or continuation of industry is hereby prohibited.~~
~~5.11.2.D. A description of the industrial operations proposed in sufficient detail to indicate the effect of these operations including excessive auto and traffic congestion or problems of noise, glare, odor, sewerage, air and water pollution, fire and safety hazards, or other factors detrimental to the health, safety, and welfare of the area.~~

~~5.11.2.E. Engineering and structural plans for the handling and controlling of any of the problems enumerated in item (D) above. Such plans should show the means of discharge of sanitary sewage and industrial waste in accordance with state and federal regulations.~~

~~5.11.2.F. Any other pertinent information which will assist the planning board in considering adequately the effect that the proposed usage may have upon its environment and~~

~~on the cost of providing municipal services to the area.5.11.2.G. Planning board finding. Upon recommendation by the planning board to the enforcement officer that the proposed development will constitute an industrial development of sustained desirability and stability; that it will be compatible with the character of surrounding neighborhoods and consistent with long-range plans for the city; that it will not result in undue traffic congestion or traffic hazards; that the plans indicate that it will be appropriately landscaped, buffered, and screened and otherwise promote the health, safety, and welfare of the community and that sufficient off-street parking and loading spaces will be provided, the enforcement officer may issue a permit or permits for the proposed development in the industrial park district.~~

5.11.2. *I-P Permitted uses*.

5.11.2.A. Manufacturing.
~~**5.11.3. Manufacturing permitted uses.**~~

~~5.11.3.A. Industrial establishments which do not contribute polluting elements to the atmosphere or to streams or other bodies of water and which do not commit nuisance by emission of objectionable noise, dust, smoke, fumes, glare, vibration, or similar objectionable features.~~

~~5.11.3.B. The manufacturing, compounding, processing, packaging, treatment, or fabrication of articles of merchandise from such materials as the following: Bone, cellophane, canvas, cloth, cork, feathers, felt, fur, glass, hair, horn, paper, plastics, precious or semi-precious metals or stone, shell, textiles, wood, wool, and yarn.5.11.3.C. Other assembly or limited manufacturing uses of a similar nature when located and arranged according to a plan providing for aesthetic or other conditions in harmony with the neighborhood.~~

5.11.~~4~~2.B. Non-manufacturing uses.

5.11.~~4.A~~2.B(1) Research~~, experimental, testing,~~ and development laboratories.

5.11.~~4.B~~2.B(2) Commercial uses commonly accessory to or associated with industrial establishments.

5.11.~~4.C~~2.B(3) Service establishments such as cafeterias and motels.

5.11.~~4.D~~2.B(4) ~~Public utilities.~~Public utility, transportation, and communication facilities.

5.11.~~4.E~~2.B(5) Municipal facilities and grounds.

5.11.~~4.F~~2.B(6) Warehousing and storage. ~~Warehouses; contractor's yards for storage of equipment.~~

5.11.2.B(6)(a) Storage of raw materials and supplies shall not be permitted except in completely enclosed buildings.

5.11.2.B(6)(b) Finished or semi-finished products may be stored in the open only when storage areas are suitably screened and ~~are~~ located at least one hundred (100) feet from any property line and one hundred fifty (150) feet from any street line and shall ~~not~~ cover no more than fifteen (15) percent of the site ~~area~~. Open areas used for storage shall be enclosed by a solid fence or wall at least six (6) feet in height or by suitable screen planting not less than six (6) feet in height and ten (10) feet in thickness. Storage area entrances and exits shall be provided with solid gates and in no case shall stored material be so stacked or stored as to exceed the height of the fence or screen. The planning board shall approve plans for the ~~location of~~ screening of outdoor storage areas before building permits are ~~shall be~~ issued.

5.11.2.B(7) Contractors' equipment storage yards subject to the screening requirements in Section 5.11.4.

5.11.~~5~~3. *I-P Accessory uses*.

~~5.11.5.A. Residential. Apartment for janitor or caretaker only as accessory to principal use.~~

~~5.11.5.B. Signs. No sign, billboard, or other advertising display shall be located within an IP district except as provided in Section 4.3.33.C.~~

5.11.~~5.C~~3.A. Retail outlets. Retail outlets for products manufactured on the premises.

5.11.~~6~~4. Landscaping and screening ~~in industrial park districts~~.

5.11.~~6~~4.A. ~~Except as otherwise provided, a~~ All open portions of ~~any~~ lots shall have proper grading and drainage and shall be continuously maintained in a dust-free condition by suitable landscaping with trees, shrubs, and permanent groundcover or by paving ~~with asphaltic or other suitable materials~~ in parking, loading, and storage areas as required by the planning board in its review of site plans.

5.11.~~6~~4.B. Required yard areas shall be planted and maintained in such a manner as to provide a landscaped setting for all buildings.

5.11.~~6~~4.C. Wherever a lot in industrial use abuts a residential district, a buffer ~~zone shall be maintained~~ of not less than one hundred fifty (150) feet in width shall be maintained. ~~, measured from the boundary line or from the street line where a street constitutes a boundary.~~ Fifty (50) feet of such buffer ~~zone~~ shall be used as a planting strip for hedges, evergreens, trees, shrubbery, or other suitable screen planting. The remaining one hundred (100) feet may be used for off-street parking or other permitted purpose other than a building or permanent structure.

5.11.~~7~~5. Street and access design.

~~In order to encourage the sound development of a street or highway frontage, in addition to the off-street parking and loading requirements, the following provisions shall apply in any location in the industrial park district which abuts a street or highway or wherever practicable.~~

5.11.~~7~~5.A. Access barrier. Access to the ~~highway~~ street shall be controlled in the interest of public safety. Each building or group of buildings and its parking or service areas shall be physically separated from the ~~highway or~~ street by a curb, planting strip, or other suitable barrier against un-channeled motor vehicle access or egress except for access ways as authorized in Section 5.11.~~7~~5.B below.

5.11.~~7~~5.B. Access ways. Each separate use, grouping of attached buildings, or grouping of uses as part of a single integrated plan shall have not more than two (2) access ways to any one ~~highway or~~ street. Insofar as practicable, the use of common access ways by two (2) or more ~~permitted~~

~~users may be provided~~ developments is preferred in order to reduce the number and closeness of access points along the ~~highway~~ street.~~and to encourage the fronting of industrial structures upon a marginal street and not directly upon a public highway.~~

~~**5.11.8. Industrial district standards governing noise, litter and smoke.**~~

~~5.11.8.A. No activity shall be permitted in the industrial park district unless its operation is conducted such that any noise or vibration is not normally perceptible above street noise without instruments at any point farther than two hundred fifty (250) feet beyond the premises or at any point within one hundred (100) feet in a residential district.~~

~~5.11.8.B. The operation shall be so conducted that all resulting cinders, dust, fumes, gases, odors, smoke, radiation, electromagnetic interference, or trash or other waste is effectively confined to the premises or disposed of so as to avoid any pollution. The activity shall not be detrimental to neighboring property by reason of special danger of fire or explosion. Operation at any time such that these standards are violated, subsequent to issuance of a permit on the grounds that they would be met, shall constitute a zoning violation.~~

5.11.6. Nuisance prohibition.

Only those activities which are not injurious or noxious by reason of noise, smoke, vibration, electronic radiation, gas, fume, odor, dust, fire or explosion hazard, and which meet state and federal pollution standards are permitted in the industrial park district.

5.11.~~10~~7. Off-street parking requirements.

~~5.11.10.A. A minimum of O~~one off-street parking space for each vehicle owned or based upon the premises and ~~5.11.10.B.~~one off-street parking space ~~(three hundred (300) square feet)~~ for each two (2) employees employed on the largest shift must be provided.

5.11.~~11~~8. Off-street loading requirements.

Off-street loading berths shall be provided as required in Section 4.3.~~25~~21 of this ordinance.

5.11.9. *I-P Dimensional requirements*.*

Lot size, minimum	3 acres
Lot width, minimum	250 feet
~~Lot~~ Road frontage, minimum	200 feet
Front yard setback, minimum	100 feet
Side yard, minimum	40 feet
Rear yard, minimum	50 feet
Distance from a residential district .	150 feet
Percentage of lot covered by buildings . .	30%

*When International Building Code and NFPA .101 require the addition of a second means of egress to an existing building, stated setbacks do not apply.

*See the buffer required at Section 5.11.4.

*Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

5.12. General industrial district (I).

5.12.1. Description and purpose.
The Industrial district is ~~established as a zoning district for the location of established~~ principally for heavy industry and associated uses ~~including additional lands suitable for similar industrial expansion but~~ which ~~at the same time~~ are so located as to prevent undesirable conflict with residential and ~~business uses~~ commercial development.

5.12.2. *General Industrial Uses permitted*.

5.12.2.A. Any use permitted in the Commercial-D district.

5.12.2.B. Processing, manufacturing, or other industrial use which is not injurious or noxious by reason of noise, smoke, vibration, electronic radiation, gas, fume, odor, dust, fire or explosion hazard, and which ~~meetings~~meets state and federal pollution standards.

5.12.2.C. Bulk oil and fuel storage above ground. See Section 4.3.30 and Section 4.3.4.B(10).

5.12.2.D. Retail and wholesale businesses customarily serving or consistent with industrial uses.

5.12.2.E. Municipal, public utility, communication, and transportation facilities.

~~5.12.3. Accessory uses.~~

~~Advertising signs as provided in Section 4.3.20.~~

5.12.~~4~~3. Uses forbidden.

Residential uses are forbidden unless clearly incidental and accessory to a lawfully established use.

5.12.5. Off-street parking and loading requirements.

Off-street parking and loading space shall be provided as required in Section 4.3.~~25~~21 ~~of this ordinance~~.

5.12.6. *General Industrial (I) Dimensional requirements.**

Lot area	~~None~~ No minimum
Road ~~F~~frontage	150 feet
Lot width	200 feet
Front yard	50 feet
Side yard	25 feet
Rear yard	50 feet
Percentage of lot covered by buildings	50% maximum

*When International Building Code and NFPA .101 require the addition of a second means of egress to an existing building, stated setbacks do not apply.

*Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

5.12.7. Screening and landscaping requirements.

5.12.7.A. A buffer strip of evergreens ~~plantings~~ at least twenty-five (25) feet in width and ~~to be of an~~

~~ultimate~~planted so as to attain a height of twenty-five (25) feet within ten (10) years shall be ~~planted and~~ maintained adjacent to any other zoning district.

5.12.7.B. A landscaping strip at least fifteen (15) feet in width shall be provided along the street line ~~of a principal highway~~ and planted and maintained with appropriate street trees and flowering shrubs.

5.12.7.C. The ~~zoning board of appeals or~~ planning board may, if requested by the applicant, approve an alternate screening plan which makes use of other methods to meet the intent of this screening requirement.

5.~~17~~13. *Downtown industrial district (D-I).*

5.~~17~~13.1. *Description and purpose.*

The Downtown Industrial District is established to encourage the re-use and redevelopment of historic industrial buildings in the downtown. This zone allows for the harmonious co-location of commercial, industrial, institutional, and residential uses.

5.~~17~~13.2. *Downtown Industrial Uses permitted.*

5.~~17~~13.2.A. All use permitted in the General Industrial District.

5.~~17~~13.2.B. Multifamily dwellings.

5.~~17~~13.2.C. Institutional uses as defined in Section 3.2 of this Ordinance.

5.~~17~~13.3. *Off-street parking requirements.*

Off-street parking space shall be provided as follows:

5.~~17~~13.3.A. Industrial and manufacturing activities: the lesser of one space per 1,000 square feet or one space per 2 employees.

5.~~17~~13.3.B. All other commercial uses: 1 space per 400 square feet.

5.~~17~~13.3.C. Multi-family residential uses: 1.5 spaces per unit.

5.~~17~~13.3.D. In view of the mixed use nature of potential developments within the zone, the planning board may approve fewer parking spaces than otherwise required under this section, based on findings that various uses will require parking at different times of the day or week or that the parking requirements for a particular activity will be less than parking requirements generally applicable to the land use category. To reduce the required spaces by more than 10%, the developer must provide a written report from a Professional Traffic Operations Engineer demonstrating ample parking.

5.~~17~~13.3.E. Required off-street parking may be located within 300 feet of the development.

5.~~17~~13.3.F. Required off-street parking spaces shall be set back from all property lines, front, rear, and side, not less than five (5) feet.

5.~~17~~13.4. *Downtown Industrial Dimensional requirements.* *Except for structures existing as of March 1, 2008, the following dimensional requirements apply to all uses:**

Lot area	None
Frontage	None
Front yard . . .	20 feet
Side yard	20 feet
Rear yard . . .	20 feet

*Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water ~~mark~~ line contained in Section 4.3.~~39~~25.J.(1).

5.~~16~~14. Airport industrial district (A-I).

5.~~16~~14.1. Description and purpose. The airport industrial district is established to maximize the development of industrial and associated uses in upland areas while protecting valuable wetlands near the airport. Minimal building setbacks are acceptable because the zone does not abut residential uses.

5.~~16~~14.2. *Airport Industrial Uses permitted*.

5.~~16~~14.2.A. Processing, manufacturing or other industrial uses which are not injurious or noxious by reason of noise, smoke, vibration, electronic radiation, gas, fume, odor, dust, fire or explosion hazard and which meet state and federal pollution standards.

5.~~16~~14.2.B. Wholesale businesses and warehousing customarily serving or consistent with manufacturing or other industrial uses.

5.~~16~~14.2.C. Offices and telephone call centers.

5.~~16~~14.2.D. Municipal, public utility, and communication facilities.

5.~~16~~14.2.E. Storage tanks for fuel or raw materials, incidental to permitted uses.

5.~~16~~14.3. Off-street parking and loading requirements. Off-street parking and loading space shall be provided as required in Section 4.3.~~25~~21 ~~of this ordinance~~. The location of parking is established in the site standards which are a part of the purchase or lease agreement for each unique parcel.

5.~~16~~14.4. *Airport Industrial Dimensional requirements.**

Lot area . . . None
Frontage . . . None
Front yard . . .20 feet
Side yard . . . 20 feet
Rear yard . . . 20 feet

*Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

5.~~16~~14.5. Screening and landscaping requirements. Landscaping will be provided as established in the site standards which are a part of the purchase or lease agreement for each unique parcel.

5.~~16~~14.6. Air-space easements. See the Airport Ordinance ~~Code of Ordinances, Article 1, Chapter 3 Airports, Sections 3-5 and 3-6, air-space easements~~.

5.~~18~~15. Airport district (A~~I~~IR).

5.~~18~~15.1. *Description and purpose.*

The airport district is established for uses associated with and supporting the airport.

5.~~18~~15.2. *Uses permitted.*

5.~~18~~15.2.A. Aviation uses.

5.~~18~~15.2.B. Uses supporting the airport.

5.~~18~~15.3. *Off-street parking and loading requirements.*

Off-street parking and loading space shall be provided as required in section 4.3.~~25~~21 of this ordinance.

5.~~18~~15.4. *Dimensional requirements.*

None.

5.~~13~~16 *Resource Protection District*.

5.~~13~~16.1. Description and purpose.

~~The resource protection district is established as a zoning district in which the principal uses of land shall be nonstructural and open space in character.~~

The principal use of land in the Resource Protection District is open space.~~It~~ The zone includes areas in which development would adversely affect water quality and the stability of ~~the~~ waterways and impede the natural storage and conveyance of runoff and floodwaters. The district also includes areas in which development would accelerate erosion or impair productive habitat, natural ecosystems, or scenic and natural values. The Resource Protection District specifically includes:

5.~~13~~16.1.A. Significant habitat for plants and animals including habitat for species appearing on the official state or federal lists of endangered or threatened species, high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife, and high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas as defined by the Department of Inland Fisheries and Wildlife;

5.~~13~~16.1.B. Areas of exceptional scientific and educational importance or unique natural value;

5.~~13~~16.1.C. Areas designated by the federal government, the State, the City, or private persons, natural areas of significance to be protected from development;

5.~~13~~16.1.D. Wetlands. ~~5.13.1.D(1) Areas within two hundred fifty (250) feet horizontal distance of the upland edge of wetlands of ten (10) or more contiguous acres, which are rated moderate or high value by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) and designated on both the shoreland zoning appendix to the official zoning map and the official zoning map.5.13.1.D(2)~~ Areas of two (2) or more contiguous acres within the shoreland zone supporting wetland vegetation and hydric soils, including but not limited to, swamps, marshes or bogs designated on both the shoreland zoning appendix to the official zoning map and the official zoning map.

5.~~13~~16.1.E. Floodplains. Defined by the elevation of the 100-year floodplain as designated on the Federal Emergency Management Agency's (FEMA) flood insurance rate maps or flood hazard boundary maps, the flood of record, or in the absence of these, by soil types identifiable as recent floodplain soils;

5.~~13~~16.1.F. Fragile slopes. Areas of two (2) or more contiguous acres with sustained slopes of twenty (20) percent or unstable slopes subject to slumping, mass movement or severe erosion;

5.~~13~~16.1.G. Natural sites of significant scenic or aesthetic value;

5.~~13~~16.1.H. Significant archaeological and historic sites;

5.~~13~~16.1.I. Other areas which should be included to fulfill the purpose of this district. This district does not include areas that meet the criteria for Resource Protection, but which are significantly developed.

5.~~13~~16.2. Performance standards.

All Resource Protection Districts are subject to 4.3.~~39~~25.H, Shoreland performance standards, whether or not they are located in the shoreland zone.

5.~~13~~16.3. Uses permitted.

5.~~13~~16.3.A. Signs. ~~See 4.3.33, Sign regulations.~~

5.~~13~~16.3.A.(1) ~~Signs and billboards.~~ Billboards are prohibited in the Resource Protection District.

5.~~13~~16.3.A.(2) Signs in the Resource Protection District shall not exceed two (2) such signs per premises, shall not be larger than two (2) square feet, shall not be higher than six (6) feet from the ground, and shall be limited to names of residents, notice of sale, and notice of no trespassing or hunting.

5.~~13~~16.4. Special exceptions:

The following uses are permitted as special exceptions ~~as approved by the zoning board of appeals in conformity with the requirements of Section 6.12 Special exceptions~~ if approved by the code enforcement officer in conformity with the requirements of Section 5.20. If, however, site plan review by the planning board is required either under Section 6.4 or as a condition of a contract zone, no such review by the code enforcement officer is required:

5.~~13~~16.4.A. Agriculture; see Section 4.3.~~39~~25.H(1), Agriculture;

5.~~13~~16.4.B. Small, nonresidential facilities for educational, scientific, or nature interpretation purposes;

5.~~13~~16.4.C. Public and private parks and recreation areas involving minimal structural development;

5.~~13~~16.4.D. Piers, docks, wharves, breakwaters, and uses projecting into water bodies;

5.~~13~~16.4.E. Public utilities, including sewage collection and treatment facilities. The installation of essential services is not permitted in a Resource Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses, resources, or scenic vistas. ~~and resources, including visual impacts.~~

5.~~13~~16.4.F. Earth-moving activities. See Sections 4.3.10 and 4.3.25.H(8).

~~**5.13.5. Variances.**~~

~~The following use is permitted as approved by the zoning board of appeals in conformity with the requirements of 6.11 Variances and 4.3.39.L Variances:~~

~~5.16.5.A. Roads and driveways. See 4.3.39.H(11) Roads and driveways. New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district, or as approved by the zoning board of appeals upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.~~

5.~~13~~16.~~6~~5. Uses prohibited.

5.~~13~~16.~~6~~5.A. Residential dwelling units;

5.~~13~~16.~~6~~5.B. Commercial structures;

5.~~13~~16.~~6~~5.C. Industrial structures; and

5.~~13~~16.~~6~~5.D. Structures not accessory to special exceptions;

5.~~13~~16.~~6~~5.E. Governmental and institutional uses other than those specifically permitted in 5.~~13~~16.3 Uses permitted~~,~~ and 5.~~13~~16.4 Special exceptions~~, and 5.13.5 Variances~~;

5.~~13~~16.~~6~~5.F. Campgrounds;

5.~~13~~16.~~6~~5.G. Parking facilities, except for parking areas serving public boat launching facilities;

5.~~13~~16.~~6~~5.H. Marinas;

5.~~13~~16.~~6~~5.I. Clearing of vegetation, except clearing which is necessary for uses specifically permitted in the Resource Protection District;

~~5.13.6.J. Timber harvesting;~~

5.~~13~~16.~~6~~5.~~K~~J. Mineral exploration;

5.~~13~~16.~~6~~5.~~L~~K. Mineral extraction.

5.~~14~~17. Transitional district (T).

5.~~14~~17.1. Purpose.

The Transitional District is established as a zone in which the principal use of the land is residential, but ~~some~~ other specified ~~commercial~~ uses are allowed ~~as special exceptions,~~ subject to design review and approval. Any future ~~commercial~~ development which would detract from the residential character of the street is prohibited.

5.~~14~~17.2. Principal uses permitted.

5.~~14~~17.2.A. One-family dwellings.

5.~~14~~17.2.B. Two-family dwellings and conversions of existing dwellings to accommodate two (2) or three (3) families. Notwithstanding the provisions of Section 4.3.18 Multifamily developments, the code enforcement officer may approve conversions which do not constitute subdivisions.

5.17.2.C. The following uses are allowed subject to Section 5.17.4 below:

5.17.2.C(1) Construction of new multifamily dwellings as provided in Section 4.3.18.

5.17.2.C(2) Private and public schools, if adequately screened and fenced recreational areas are provided.

5.17.2.C(3) Professional offices. No display of merchandise or services shall be made in the windows or in any other manner to disclose the nature of the profession or service. The sale of goods on the premises is permitted only when incidental to the provision of the service.

5.17.2.C(4) Banks and credit unions.

5.17.2.C(5) Retail stores. Warehousing or manufacturing on the premises are not permitted, except as are clearly incidental to such business or service.

5.17.2.C(6) Health and beauty spas.

5.17.2.C(7) Restaurants.

5.~~14~~17.3. Special exceptions.
In the Transitional District, the following uses are permitted as special exceptions as approved by the ~~zoning board of appeals~~ code enforcement officer in conformity with the requirements of Section ~~6.12~~ 5.20~~and Section 5.17.4 below~~. If, however, site plan review by the planning board is required either under Section 6.~~16~~4 or as a condition of a contract zone, no such review by the ~~zoning board of appeals~~ code enforcement officer is required.

~~5.14.3.A. Conversion of existing dwellings to accommodate two (2) or more families provided all dimensional requirements are observed.~~

~~5.14.3.B. Construction of new multifamily dwellings as provided in Section 4.3.21.~~

~~5.14.3.C. Private and public schools, provided that adequately screened and fenced recreational areas are provided.~~

5.~~14~~17.3.~~D~~A. Daycare centers ~~as defined in Section 3.2,~~ subject to Section 4.3.9.

5.~~14~~17.3.~~E~~B. Home occupations within a dwelling as provided in Section 4.3.~~17~~14.

~~5.14.3.F. Professional offices. No display of merchandise or services shall be made in the windows or in any other manner to disclose the nature of the profession or service. The sale of goods on the premises is permitted only when incidental to the provision of the service.~~

~~5.14.3.G. Banks.~~

~~5.14.3.H. Retail stores. Warehousing or manufacturing on the premises are not permitted, except as are clearly incidental to such business or service.~~

~~5.14.3.I. Health and beauty spas.~~

~~5.14.3.J. Restaurants.~~

5.~~14~~17.4. Design review.

5.~~14~~17.4.A. The intent of design review is to preserve existing buildings whenever possible. Proposed construction must be approved prior to any demolition or significant alteration of existing buildings.

5.~~14~~17.4.B. The applicant shall provide detailed architectural elevations of proposed finished structures including specification of the type of material to be used in all significant exterior components.

5.~~14~~17.4.C. In addition to a review of proposed signs, off-street parking, and screening, the ~~zoning board of appeals~~ planning board shall evaluate each ~~request for a special exception permit~~ proposed use in terms of the following elements of design. Building materials, type and style of windows, doors, light fixtures, walks, fences, porches and driveways must be visually compatible with the character of existing development in the district. Additionally, the board must determine that the scale, height, roof shape, window and door placement, and building setbacks of the new or altered building are visually compatible with the zone. The board also must assess the relationship of width to height for the front facade and for the windows and doors.

5.~~14~~17.5. Signs.

Signs advertising the name of a business may be twenty-four (24) by thirty-six (36) inches in size. No product brand names may be advertised.

5.~~14~~17.6. Off-street parking requirements.

Off-street parking shall be provided as required in Section 4.3.~~25~~21. Any need for parking shall be met in the side or rear yard to protect the residential character of the neighborhood. Parking lots shall be set back five (5) feet from all property lines and driveways shall be set back five (5) feet from side property lines. The ~~zoning board of appeals~~ planning board or code enforcement officer may deny a ~~special exception permit~~ proposed use if the required parking area would be so large as to render the land use incompatible with the general character of the neighborhood.

5.~~14~~17.7. Screening requirements.

5.~~14~~17.7.A. A six-foot high wall or fence, or a compact evergreen hedge screen planted so as to attain a height not less than six (6) feet within five years, shall be installed or planted and maintained to screen commercial uses from adjacent residential districts or uses. The planning board ~~of zoning appeals~~ may, if requested by the applicant, approve an alternate screening plan which makes use of other methods to meet the intent of this screening requirement.

5.~~14~~17.7.B. A landscaped strip at least ~~fifteen (15)~~ ten (10) feet in width shall be provided along the street line, planted with appropriate street trees and flowering shrubs.

5.~~14~~17.7.C. Dumpsters shall be screened.

5.~~14~~17.8. *Transitional District Dimensional requirements.***

Lot area, minimum	15,000 sq.ft.
Lot area, minimum per family	2,500 sq.ft.
of lot area for one (1) bedroom (or efficiency apartment) plus 500 square feet for each additional bedroom.	
Lot frontage, minimum	100 ft.
Lot depth, minimum	100 ft.
Front yard, minimum	10 ft.
Side yard, principal building, minimum	10 ft.
Side yard, accessory building,* minimum	10 ft.
Rear yard, principal building, minimum	20 ft.
Rear yard, accessory building,* minimum	10 ft.

*Detached garages shall have five (5) foot setbacks.

**When International Building Code and NFPA .101 require the addition of a second means of egress to an existing building, stated setbacks do not apply.

Development located within the shoreland zone must meet the requirements for minimum lot size, maximum lot coverage, minimum shore frontage, and minimum setback from high-water line contained in Section 4.3.25.J.(1).

~~ARTICLE 8 CONTRACT ZONING~~

5.18 *Contract zoning.*

~~8~~5.18.1. Authority.

In accordance with 30-A MRSA section 4352(8), as amended from time to time, property in the City of Waterville may be rezoned by means of a process known as contract zoning.

~~8~~5.18.2. Purpose.

It is the general purpose of this section~~, in furtherance of goals and objectives provided in section 1.3 of this ordinance,~~ to provide for the reasonable regulation of ~~residential, commercial, industrial, and civic institutional~~ uses of land and structures~~, and to provide for the orderly development thereof within the City of Waterville on occasion,~~ where competing and incompatible uses conflict. ~~, traditional zoning methods and procedures, such as variances, site plan approval, and special exception approval, are inadequate.~~ In these special situations, in which traditional zoning regulations are inadequate, more flexible and adaptable zoning methods are needed to permit differing land uses ~~in both developed and undeveloped areas,~~ and at the same time recognize the effects of change.

In considering ~~ation of~~ a change in zoning ~~classification~~ for a particular property or group of properties, it may be determined that public necessity, convenience, or the general welfare require that provision be made to impose certain limitations or restrictions on the use or development of the property. Such conditions are deemed necessary to protect the best interests of the property owner, the surrounding property owners and the

neighborhood, all other property owners and citizens of the city, and to secure appropriate development consistent with the city's comprehensive plan. The provisions of this section shall not exempt the use or development of any property from other minimum standards or requirements otherwise provided in this ordinance, or as otherwise provided by law.

~~8~~5.18.3. Definition.

Contract zoning is the process by which the property owner, in consideration of the rezoning of his property agrees to the imposition of certain conditions or restrictions not imposed on other similarly zoned properties.

~~8~~5.18.4. Mandatory conditions.
Any amendment to the boundaries of a zoning district adopted pursuant to this section shall:

~~8~~5.18.4.1. Be consistent with the comprehensive plan of the City of Waterville, as amended;

~~8~~5.18.4.2. Be consistent with the existing and permitted uses within the rezoned district;

~~8~~5.18.4.3. The request for contract zoning consideration must be initiated by the property owner;

~~8~~5.18.4.4. Only include conditions and restrictions which relate to the physical development or operation of the property;

~~8~~5.18.4.5. Be subject to an agreement executed by authorized representatives of both the property owner and the city providing for the implementation and enforcement of all terms and conditions imposed and agreed to by the parties pursuant to this section.

~~8~~5.18.5. Discretionary conditions.

Any zone change adopted pursuant to this section may include reasonable conditions or restrictions such as, but not so limited to, the following:

~~8~~5.18.5.1. Limitations on the number and type of authorized uses of the property;

~~8~~5.18.5.2. Limitations on the height, exterior appearance and lot coverage of any structure or structures built on the property;

~~8~~5.18.5.3. Increased setbacks and side yards for any structure or structures built on the property;

~~8~~5.18.5.4. The installation, operation and maintenance of physical improvements for the convenience of the general public, including but not limited to, off-street parking lots, traffic control devices, fencing, shrubbery and screening;

~~8~~5.18.5.5. The creation, operation and maintenance of open space areas or buffer zones;

~~8~~5.18.5.6. The dedication or conveyance of property for public purpose, including but not limited to, streets, scenic and conservation easements, parks and utility systems.

~~8~~5.18.6. Procedure.

All proposed amendments to this ordinance being considered under this section shall be processed in accordance with Article 7 of this ordinance and 30-A MRSA section 4503. If at all possible, the processing of the application under both procedures shall be accomplished concurrently.

USE EXCEPTIONS

5.~~15~~19. General use exceptions.
The following permanent principal uses of land, buildings, or structures may be permitted as general use exceptions in any zone~~ and location~~, except the Resource Protection District or any other zone in which they are expressly prohibited~~, in which such uses are not otherwise specifically permitted by the terms of this ordinance~~. Such uses shall be demonstrated to be clearly in the public interest, essential or desirable for the support and furtherance of public health, safety, welfare and convenience, and found to be in harmony with the comprehensive plan for municipal development. The permission, specific location, and conditions of use in each case shall be approved by the planning board ~~of zoning~~

~~appeals after public hearing~~ in accordance with the provisions of the Site Plan Review Ordinance.

~~5.15.1. Air facility or aircraft landing fields.~~

~~5.15.2. Cemetery.~~

~~5.15.3. Golf course.~~

5.~~15~~19.~~4~~1. Governmental service facility, including fire stations, sewage disposal and treatment facilities, and water supply facilities.

5.~~15~~19.~~5~~2. Public service facility including public park, recreation area, or community center; public utility, including water supply areas, radio, television and telephone service, electric power service, and other public service uses providing the lot is suitably screened and landscaped and the use is not expressly prohibited in the zone.

~~5.15.6. Hospital, sanitarium, clinic, nursing home, or other medical institution or use.~~

5.~~15~~19.~~7~~3. Civil defense facilities and installations.

~~5.15.8. Religious uses.~~

~~6.12~~5.20. ***Special exceptions*.**
A building, structure, or parcel of land may be employed for a special exception use if the use is specifically listed in the regulations governing the zoning district in which the use is proposed, and if a special exception permit is approved by the ~~board of zoning appeals~~ code enforcement officer.

~~6.12~~5.20.1. Application for special exception permit. Application for a special exception permit shall be made to the code enforcement officer ~~on forms provided for that purpose, accompanied by any fees as may be established by the city for those applications~~. The applicant shall:

~~6.12~~5.20.1.A. Clearly specify the location of the proposed use, including street address, assessor's tax map and lot number, and a location map.

~~6.12~~5.20.1.B. Describe the exact nature of the proposed use.

~~6.12~~5.20.1.C. Submit any other materials that will enable the ~~board of zoning appeals~~ code enforcement officer to determine that the standards for approval of a special exception permit have been met. The burden for providing the information upon which the ~~board~~ code enforcement officer bases ~~its~~ his finding shall be the applicant's.

5.20.1.D. Notice requirement.

5.20.1.D.(1) At least fourteen (14) days prior to issuing a special exception permit, the code enforcement officer shall notify abutting property owners by first class mail of the nature of the application, the name of the applicant, and the address of the property involved.

5.20.1.D.(2) The purpose of this mailing is to allow abutters a fourteen-day comment period.

5.20.1.D.(3) For the purposes of this notification, the definition of abutter in Section 3.2 applies.

5.20.1.D.(4) The code enforcement officer shall maintain a list of names and addresses of those persons to whom he mailed notices.

5.20.1.D.(5) Failure of any property owner to receive a notice shall not invalidate the action of the code enforcement officer.

~~6.12~~5.20.2. Standards for a special exception permit. ~~The board of zoning appeals shall approve, deny, or approve with conditions, all applications for a special exception permit. The applicant shall have the burden of proving that his/her application is in compliance with the requirements of this ordinance. After submission of a complete application, the board~~ The code enforcement officer shall approve an application or approve it with conditions if ~~it~~ he makes a positive finding~~, where and when applicable, and based on the information presented~~ that the proposed special exception use:

~~6.12~~5.20.2.A. Will meet the definition set forth in this ordinance for the specific special exception, and will be in compliance with all applicable state or federal laws;

~~6.12~~5.20.2.B. Will be compatible with the general character of the neighborhood with regard to design, scale, and bulk of proposed structures;

~~6.12~~5.20.2.C. Will not have a significant detrimental effect on the use and peaceful enjoyment of abutting property as a result of noise, vibrations, fumes, odor, dust, light, or glare, as those terms are defined in the performance standards contained herein;

~~6.12~~5.20.2.D. Will not create fire safety hazards by providing adequate access to the site, or to the buildings on the site, for emergency vehicles;

~~6.12~~5.20.2.E. Will not create a safety hazard to motorists traveling on adjacent public streets by reason of proposed exterior lighting or vehicular traffic created by the special exception use~~; not create hazards to motorists traveling on adjacent public streets by reason of proposed exterior lighting~~;

~~6.12~~5.20.2.F. Will meet the requirements for buffers, screening, and landscaping by zoning district as specifically required in this ordinance, and further, that in the exercise of ~~their~~ his authority to ~~provide~~ require landscaping and planting screens as one of the conditions of approval~~set forth as a requisite for granting a special exception permit~~, that such screening will provide demonstrably adequate protection for the adjacent properties;

~~6.12~~5.20.2.G. Will have, if applicable and as required by State law or City ordinances, adequate provision:

~~6.12~~5.20.2.G(1) ~~Adequate provision for~~ For disposal of wastewater or solid waste, or for the prevention of ground or surface water contamination~~ as required by State law or other City ordinances~~;

~~6.12~~5.20.2.G(2) ~~Adequate provision to~~ To control erosion or sedimentation~~ as defined by State law or other City ordinances~~;

~~6.12~~5.20.2.G(3) ~~Adequate provision to~~ To handle stormwater and snow removal runoff or other drainage problems on the site~~ as defined by State law or other City ordinances~~;

~~6.12~~5.20.2.G(4) ~~That the proposed water supply will~~ Of water for fire protection purposes and to meet the demand of the proposed use~~ as well as reasonably for fire protection purposes~~;

~~6.12~~5.20.2.G(5) ~~Adequate provision has been made for~~ For the transportation, storage, and disposal of hazardous substances and materials~~ as required by State law~~.

~~6.12~~5.20.2.H. Will, when applicable, conform to all performance standards as contained in Article 4 of this ordinance, both general and specific.

~~6.12~~5.20.3. Conditions of approval. Upon consideration of the factors listed above, the ~~board of zoning appeals~~code enforcement officer may attach such conditions, in addition to those required elsewhere in this ordinance, that ~~it~~ he finds necessary to further the purposes of this ordinance. Violation of any of these conditions shall be a violation of this ordinance. The ~~board~~ code enforcement officer may require posting of a performance guarantee to assure performance of the conditions.

~~6.12~~5.20.4. Any special exception permit shall be considered valid and shall exist for so long as that particular property owner continues to operate the specific special exception use and remains in compliance with all of the provisions of this zoning ordinance. Cessation of the special exception use by that particular property owner for any reason or the sale of the property by the owner to whom the permit was issued will cause the permit to expire.

ARTICLE 6. ADMINISTRATION

~~**6.1. General; enforcement; amnesty.**~~

~~6.1.1. The provisions of this ordinance shall be administered by the board of zoning appeals and enforced by the office of the director of inspections.~~

~~6.1.2. The enforcement officer shall show no exceptions to the provisions of this ordinance except as authorized by the board of zoning appeals.~~

~~6.1.3. Enforcement officer: Those individuals appointed by the municipal officers, who are assigned the responsibility to enforce the ordinances of the City of Waterville, and bear the title of code enforcement officer.~~

6.1. Administration and enforcement.
The provisions of this ordinance shall be administered by the planning board, the zoning board of appeals, and the code enforcement officer.

6.1.1. Violations and legal action.
6.1.1.A. It ~~shall be~~ is the duty of the code enforcement officer to enforce the provisions of this ordinance. If the code enforcement officer ~~shall~~ finds that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, building, or structures, removal of illegal buildings or structures, or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

6.1.1.B. The code enforcement officer may employ an independent, recognized consultant, if necessary, at the expense of the person responsible for the alleged violation, to assure compliance with performance standards of this ordinance and abatement of nuisances. He shall have the power to enter any property at reasonable hours and to enter any building with the consent of the property owner, occupant, or agent, to inspect the property or structure for compliance with the laws or ordinances set forth in 30-A MRSA section 4452(5) as amended from time to time.

~~6.1.5. There shall be a declared amnesty period from enforcement and prosecution of violations of this zoning ordinance arising from failure to have special exception permits for home occupations in residential districts B, C, D, and R (R-B, R-C, R-D and R-R) and for professional offices where permitted in residential district D (R-D).~~

~~6.1.5.A. The amnesty period referred to in section 6.1.5. shall begin on the day this amendment becomes effective~~

~~[December 19, 1992] and will end six (6) months after the effective date.~~

~~6.1.5.B. Any owner of a residential property that is being used for a home occupation as that phrase is defined in section 4.3.17. of article 4 of this zoning ordinance, and any owner of a professional office located in residential district D (R-D) who has not obtained a special exception permit prior to the start of this amnesty period must take application to the code enforcement office during the amnesty period in accordance with section 6.12. of article 6.~~

~~6.1.5.C. Any owner of a property used for a home occupation or as a professional office who is found to be in violation of this ordinance by failure to have obtained a special exception permit by the end of the amnesty period, will be prosecuted in accordance with section 6.2. of article 6. (Ord. No. 16-1992, 12-1-92)~~

6.~~2~~1.1.C. Legal action and fines~~violation~~.

6.~~2~~1.1.C(1) When any violation of any provision of this ordinance ~~shall be~~ is found to exist, including failure to comply with any subdivision or site plan approved by the planning board, or condition imposed by the planning board, ~~board of~~ zoning board of appeals, or the city council, the code enforcement officer shall notify the city solicitor and the city council. The City of Waterville acting through the city council may institute proceedings to enjoin the violation or to order compliance with conditions of these ordinances.

6.1.1.C(2) Any firm, person, or corporation being the owner of or having control or use of any building or premises who violates any of the provisions of this ordinance or who fails to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances, special exceptions or contract zoning) commits a civil violation and is subject to fines. After notification of a violation, ~~E~~each day that the ~~such a~~ violation ~~is permitted to~~ exists ~~after notification thereof, shall~~ constitutes a separate offense, to a maximum of twenty-five thousand dollars ($25,000.00).

6.1.1.C(3) The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder,

contractor or agent, or other person who commits, participates in, or maintains such a violation may each be found guilty of a separate offense and suffer the penalties herein provided.

6.1.1.C(4) The minimum penalty for starting construction or undertaking a land use activity without a required permit ~~shall be~~ is one hundred dollars ($100.00), and the maximum per day penalty ~~shall be~~ is ~~two thousand five~~ twenty-five hundred dollars ($2,500.00). ~~The minimum penalty for a specific violation shall be one hundred dollars ($100.00) and the maximum per day penalty shall be two thousand five hundred hundred dollars ($2,500.00).~~ However, in a resource protection district within the shoreland zone, the maximum penalty is increased to $5,000. Additionally, if the municipality is the prevailing party, it shall be awarded reasonable attorney fees, expert witness fees, and costs, unless the court finds that special circumstances make the award of these fees and costs unjust.

~~**6.3. Building permit required.**~~

~~6.3.1 No building or structure shall be erected, added to, demolished, moved, or structurally altered as defined in the BOCA code adopted by the City of Waterville without a permit from the enforcement officer. No building permit shall be issued except in conformity with the provisions of this ordinance and all other applicable ordinances and laws, federal, state, and local, as well as any condition or safeguards imposed pursuant to said ordinances. Only after a written order from the board of zoning appeals shall a building permit be issued which is not in conformity with the provisions of this ordinance.~~

~~**6.4. Application for building permit; plans required.**~~

~~6.4.1. Site plan required. All applications for building permits shall be accompanied by a site plan and two (2) copies. If an applicant for a building permit is subject to section 6.16. of this ordinance, a site plan review permit must be first filed in accordance with sections 7.4.1. and 9.3.1. of Appendix C (Subdivision/Site Plan Review) of the Revised Code of Ordinances before issuance of a building permit by the code enforcement office. If an applicant for a building permit is exempt from the provisions of the site plan review by reason of section 6.16.2. of this ordinance, the applicant shall supply one (1) copy of a site plan~~

~~drawn to a scale of not less than one inch to forty (40) feet. The building plans shall show at a minimum the first floor plan and all elevations, with indication of the proposed construction material. The site plan shall include the following information when applicable:~~

~~6.4.1.A. The actual shape, size, and location of the lot to be built upon and the names and addresses of the land owner of record and site plan applicant, together with evidence of sufficient right, title, or interest in the premises to permit the applicant to undertake the use for which the site plan review approval has been requested.~~

~~6.4.1.B. The exact size, shape, height, and location of any buildings to be erected, altered, moved to or removed from the lot.~~

~~6.4.1.C. The exact size and location of buildings, structures, easements, driveways, entrances, exits and yards on the site and within one hundred (100) feet thereof.~~

~~6.4.1.D. The location, size, and site design, construction, and traffic service arrangement of existing and proposed off-street parking and loading areas.~~

~~6.4.1.E. Abutting rights-of-way.~~

~~6.4.1.F. Proposed screening as required by this ordinance, including landscaping and buffering plans showing what will remain and what will be planted, indicating botanical and common names of plants and trees, dimensions, approximate time of planting and maintenance plans.~~

~~6.4.1.G. Lighting details indicating type of fixtures, location, radius and intensity of light.~~

~~6.4.1.H. The proposed location, size, design, lighting, and display characteristics of all signs.~~

~~6.4.1.I. Proposed use of all floor area.~~

~~6.4.1.J. Location and design of existing and proposed stormwater systems, sanitary waste disposal systems, and potable water supply, and methods of solid waste storage and disposal.~~

~~6.4.2. Location and design of existing and proposed water supply system.~~

~~6.4.3. The application shall include any other information as lawfully may be required by the enforcement officer or board of zoning appeals to determine whether the provisions of this ordinance are being observed.~~

~~6.4.4. Every application shall be signed by the owner or lessee or agent of the land.~~

~~6.4.5. If the application conforms to the provisions of this ordinance, the building code, the site plan review and subdivision ordinance and other ordinances of the municipality, the enforcement officer shall issue a permit upon payment of the required fee. If the enforcement officer refuses to issue a permit, he shall state to the applicant in writing the cause of such refusal. The issuance or refusal of a permit shall be made within thirty (30) days of the submission of the application with all necessary information to the enforcement officer.~~

~~6.4.6. Should the enforcement officer refuse to issue a permit, an appeal may be taken to the board of zoning appeals.~~

~~6.4.7. If no substantial progress of construction has been made within six (6) months of the permit date, the permit shall become invalid.~~

~~6.4.8. Fees. No permit as required by said code shall be issued until the fee prescribed in Chapter 7, Buildings, of the Revised Code of Ordinances has been paid.~~

~~6.4.9. Reserved.~~

~~(Ord. No. 8-1994, 7-5-94; Ord. No. 2-2000, 3-8-2000)~~

~~**6.5. Certificate of occupancy.**~~

~~6.5.1. It shall be unlawful to use or occupy or permit the use or occupancy of any land, building, premises, structure, manufactured housing unit or older mobile home or part thereof hereafter created, erected, enlarged, changed, converted, moved or wholly or partly altered or enlarged in its use or structure until a certificate of occupancy has been issued by the enforcement officer and~~

~~endorsed to the effect that the proposed use of the land, building or structure conforms with the requirements of this ordinance.~~

~~6.5.2. Certificate of occupancy required for change of use of existing building or land. In the event any person desires to change the use classification but not the structure of any building or structure already erected or the use of land, he shall apply in writing to the enforcement officer for a certificate of occupancy, setting forth in that application the new use to which it is desired to put that building or land. If the new use is subject to site plan review, the applicant shall follow the procedures and requirements of the site plan review and subdivision ordinance. If the enforcement officer finds, after proper inspection, that the new use complies with the provisions of this ordinance and is not subject to site plan review, he shall issue the certificate of occupancy for that use, but not otherwise. In those cases where the provisions of this ordinance require approval or review by the board of zoning appeals, the enforcement officer shall not issue that certificate of occupancy until notified in writing by the board of zoning appeals to do so.~~

~~6.6. Temporary certificate of occupancy.~~

~~Proper endorsement by the enforcement officer upon the original building permit may constitute a temporary certificate of occupancy for a period of six (6) months during construction, alteration for partial occupancy of a building pending its completion, provided such endorsement may require conditions and safeguards necessary to protect the safety of the occupants and the public.~~

~~6.7. Official forms required for applications.~~

~~6.7.1. No application for a building permit or certificate of occupancy shall be accepted unless it is filed in writing on an official form prescribed by the board of zoning appeals and accompanied by required site plans and such other pertinent data as may be required by the enforcement officer.~~

~~6.7.2. Failure to obtain a certificate of occupancy shall be a violation of this ordinance.~~

~~6.8. Suspension and revocation of permits.~~

~~6.8.1. A permit may be suspended or revoked if:~~

~~6.8.1.A. The permit was issued on incomplete or false information, and/or continuation of the work authorized would result in a violation of federal or state statutes or local ordinances.~~

~~6.8.1.B. A violation has been created during the completion of work initially authorized by the permit.~~

~~6.8.1.C. A continuation of the work authorized is endangering or may endanger the safety or general welfare of the community during the construction or work for which the permit was issued.~~

~~6.8.1.D. The applicant or his agent is exceeding the scope of the work for which the permit was issued.~~

~~6.8.1.E. The enforcement officer determines that he is unable to rule on the continued validity of the permit in which case he shall suspend the permit, without penalty and require the holder to file an appeal.~~

~~6.8.2. A notice of suspension shall be in writing stating:~~

~~6.8.2.A. The reason for the suspension;~~

~~6.8.2.B. The corrective measures to be taken; and~~

~~6.8.2.C. The period of time given to the applicant to correct the violations.~~

~~6.8.3. The suspension of a permit shall apply only to that segment of the work authorized which is, or will create, a violation. That suspension shall cease when the enforcement officer certifies that the violation or potential violation ceases to exist. When a cause for suspension has been removed or corrected, the enforcement officer shall so certify, in writing, and state:~~

~~6.8.3.A. The reason for the suspension;~~

~~6.8.3.B. The corrective measures taken;~~

~~6.8.3.C. The period of time it took the applicant to correct the violation; and~~

~~6.8.3.D. A statement that all applicable penalties have been paid.~~

~~6.8.4. If, within the time specified for correction, the violation has cot been corrected or removed, the suspension may be continued or the enforcement officer may then revoke the permit.~~

~~6.8.5. When a permit is revoked, the enforcement officer shall prepare a statement stating the reasons for the revocation, and the corrective measures if any, that may be taken to correct the violation. That revocation shall include a time period given to correct the violation and shall remain in force until:~~

~~6.8.5.A. The enforcement officer determines that the applicant can and will pursue the work (for which the permit was issued) without extending or creating a violation;~~

~~6.8.5.B. The permit application has been corrected to complete information required and continuance of the work will not result in violation;~~

~~6.8.5.C. The violation has been removed or otherwise discontinued; or~~

~~6.8.5.D. A new permit has been issued.~~

~~6.8.6. During the period of revocation, no work shall continue on a project for which a permit was issued except in the interests of public safety and protection of the property in place at the time of the revocation, that work having the written approval of the enforcement officer.~~

~~6.9. Public records.~~

~~The enforcement officer shall maintain a public record of all such plans, permits, and certificates of occupancy and shall furnish copies of those permits and certificates to any person having a proprietary or tenancy interest in any building or premises affected.~~

6.~~10~~2. ~~Board of z~~Zoning board of appeals.

6.~~10~~2.1. Establisment; membership.

There shall be a ~~board of~~ zoning board of appeals of five (5) members and two (2) associate members. The members of the board shall be appointed for three-year terms by the municipal officers. Any person appointed to fill the unexpired term of a retiring member shall serve only for the remainder of the unexpired term, but shall be eligible for reappointment. The associate members shall similarly be appointed for a term of three (3) years and shall act on said board with full powers in place of any member who may be unable to act due to conflict of interest, absence ~~from the state~~, or physical incapacity. ~~Present members of the board may continue to serve until the expiration of their terms.~~ Any member may be appointed to succeed himself.

6.~~10~~2.2. Officers; minutes.
The ~~board of~~ zoning board of appeals shall biennially elect a chairman and a secretary from its own membership within two (2) weeks after the city inauguration. The chairman shall preside at all meetings. The secretary shall ~~provide for the~~ keep~~ing of~~ the minutes of the board which shall show the vote of each member upon each question. All minutes of the board shall be public record.

6.~~10~~2.3. Quorum.
A quorum will consist of four (4) members ~~from~~ and/or associate members of the ~~board of~~ zoning board of appeals. All members, including the chairman ~~or acting chairman~~, shall be entitled to vote. An application shall be decided by majority vote.

6.~~10~~2.~~6~~4. Compensation.
The chair shall be paid twenty-five dollars ($25.00) and all other ~~each~~ members and associate members shall be paid twenty dollars ($20.00) for each zoning board meeting ~~actually~~ attended~~, but in no case shall the chair receive more than seven hundred fifty dollars ($750.00) and each member and associate member more than six hundred dollars ($600.00) in one (1) calendar year~~.

6.~~10~~2.~~4~~5. Powers and duties.
The ~~board of~~ zoning board of appeals ~~shall have~~ has the following powers and duties.

6.~~10~~2.~~4~~5.A. Administrative appeal.
The zoning board of appeals has the power to hear and decide appeals where it is alleged that there is an error in any order, decision, requirement, interpretation, or

ruling made by the code enforcement officer in the administration or enforcement of this ordinance~~, or of any site plan including multifamily review decision made by the planning board pursuant to this ordinance~~. All appeals shall be made by any interested party within thirty (30) days of a decision rendered by the code enforcement officer ~~or planning board~~. The ~~board of~~ zoning board of appeals may affirm, modify, or reverse any ruling or decision of the code enforcement officer ~~or planning board~~ if the board ~~of zoning appeals~~ makes written findings of fact that such ruling or decision is contrary to the provisions of this ordinance. ~~The appeal of an adverse site plan or multi-family review by the planning board shall not be a hearing de novo, unless the written finding of facts are potentially deficient.~~ See Section 6.2.8 Zoning board of appeals procedure.

6.~~10~~2.5.B. **Referrals by code enforcement officer.**
The zoning board has the power to hear, counsel, and decide upon matters concerning the application of and conformity with the permitted uses and development requirements as set forth in this ordinance whenever such matters have been referred to it by the code enforcement officer, in which event, the board may secure the testimony and advice of expert witnesses and consultants selected by it to assist in its deliberations. The cost of the services of those expert witnesses and consultants shall be paid by the applicant.

6.~~13~~2.5.C. Miscellaneous appeals.
The ~~board of~~ zoning board of appeals ~~shall~~ also ~~have~~ has the power to grant appeals from the provisions of this ordinance, as follows:

6.~~13~~2.~~1~~5.C(1) To permit the change of a lawful nonconforming use to another nonconforming use as provided in Section 4.2 of this ordinance;

6.2.5.C(2) To permit a conforming use to expand into a zone where it would be nonconforming as provided in Section 4.2;

~~6.13.2. To permit a nonconforming building or use of a building or premises incidental and reasonably required for development of a neighborhood for a period not to exceed six (6) months subject to renewal for a further period of time to be determined by the board of zoning appeals but not to exceed an additional six (6) months;~~

~~6.13.3. To permit the location of off-street parking on lots other than with the principal building or use where it cannot be reasonably provided on the same lot but not farther than three hundred (300) feet;~~

~~6.13.4. To permit the home occupation within a dwelling unit within the zone requirements of the district in which such home occupation will be located;~~

~~6.13.5. To permit multiple-family use where permitted in any zoning district;~~

6.~~13~~2.~~6~~5.C(3) Where uncertainty exists, to determine the precise location of any zoning district boundary line as specified in Section 2.4.

~~6.13.7. To permit review of a decision of the planning board made in conducting a site plan review as required for the issuance of a special exception permit. The board of zoning appeals will not hear this matter de novo, but will determine whether there are written findings of fact sufficient to sustain the planning board's decision.~~

6.~~11~~2.5.D. Variances.

6.~~11~~2.~~1~~5.D(1) Variances may be granted by the board only where strict application of this ordinance, or a provision thereof, would cause undue hardship to the petitioner and his property.

6.~~11~~2.~~2~~5.D(2) The words "undue hardship" as used in this subsection mean:

6.~~11~~2.~~2~~5.~~A~~D(2)(a) That the land in question cannot yield a reasonable return unless a variance is granted;

6.~~11~~2.~~2~~5.~~B~~D(2)(b) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

6.~~11~~2.~~2~~5.~~C~~D(2)(c) That the granting of a variance will not alter the essential character of the locality;

6.~~11~~2.~~2~~5.D(2)(d) That the hardship is not the result of action taken by the applicant and/or prior owner;

6.~~11~~2.~~2~~5.~~E~~D(2)(e) That the variance is the minimum variance that will make possible reasonable use of the land, building, or structure; and

6.~~11~~2.~~2~~5.~~F~~D(2)(f) That a variance may only be granted for a use permitted in a particular zone.

6.~~11~~2.5.D(3) Applications for variances within the shoreland zone must be submitted to Maine DEP 20 days before action is taken by the zoning board of appeals.

Each petitioner for a variance shall submit to the board statements in writing, which may be accompanied by diagrams or photographs, which shall become part of the record of that petition demonstrating the following:

6.~~11~~2.~~3~~5.~~A~~D(3)(a) The nature of the hardship to the property under appeal; and the physical circumstances that allegedly would occasion such undue hardship;

6.~~11~~2.~~3~~5.~~B~~D(3)(b) That those physical circumstances are peculiar to the property under appeal and are not substantially duplicated on other property adjoining or nearby in the same neighborhood or the same zoning district;

6.~~11~~2.~~3~~5.~~C~~D(3)(c) The relief sought would not adversely affect property adjoining or nearby in the same neighborhood or the same zoning district and would not endanger the public health, safety, or convenience and would not impair the integrity of this ordinance or of the City of Waterville Comprehensive Plan.

6.~~11~~2.~~4~~5.D(3)(d) Where contiguous lots in common ownership can be joined so as to eliminate substandard lots, undue hardship shall not exist and no variance shall be granted. (See section 4.2.~~8~~11.)

6.~~11~~2.5.D(3)(e) When a landowner purchases land with actual or constructive knowledge of zoning restrictions and/or deed restrictions, he may not be granted a variance on the grounds of undue hardship.

6.~~11~~2.~~6~~5.D(3)(f) The ~~board of~~ zoning board of appeals shall make written findings of fact that the applicant has satisfied each element constituting undue hardship as defined above.

6.~~11~~2.~~7~~5.D(4) In addition, when the proposed use is to be located in shoreland areas or the resource protection district, the ~~board of~~ zoning board of appeals shall make a positive finding that the proposed use will comply with the standards established in Section 4.3.~~39~~25. Variances in shoreland areas are authorized only for ~~a~~ lot area ~~or~~ , lot coverage by structures, and setbacks. A variance shall not be granted to permit a use or structure otherwise prohibited. The code enforcement officer shall submit a copy of all variances granted in shoreland areas to the ~~state planning office~~ Department of Environmental Protection within 7 days of the board's decision.

6.~~11~~2.~~8~~5.D(5) The ~~board of~~ zoning board of appeals may attach such condition(s) in addition to those required by other provisions of this ordinance, as it finds necessary to ensure compliance with all standards and all other applicable requirements of this ordinance. Violation of any of those conditions ~~shall be~~ is a violation of this ordinance. Such conditions may include, but are not limited to, specifications of the following: type of vegetation, increase setbacks and yards, specified sewage disposal and water supply facilities, landscaping, fencing, planting screen, hours of operation, operation controls, professional inspection and maintenance, sureties, deed restrictions, restrictive covenants, location of piers and docks, vehicular access, circulation, parking, signs, lighting, and types of construction.

6.~~11~~2.~~9~~5.~~A~~D(6) Notwithstanding the provisions contained in Section 6.~~11~~2 and all of the subsections there under, the ~~board of~~ zoning board of appeals may grant a variance to ~~a property~~ the owner of a dwelling for the purpose of making that ~~property~~ dwelling accessible to a person with a disability. The board shall restrict any variance granted under this subsection solely to the installation of the equipment or the construction of structures necessary for access to or egress from the ~~property~~ dwelling.

6.~~11~~2.~~9~~5.~~B~~D(6)(a) Physical or mental handicap means any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions, or illness. Physical or mental handicap also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a

physician, or in the case of a mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation, or related services.

6.~~11~~2.~~10~~5.D(7) Any grant of a variance by the board under this subsection will require the board to issue a certificate as provided ~~for~~ in 30-A MRSA ~~s~~Section 4353(5), as amended from time to time. Failure by the applicant to record the certificate in the Kennebec Registry of Deeds within ninety (90) days of ~~variance~~ approval, renders the variance invalid.

6.~~15~~2. ~~1~~5.D.(8) Petitions for reconsideration.
6.~~15~~2. ~~1~~5.~~A~~D(8)(a) The ~~board of~~ zoning board of appeals shall reconsider the granting of any variance application upon petition by the planning board. That petition shall only be authorized when the planning board has made an advisory recommendation to the ~~board of~~ zoning board of appeals in accordance with section 6.~~15~~2.~~6~~8.F of this ordinance. Any such petition shall state that it is being filed at the direction of the majority of the planning board as shown by affirmative vote of the board taken at a public meeting at which a quorum of the board was present. The petition shall state the grounds for the planning board's belief that granting of the variance requested in the application is not consistent with the zoning ordinance or the comprehensive plan.

6.~~15~~2. ~~1~~5.~~B~~D(8)(b) Any such petition for reconsideration must be filed with the chairman of the ~~board of~~ zoning board of appeals within ten (10) working days of the planning board's receipt of the notice of the ~~board of~~ zoning board of appeals' action on the variance application.

6.~~15~~2. ~~1~~5.~~C~~D(8)(c) Upon receipt of that petition, the chairman of the ~~board of~~ zoning board of appeals shall, within five (5) working days, notify the applicant and abutting landowners who were notified of the original application. Within ten (10) working days of such notice, the ~~board of~~ zoning board of appeals shall conduct a public hearing to reconsider the variance application.

6.~~15~~2. ~~1~~5.D(8)(d) The ~~board of~~ zoning board of appeals may reconsider any decision denying an application within thirty (30) days of the board's initial decision. The

decision to reconsider a denial of an application may be made on the board's own initiative or a request by the applicant. Failure to take action to reconsider within thirty (30) days renders the initial board decision final and a new application is subject to the one-year bar of Section ~~1~~6.~~15~~2.~~14~~8.N Within five (5) working days of the decision to reconsider, the chair of the ~~board of~~ zoning board of appeals shall notify the applicant and abutting landowners notified at the time of the original application of the decision to reconsider. This notification of reconsideration shall apprise the individuals of a public hearing that will be held at the next regularly scheduled ~~board of~~ zoning board of appeals meeting. The ~~board of~~ zoning board of appeals may conduct additional hearings and receive additional evidence and testimony for any reconsideration.

6.~~15~~2.~~1~~6. Appeal of zoning board decision. Any person or persons or any taxpayer, board, department or bureau of the city aggrieved by any decision of the ~~board of~~ zoning board of appeals on an original application, or its decision on a petition for reconsideration ~~in accordance with subsections 15.A and D above~~ must file an appeal in accordance with Rule 80B of the Maine Rules of Civil Procedure within forty-five (45) days of the decision~~ or the initial decision resulting from Subsections 15.A and D~~.

6.~~14~~2.7 Limitation of powers.
The ~~board of~~ zoning board of appeals shall *not* have the power:

6.~~14~~2.~~1~~7.A. To permit any heavy industrial use in a commercial district, unless specifically provided for in this ordinance;

6.~~14~~2.~~2~~7.B. To permit any commercial use in a residential district, unless specifically provided for in this ordinance;

6.~~14~~2.~~3~~7.C. To permit any residential use in an industrial district, except as provided in Sections 5.11 and 5.12;

6.~~14~~2.~~4~~7.D. To allow the placement of single-wide mobile homes in other than the Rural Residential (R-R) zone, unless it is in a mobile home park, pursuant to Section 5.5.

6.~~14~~2.~~5~~7.E. To permit residential, commercial, and industrial structures in the resource protection district.

6.~~15~~2.8. ~~Board of~~ Zoning board of appeals procedure.

6.~~15~~2.~~1~~8.A. Any person seeking a decision from the zoning board of appeals may file ~~aggrieved by a decision of the enforcement officer, other public official, or decision of the planning board made in conducting a site plan review as required for the issuance of a special exception permit may appeal that decision by filing~~ an application ~~on forms provided for that purpose~~ with the code enforcement officer ~~within thirty (30) days after the decision is rendered~~. ~~Such application forms shall also be used by any person requesting a variance and by any person requesting approval of a special exception use subject to board of zoning appeals' review. The application form shall be completed in full, shall include the names and addresses of the owners of all property within three hundred (300) feet of the property in question, shall be signed by the applicant, and shall set forth the grounds for the application or appeal.~~

6.~~15~~2.~~2~~8.B. At the time of filing of the application, a fee of twenty-five dollars ($25.00) shall be paid by the applicant in addition to the cost~~s~~ of advertising. The code enforcement officer shall issue the applicant a dated receipt.

6.~~15~~2.~~3~~8.C. The code enforcement officer shall immediately ~~give the application to the board of zoning appeals which shall~~ schedule a public hearing to be held within forty-five (45) days of the ~~receipt~~ filing of the application ~~by the enforcement office~~.

6.~~15~~2.~~4~~8.D. Notice of the day, time, and place of the hearing shall be given to the applicant and shall be published at least two (2) times in a daily newspaper ~~published or printed~~ in general circulation in Waterville, the first publication to be not less than fourteen (14) days before the date of the hearing. The notice shall identify the property involved, the name of the applicant, and the nature of the application.

6.~~15~~2.~~5~~8.E. The code enforcement officer shall send a copy of the notice by first class mail to the owners of all property within three hundred (300) feet of the property in question at least fourteen (14) days in advance of the

hearing~~, indicating the day, time, and place of the hearing, the property involved, the name of the applicant, and the nature of the application~~. The owners of the property ~~shall be~~ are considered to be the parties listed by the assessor of taxes for the City of Waterville as those against whom taxes are assessed. The ~~board of~~ zoning board of appeals shall maintain as part of the record for each case a complete~~d~~ list of all property owners so notified. Notice shall be sent to the last known address of the property owners. Failure of any property owner to receive a notice shall not necessitate another hearing or invalidate the action of the ~~board of~~ zoning board of appeals.

6.~~15~~2.~~6~~8.F. Following the filing of an ~~appeal~~application, the ~~board of zoning appeals~~ code enforcement officer shall, forthwith, notify ~~the enforcement officer and~~ the planning board. The planning board, if it deems advisable, may submit a report or advisory opinion prior to the date of the hearing.

6.~~15~~2.~~7~~8.G. At any hearing, a party shall appear in person, or by agent or attorney.

6.~~15~~2.8.H. The board shall not ask or obtain an expression of opinion by a show of hands or any other means from the group of persons attending the public hearing.

6.~~15~~2.~~9~~8.I. The ~~board of~~ zoning board of appeals shall keep a written record of all applications, noting the date the application is received, the date of the hearing, the person who presented the application at the hearing, any pertinent testimony presented at the hearing, and finding of facts and decision of the ~~board of~~ zoning board of appeals. All records of the ~~board of~~ zoning board of appeals shall be maintained at the municipal offices in a permanent file which shall be available to the public.

6.~~15~~2.~~10~~8.J. The code enforcement officer or his designated assistant shall attend all hearings and shall present to the ~~board of~~ zoning board of appeals all plans, photographs, or other material appropriate for an understanding of the appeal~~ and which will assist the board in making a decision~~.

6.~~15~~2.~~11~~8.K. The applicant's case shall be heard first. If the applicant is not present at the hearing, any person

acting as the applicant's representative must demonstrate that he has written authority to appear on the applicant's behalf. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked only through the chair. All persons at the hearing shall abide by the order of the chairman.

6.~~15~~2.~~12~~8.L. After the public hearing, the ~~board of~~ zoning board of appeals shall make findings of fact, based on the record of the hearing, and issue a decision on the application. The applicant shall be notified in writing of the finding and decision of the board ~~of zoning appeals~~ within seven (7) days of the board's decision, with copies sent to the code enforcement officer~~, the planning board,~~ and the municipal officers. When a variance has been granted within a shoreland zone, the ~~state planning office~~ Department of Environmental Protection shall also receive a copy of the findings and decision within 7 days of the decision.

6.~~15~~2.~~13~~8.M. If the ~~board of~~ zoning board of appeals grants an appeal~~, special exception use,~~ or variance, the applicant's legal rights, determined thereby, shall expire if any construction or alteration involved is ~~either~~ not commenced within six (6) months or not substantially completed within one year of the date on which the appeal~~, special exception use,~~ or variance was granted.

6.~~15~~2.~~14~~8.N. After a decision has been made by the ~~board of~~ zoning board of appeals, a new application on essentially the same subject shall not be heard within one year from the date of the denial by the board of the first appeal except as provided for in Section 6.~~15~~2.~~1~~5.D(8)(d) or except with the approval of all the members of the planning board and unless that board finds in its sole and exclusive judgment that injustice was done at the first hearing, due to a mistake of law or misunderstanding of fact, or on the grounds that there have been enough essential factual changes to warrant hearing it again.

6.3. Planning Board.

6.3.1. Establishment, membership, officers.
A city planning board is hereby established consisting of seven (7) members, residents of the city, all of whom shall be appointed by the municipal officers for a term of five (5) years.

Where there is a permanent vacancy, the municipal officers shall appoint a person to serve for the remainder of the unexpired term. The board may, however, act without a full board, provided that five members are present.

The board shall biennially elect a chair and secretary from its own members within two (2) weeks after the city inauguration.

6.3.2. Compensation.
The chair shall be paid twenty-five dollars ($25.00) and all other members shall be paid twenty dollars ($20.00) for each planning board meeting actually attended.

6.3.3. Planning board duties.

6.3.2.A. The board shall prepare a comprehensive plan for the development of the City with public input and in accordance with Chapter 187 subchapter II, Title 30-A M.R.S.A. § 4311 et seq., as amended from time to time, for adoption by the City Council.

6.3.2.B. The board shall administer the Subdivision/Site Review Ordinance, review general use exceptions, and issue shoreland zoning permits in accordance with Section 4.3.25 Shoreland Zoning.

6.3.2.C. The board shall hold public hearings and make recommendations to the City Council on requests for rezoning and vacations of paper streets.

6.~~16~~4. Site plan review~~; purpose~~.

6.~~16~~4.1. Purpose. The purpose ~~and objectives~~ of site plan review requirements ~~are~~ is to conserve the city's natural beauty and visual character by ensuring that structures, signs, and other improvements are properly related to their sites and to surrounding sites and structures, especially in regard to the natural terrain and landscaping. ~~, and that the appearance and function of structures, signs, and other improvements harmoniously relate to and protect the environment and~~ In addition to harmoniously relating to the environment, it is intended that proposed improvements promote the development of an economically sound and stable community.

6.~~16~~4.2. Applicability. The following activities do *not* require a site plan review permit under the provisions of this ordinance:

6.~~16~~4.2.A. All single-family detached dwelling units and accessory structures which are not in subdivisions and with less than two (2) units on a single lot.

6.~~16~~4.2.B. All ~~duplex~~ two-unit structures and accessory structures on single lots.

~~6.16.2.C. All commercial agricultural activities on commercial farms whose land area is five (5) acres or more, except animal husbandry uses conducted for more than four (4) months of any calendar year and conducted on lots of less than five (5) acres when animals are bred and or raised for sale or for consumption by other than persons domiciled on that lot or when the animals are used for any commercial purpose.~~

6.~~16~~4.2.~~D~~C. All forest management activities.

6.~~16~~4.3. A site plan review permit, in accordance with the provisions of this ordinance and the ~~s~~Site ~~p~~Plan ~~r~~Review and ~~s~~Subdivision ~~o~~Ordinance, shall be required for the following activities unless otherwise exempted:

6.~~16~~4.3.A. ~~All uses which meet or exceed the following limits, or a~~Any combination of ~~uses~~ building footprint and impervious area which exceeds five thousand (5,000) ~~or more~~ square feet.

6.~~16~~4.3.B. New building construction consisting of four thousand (4,000) or more square feet of ~~gross floor area~~ building footprint;

6.~~16~~4.3.C. Additions to existing buildings (attached or detached) consisting of two thousand (2,000) or more square feet of ~~gross floor area~~ building footprint;

6.~~16~~4.3.D. Creation of impervious surfaces consisting of eight thousand (8,000) or more square feet;

6.~~16~~4.3.E. Uses designated in this ordinance which specifically require site plan review regardless of size.

6.~~16~~4.3.F. A change of use when the new use is subject to site plan review.

6.~~16~~4.4. Construction, site development, and landscaping shall be carried out in accordance with the plans, drawings, sketches, and other documents approved by the planning board, unless altered with board approval. Nothing in this subsection shall be construed to prevent ordinary repair, maintenance, and improvement of existing structures and facilities.

6.~~16~~4.5. When a development is subject to both site plan ~~review under site plan review~~ and subdivision review, the planning board shall conduct a concurrent review. Procedures, criteria, and standards of the site plan review and subdivision ordinance shall be employed in addition to those included in this ordinance.

6.~~16~~4.6. The application for site plan review for business, commercial, and industrial uses shall also include the following:

6.~~16~~4.6.A. A written description of the proposed operations in sufficient detail to indicate the degree to which the operations will create traffic congestion, noise, toxic or noxious matter, vibration, odor, heat, glare, air pollution, waste, and other objectionable effects, along with engineering and architectural plans for mitigating these effects.

6.~~16~~4.6.B. The proposed number of shifts to be worked and the maximum number of employees on each shift.

6.~~16~~4.6.C. A list of all hazardous materials to be hauled, stored, used, generated or disposed of on-site, and any pertinent state or federal permits required.

6.4.7. Appeals. Appeals of decisions of the planning board made in conducting site plan reviews shall be heard in Superior Court.

ARTICLE 7. LEGAL PROVISIONS

7.1. Amendments to the zoning ordinance.

7.1.1. ~~Generally.~~ On petition, ~~or~~ on recommendation by the planning board, or on ~~their~~ its own initiation, the ~~c~~City ~~c~~Council may amend, supplement, or repeal the regulations and provisions of this ordinance and amend the boundaries of the zoning districts delineated on the official zoning map.

7.1.2. Referral to the planning board. Every proposed amendment ~~or change~~, however initiated, except for an amendment ~~or change~~ resulting from the action of the City of Waterville or an abutting property owner to provide for the reversion of a contract zoned district to its original or comparable district, shall first be referred by the ~~c~~City ~~c~~Council to the planning board for report and recommendation.

7.1.3. The planning board shall hold a public hearing on amendments.

7.1.3.A. Prior to making its report to the ~~c~~City ~~c~~Council on any proposed amendment to this ordinance, the planning board shall hold at least one (1) public hearing on the proposed amendment~~,~~. ~~p~~Public notice of ~~which~~ the hearing shall be published twice in a newspaper in general circulation in the city, the first publication to be at least fourteen (14) days before the public hearing and the second publication to be at least seven (7) days before the public hearing. The cost of such notice shall be paid by any individual desiring a zoning change. Notice of the hearing is to be posted in city hall at least fourteen (14) days before the public meeting.

7.1.3.B. If the proposed rezoning is a change of use that permits industrial, commercial, or retail development in a zone where such uses were previously prohibited, or that prohibits all such uses in a zone where previously permitted, the person to whom property tax is assessed on each parcel in and abutting the area to be rezoned must be mailed a notice. The notice of the public hearing must be sent by first class mail ~~a notice of the public hearing~~ at least fourteen (14) days prior to the hearing. The planning board shall maintain a list of names and addresses of those persons to whom a notice ~~is~~ was mailed, when mailed, by whom, and the place of mailing. A certificate setting forth this mailing information shall be filed with the city clerk. This filing of the certificate shall constitute prima facie evidence of mailing of the notice to

persons named in the certificate. ~~The notice and the certificate of mailing apply only to Section 7.1.3.B, Proposed changes of use~~. The cost of mailing shall be the responsibility of the petitioner.

7.1.3.C. The notice as required in Subsections 7.1.3.A and B shall also contain a copy of a map indicating the property to be rezoned.

7.1.3.D. Any action challenging the validity of an amendment to this zoning ordinance or the official zoning map based on the city's failure to comply with the notice requirements of Sections 7.1.3.A and 7.1.3.B must be brought in the superior court within thirty (30) days after the adoption of the amendment~~ to the ordinance or to the official zoning map~~. If the appellant can demonstrate that it was entitled to receive a notice under section 7.1.3.B and that the municipality failed to send the notice and that the appellant had no knowledge of the proposed amendment in question and that the appellant was materially prejudiced by that lack of notice, the superior court may then invalidate the challenged amendment.

7.1.4. Report of planning board. The planning board shall make a report in writing to the city council within thirty (30) days of its public hearing, stating its approval or disapproval of the proposed amendment ~~or change~~ and its reasons therefor.

7.1.5. Any amendment to provisions of this ordinance must be approved by two-thirds of the members of the city council present.

7.1.6. Notice of amendments. The Department of Environmental Protection shall be notified via a certified copy of amendments to provisions of this ordinance regulating the use of shoreland areas.

~~**7.2. Repeal of conflicting ordinances.**~~

~~Any existing ordinances or parts of ordinances which may be inconsistent with the provisions of this ordinance are hereby repealed.~~

7.~~3~~2. Validity.

Should any section or part of a section or any provisions of this ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not be deemed to affect the validity of any other section, subsection, or other portion of this ordinance.

~~ARTICLE 9. RESERVED~~

~~ARTICLE 10. RESERVED~~

~~ARTICLE 11. REPEAL OF PREVIOUS ORDINANCE~~

~~11.1. Should any section or provision of this ordinance be declared by any court to be invalid, that decision shall not invalidate any other section or provision of the ordinance.~~

~~11.2~~7.3. Inconsistency.

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

~~11.3~~7.4. Repeal of previous ordinance.

The zoning ordinance passed by the ~~c~~City ~~c~~Council of the City of Waterville, ~~Ordinance 2-1971, on July 6, 1971~~ Ordinance 13-1989, on November 28, 1989, and all amendments thereto, are hereby repealed in their entirety.

~~11.4~~7.5. Effective date.

This ordinance shall take effect as of ~~April 1, 1990~~ _____, 2009.