

## **Chapter V. Subdivision and Site Plan Review**

### **500 Subdivision and Site Plan Review Standards-Process.**

**500.1 Reviewing Authority, Planning Board.** ~~The Planning Board shall be responsible for subdivision and site plan reviews in accordance with~~ **unless otherwise stated in** this ordinance. In this capacity, the Planning Board, **or their designee,** shall act in accordance with the provision outlined in Chapter 2 of the City Charter, establishing the Planning Board.

**500.2 Review Process.** The following is an overview of the subdivision and site plan review process:

- A. Pre-application conference;
- B. Neighborhood meeting;
- C. Sketch Plan; ~~and~~  
Sketch plan review may be required at the discretion of the City Planner and Planning Board Chair based on the complexity of the project and does not constitute substantive review of an application for purposes of 1 M.R.S.A. Section 302. The purpose of sketch plan is to obtain preliminary feedback from the Planning Board and the Public on the proposed project.
- D. Final Plan.

~~Sketch plan review may be required at the discretion of the City Planner and Planning Board Chair based on the complexity of the project and does not constitute substantive review of an application for purposes of 1 M.R.S.A. Section 302. The purpose of sketch plan is to obtain preliminary feedback from the Planning Board and the Public on the proposed project. (Ord. of 4-5-10; 11/17/14)~~

### **500.3 Applications**

- A. Application, notice; completed application. This subsection governs the procedure to be followed after receiving an application for a proposed subdivision and site plan review.
  - (1) When an application is submitted, the ~~applicant~~ **City Planner** shall schedule an application review conference for the following week.
  - (2) When an application is received, the municipal reviewing authority shall:
    - (a) Give a dated receipt to the applicant,
    - (b) Notify by mail all property owners within 500 feet of any portion of the property submitted for subdivision and site plan review; public and private rights-of-way do not limit the 500 foot distance measurement.
    - (c) Notify by mail the City Clerk and the reviewing authority of municipalities that abut or include any portion of the subdivision or site plan.

- (3) Within thirty (30) days after receiving an application, the municipal reviewing authority shall notify the applicant in writing either that the application is complete or, if the application is incomplete, the specific additional material needed to complete the application.
  - (4) After the municipal reviewing authority has determined that a complete application has been filed, it shall begin its full evaluation of the proposed subdivision and site plan.
  - (5) The municipal reviewing authority may not accept or approve final plans ~~or final documents prepared within the meaning and intent of Title 32 M.R.S.A., Chapter 121~~ that are not sealed and signed by the professional land surveyor or professional engineer under whose responsible charge they were completed, ~~as provided in Title 32 M.R.S.A., section 13907.~~
- B. Public Hearing; Notice. If the municipal reviewing authority decides to hold a public hearing on an application for site plan or subdivision approval, it shall hold the hearing within thirty (30) days after determining it has received a complete application. The municipal reviewing authority shall give notice of the date, time and place of the hearing:
- (1) To the applicant, and
  - (2) By publication, at least 2 times, in a newspaper having general circulation in the municipality in which the subdivision is proposed to be located. The date of the first publication must be at least 7 days before the hearing.
- C. Decision; Time Limits. The municipal reviewing authority shall within thirty (30) days of the public hearing or, if no hearing is held, within sixty (60) days of determining it has received a complete application, or within any other time limit that is otherwise mutually agreed to with the applicant issue one of the following decisions:
- (1) Deny approval of the proposed site plan or subdivision,
  - (2) Grant approval of the proposed site plan or subdivision,
  - (3) Grant approval, subject to terms and conditions that it considers advisable, in order to:
    - (a) Satisfy the criteria listed in 30-A M.R.S.A. section 4404,
    - (b) Satisfy any other regulations adopted by the municipality, and
    - (c) Protect and preserve the public health, safety and general welfare
- D. Approval Expiration.
- (1) Site Plan / Subdivision approval expires unless the work is necessary to accomplish the purpose for which it was requested is commenced within one year and completed within two years after the date of Planning Board approval or is completed in accordance with a phased completion schedule

proposed by the applicant and approved by the Planning Board, as incorporated in the final approval. Failure to complete a subsequent phase within the required period shall also have the effect of causing the permit to expire.

- (a) Deadline dates for phased developments shall be established at the time of approval.
- (2) Any applicant may come back before the Board and request a permit extension.
  - (a) An extension request must occur within one year after approval was granted.
  - (b) An extension of the completion date established for the project must be requested within two (2) years after the project was approved by the City.
  - (c) The Planning Board may choose not to grant more than two permit extensions for the same project.

E. Appeal. The applicant, abutting landowner, or aggrieved party may appeal a site plan / subdivision review decision of the Planning Board to the Superior Court of the State of Maine within thirty (30) days of the Planning Board decision.

(Amended per Ord. of 11/17/14)

~~**Authority for Subdivision and Site Plan Review.** Enabling language and reference to state law. The authority for subdivision and site plan review is vested in the Westbrook Planning Board in accordance with Chapter 2 of the Code of Ordinances, and 30-A M.R.S.A., Section 4403, for subdivision review.~~

**500.4 Joint Hearing and Application.** If a proposed final plan requires both subdivision and site plan review, the applicant must apply for a joint review of the final plan. Procedures for both subdivision and site plan review must be met in order to initiate the fair hearing process.

**500.5 Change in Ownership.** Where there is a change in ownership of a project after approval has been granted, the board may request new financial capability information, as well as other factors that the board deems necessary because of changing conditions.

**500.6 Notification Costs.** The applicant shall incur all costs for notices and public hearings conducted pursuant to this Ordinance.

**500.7 Revision to Approved Plans.** When an applicant applies for approval of a revision to a plan approved by the Planning Board, such application shall, in all respects, follow the procedures and satisfy the requirements of Chapter V of this Ordinance. All appropriate changes must be in accordance with this zoning ordinance. (Amended per Ord. of 11/17/14)

**500.8 Fees for Consulting, and Review and Inspection Fees; ~~Inspection Fees.~~**

- A. Notwithstanding any other provision(s) of the City's Land Use Ordinances, Chapters I through VIII (the "Code"), to the contrary, and in addition to such fees as are otherwise specified by the Code, the City shall assess fees to cover

100 percent of its costs related to independent geotechnical, hydrologic, engineering, planning, legal, and similar professional consulting services incurred in the review of site plan and subdivision applications. Such fees shall be subject to the following limitations:

- (1) Such fees shall only be as expressly provided by this ~~Sec. 500.8~~ **Ordinance**;
  - (2) Such consultation shall be limited to reasonable and necessary review, as allowed by the pertinent ordinance, which exceeds the expertise of City staff or their ability to review the application materials within the time limits otherwise required by law or Ordinance.
  - (3) Such fees shall be assessed only to recover costs directly associated with review of the application submitted by the applicant to whom they are assessed;
  - (4) Such fees shall be reasonable in amount, based upon the consulting time involved and the complexity of the review;
  - (5) The results of the consultation for which such fees are assessed shall be available for public review, but such results shall be deemed to have been made solely for the benefit of the City of Westbrook and shall remain its property; and
  - (6) Such fees shall be assessed for the privilege of review and shall be payable without regard to consultation results or the outcome of the application.
- B. An escrow account shall be established with the City by the applicant to guarantee payment in advance of actual fees assessed pursuant to this ~~Sec. 500.8~~ **Ordinance**. The original deposit shall be an amount specific to the application, as accorded elsewhere in this Code. If the balance in the escrow account shall be drawn down by 75 percent, the City shall notify the applicant and require that an additional amount be deposited to cover the cost of remaining work before any such remaining work is undertaken. The City shall continue to notify the applicant and require that any such additional amount(s) be deposited whenever the balance of the account is drawn down by 75 percent of the original deposit. Any excess amount deposited with the City in advance shall be promptly refunded to the applicant after final action on the application.
- C. Any dispute regarding the application of this ~~Sec. 500.8~~ **Ordinance** or the amount required to be paid, either in advance or upon completion, may be appealed in writing within 10 days to the City Administrator. The City Administrator, after due notice and investigation and for good cause shown, may affirm, modify, or reverse the disputed decision or reduce the amount assessed.
- D. In an effort to minimize the use of outside or independent consulting, the provisions of this ~~Sec. 500.8~~ **Ordinance** shall be subject to the following additional limitations:
- (1) The City Engineer will devote no less than two (2) hours, if needed, to each

development project and, if in the City Engineer's sole judgment his/her work load permits, he/she may work additional time on an individual development project without referring it to outside or independent consulting, but the City shall charge for such additional time at a rate determined by the City Council on a fee schedule adopted for that purpose; and

- (2) The City Planner will devote no less than four (4) hours, if needed, to each development project and, if in his/her sole discretion his/her work load permits, he/she may devote additional time to a project without referring it to outside or independent consulting, but the City shall charge for his/her time at a rate determined by the City Council on a fee schedule adopted for that purpose; provided, however, in his/her sole discretion, he/she may immediately refer to outside or independent consulting any major subdivision having five (5) or more lots or dwelling units or any major site plan.
- E. Prior to issuance of a Street Opening Permit, or the first permit required for the project, the applicant shall pay to the City a site improvement inspection fee equal to the amount of 2% of the site improvement costs. This shall be separate from Building Permit fees, which cover inspection of buildings. While this requirement applies to both subdivision and site plan approvals, a project with both subdivision and site plan approval is subject to a single site improvement inspection fee.  
(Ord. of 4-5-10)
- F. This ~~Sec. 500.8~~ **Ordinance** shall be administered by the City Planner or other City employee responsible for administering the ordinance under which review is sought. No building permit or certificate of occupancy may be issued nor subdivision plat released until all fees assessed hereunder have been paid in full.

(Ord. of 07-11-05)

#### 501 Waiver Provisions.

- A. Factors which may be waived include, but are not limited to, final plan submission requirements; design standards for streets or sidewalks; storm water management requirements; erosion and sedimentation requirements; public open space requirements; appearance assessment; and solar access design.
- B. Process
- (1) The applicant shall meet with appropriate city staff to discuss potential waivers.
  - (2) The city staff shall make recommendations to the Planning Board concerning any requested waiver.
  - (3) When the Board determines that the application is acceptable for review, it shall also determine which waivers are acceptable.

**501.1 Waiver Criteria Requirements Waived.** The Planning Board may waive the requirements of subdivision or site plan review, provided that the waiver does not result in:

- A. Undue water or air pollution,
- B. An inadequate water supply,
- C. Unreasonable soil erosion,
- D. Unreasonable traffic congestion or safety risk,
- E. Inadequate sewage disposal capacity,
- F. Inadequate solid waste disposal capacity,
- G. An adverse impact on scenic or natural beauty, aesthetics, historic sites, or rare or irreplaceable natural areas,
- H. Substantial non-conformance with this Ordinance or the Comprehensive Plan.

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**501.2 Affordable Housing Waiver.** The Planning Board may waive development impact fees ~~or allow alternative designs~~ in return for the creation of affordable housing. The Board shall reduce the fee based on the number of units that shall be sold or rented on the market at 80% of median price or rent for the Greater Portland area, as established by MSHA or HUD, respectively. ~~Alternative designs include but are not limited to:~~

- ~~A. Any project that is identified as a cluster project, as described in the general provisions of this ordinance,~~
- ~~B. Reduction in the amount of granite curbing used,~~
- ~~C. Reduction in the amount of sidewalks developed,~~
- ~~D. Reduction in roadway widths, or~~
- ~~E. Others, as deemed appropriate by the Planning Board through its evaluation of the particular project.~~

## 502 Subdivision ~~Authority and Prohibition Provisions~~ Review.

**502.1 Purpose:** The subdivision review process is designed to protect the public health and safety, promote the general welfare of the community, and conserve the environment by assuring that subdivision development is designed and developed in a manner which assures that adequate provisions are made for the traffic safety and access; emergency access; water supply; sewage disposal; management of stormwater, erosions and sedimentation; protection of groundwater; protection of the environment, wildlife habitat, fisheries, and unique natural areas; protection of historic and archaeological resources; minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into the fabric of the community.

**502.2 Applicability:** Subdivision review is required for any project that meets the definition of a subdivision or any project that seeks an amendment to a subdivision previously approved by the Planning Board.

**502.3 Authority.** In accordance with Maine Revised Statutes Annotated, the power to grant subdivision approval is vested in the Planning Board, which is the municipal reviewing authority.

**502.4 No Building Permit without Subdivision Approval; Required Mylar Submission.** The Code Enforcement Officer shall not issue any permits until a subdivision plan has been approved by the Planning Board and a Mylar signed by the Planning Board. Signed mylars must be recorded with the Cumberland County Registry of Deeds within 90 days of Planning Board approval or the approval shall be null and void.

**502.5 Recording and Construction Prohibited.** A subdivision plan may not be recorded in the Cumberland County Registry of Deeds, nor shall utility installation, ditching, grading, tree removal, site preparation or construction of any structure be commenced on a subdivision, until the Board has approved the final plan ~~and the performance bond is in place.~~

### **502.6 Subdivision Submission Requirements**

**502.6.1 Subdivision Sketch Plan Submission Requirements.** The following information is required for subdivision sketch plan review:

- A. Names of property owner, applicant, project and consultant(s); For subdivisions of 5 or more (lots or) units, a multidisciplinary design team comprising of a landscape architect, surveyor, and engineer is required for the design of the project layout.
- B. Date, north point, scale,
- C. Perimeter boundary, locations reserved for future development,
- D. Tentative easements or rights-of-way locations, lot lines, lot numbers, lot acreage,
- E. Estimated soil boundary locations from the United States Department of Agriculture's Soil Survey of Cumberland County, Maine, as revised, noting areas of severe and very severe soil limitations, as applicable
- F. Land cover areas (e.g. woods, fields),

- G. Topographic features, including areas of steep slopes, bedrock outcrops, ponds, streams, aquifers, groundwater areas, and recharge floodplain areas in accordance with the Federal Emergency Management Administration Program. Acceptable data for the sketch plan submission can also be obtained from sources such as the U.S.G.S. and NWI,
- H. ~~Tentative~~ I Location of existing and proposed structures, ~~owners of existing structures, and neighboring land uses,~~
- I. Names and addresses of abutting land owners
- ~~I~~ J. Special conservation and recreation areas, and
- ~~J~~ K. Locator map.
- ~~K~~ L. Non-refundable Sketch Plan application fee in an amount established by the City Council. (Ord. of 11/17/14)
- ~~L~~ M. An electronic copy of all application materials in a format acceptable to the City Planner. (Ord. of 03-07-05; 11/17/14)

**502.6.2 Subdivision Final Plan Submission Requirements.** The following additional information is required for subdivision final plan review.

- A. Application Information. An applicant for subdivision must submit the following as part of the final plan:
  - (1) Project name,
  - (2) Name, address, phone number of applicant and owner,
  - (3) Name, address, phone number of authorized representative,
  - (4) Name, registration number, address, phone number of engineer, surveyor, architect, landscape architect or planner,
  - (5) Interest of applicant in property ~~and abutting property,~~
  - (6) Tax map and lot numbers,
  - (7) Zoning,
  - (8) Acreage to be developed,
  - (9) Encumbrances currently affecting the property including but not limited to ~~C~~ovenants, deed restrictions, easements, or rights of way existing or planned,
  - (10) Existing use of the property,
  - (11) Variances requested of the Zoning Board of Appeals,
  - (12) ~~Construction schedule, costs, and performance guarantee arrangement, proof of financial capability, relationship between developer, design consultant, and project contractor,~~ A cost estimate and financial capacity statement from a financial institute confirming the ability of the applicant to carry out the project, and
  - (13) Where a septic system is proposed, evidence of soil suitability by a certified soils scientist or evaluator.
  - ~~(14)~~ 14 Non-refundable final plan application fee in an amount established by the City Council.
  - ~~(15)~~ 15 Electronic copy. An electronic copy of all application materials shall be submitted with the initial and each subsequent submission. This shall be in a file format acceptable to the City Planner.
- B. Map Requirements. The final plan shall consist of 1 mylar for recording purposes, and 15 prints to be retained by the City, with a maximum size of ~~30" x 48,"~~ 24" x



36" at a scale between 1"= 40' and 1"=100' and to include:  
(Ord. of 05-07-05)

- (1) Name of subdivision, Tax map and lot numbers
- (2) Scale, date, north point, acreage, number of lots,
- (3) Boundaries of tracts with accurate distances and bearings, location of all permanent monuments properly identified as existing or proposed; and certification by a licensed land surveyor that the land has been surveyed and the boundaries established,
- (4) Zoning requirements, proposed project and yard dimension calculations in relation to existing zoning standards.
- (5) Names of owner, engineer and surveyor; and professional registration numbers of those who prepared the plan,
- (6) Names and addresses of abutting landowners,
- (7) Name, location, width of paving and rights-of-way, profile, cross-section dimensions, curve radii of all existing and proposed streets; profiles of centerlines of proposed streets, of a horizontal scale of 1" = 50' and a vertical scale of 1" = 5', with all elevations referred to U.S.G.S. datum and appropriate GIS reference (as noted in section 502.4, subsection (m)),
- (8) A general road plan noting circulation, direction, traffic control devices, street lighting, and type of lighting proposed,
- (9) Accurate dimensions of rights of way, length and bearing of lot lines, lot areas, length or radii of horizontal curves, lot numbers, and building setbacks,
- (10) Existing and proposed easements and dedications associated with the subdivision,
- (11) Type, location, profile and cross-section of all existing and proposed drainage, both within and adjacent to the subdivision, and description of storm water management plan,
- (12) Location of features, natural and manmade, affecting the subdivision, such as water bodies, streams, swamps, wetlands (consistent with Army Corp and DEP requirements), vegetation, railroads, ditches, buildings, and areas of soils with severe or very severe limitations,
- (13) Location of existing and proposed utilities including, but not limited to; water, sewer, electrical lines, telecommunications lines and profiles of all underground facilities,
- (14) Existing and proposed location, size , profile and cross section of sanitary sewers; description, plan and location of other means of sewage disposal with evidence of soil suitability,
- (15) Topography with contours at elevation intervals of not more than 2 feet;
- (16) On land one acre or less in size, the location of all existing trees 24" or more dbh, ~~groves of important species, both those to be retained and those to be removed.~~ On land over an acre in size, all areas of tree preservation, groves of important species and those trees, outside of preservation areas and 24" or more dbh, to be retained or to be removed. (Ord. of 4-5-10)
- (17) Existing and proposed locations, widths, and profiles of sidewalks and walking paths,
- (18) Location map ~~to same scale as tax map, on a separate sheet if necessary;~~ assessor's map and lot number,
- (19) Approximate location and dimensions of specified parking areas,
- (20) Proposed ownership and approximate location and dimensions of open spaces for

- conservation and recreation,
- (21) Grading, and erosion control, ~~and landscaping plan~~; proposed finish grades, slopes, swales and ground cover or other means of stabilization,
  - (22) Landscaping plan; for subdivisions of 5 or more units, a landscaping plan stamped by a landscape architect is required.
  - (~~22~~ 23) Reference to special conditions as stipulated by the Planning Board, on the plan or identified as specific documents filed with the Board, and
  - (~~23~~) ~~Design considerations for solar access.~~
  - (24) Digital Transfer of any subdivision data in GIS format on the City's Horizontal Datum: Maine Stateplane Coordinate System: Maine West Zone 4101, FIPS Zone 1802, North American Datum 1983; Units: Feet; Vertical Datum: National Geodetic Vertical Datum, 1929,
  - (25) Digital Transfer on a compact disc (CD) of any subdivision data in Computer Aided Design (CAD) format as a .dwg file,
  - (26) Waivers and conditions of approval granted by the Planning Board.
  - (27) If needed, additional ~~Eight (8)~~ copies (on 11x17 sized paper) of the overall subdivision plan sheet for review by the Recreation and Conservation Committee. (Ord. of 03-07-05)

C. Supporting Documents. Prior to approval, The final plan submission must include the following supporting documents are required, as applicable information:

- (~~1~~) ~~Documentation of ownership or contract,~~
- (~~2~~ 1) Legal documents including, but not limited to: easement or rights of way associated with the subdivision, deed or covenant restrictions, homeowners association by-laws, and easements,
- (~~3~~) ~~Performance guarantee or conditional agreement and a financial capacity statement regarding the ability of the applicant to carry out the project,~~
- (~~4~~ 2) Any required permit from the Department of Environmental Protection, Marine Resources, Army Corps of Engineers, or Department of Inland Fisheries and Wildlife, wherever applicable,
- (~~5~~ 3) Any additional statements or studies required by the Planning Board which are deemed necessary in accordance with this Ordinance, including but not limited to the following
- (~~6~~) (a) A ~~S~~ statement by a Professional Engineer, registered in the State of Maine, as to the adequacy of the storm water management program to serve the watershed area within which the project is listed,
- (~~7~~) (b) A statement from the Portland Water District of conditions under which the District will supply water, and approval of the size and location of mains, valves and hydrants proposed. Responsibility for such design shall remain with the Portland Water District and any other appropriate agencies,
- (~~8~~) (c) A statement from the Fire Chief approving the number, size, and location of hydrants, available pressure levels, road layout and street and project name and any other fire protection measures to be taken,
- (~~9~~) (d) A statement by the Portland Water District of the conditions under which the Sewer District will provide sewage disposal service and approval by the Public Works Department of the diameter, slope, and invert elevations of the sanitary sewers proposed within the subdivision; or a statement relative to the septic tank pumping capacity of the sewage

disposal system,

- (10) ~~Where a septic system is to be used, approval by the Plumbing Inspector and a certified soils scientist or evaluator with evidence of soil suitability is required,~~
- (11) (e) Approval **A statement** by the Public Works Department of **relative to** all street and appropriate utilities designs,
- (12) (f) A statement from the Police Chief relative to traffic circulation,
- (13) (g) A statement from the Recreational Conservation Commission relative to issues of open space and recreation areas,
- (14) (h) A statement from the Public Works Director addressing any plan for solid waste removal and recycling,
- (15) ~~Submittals from any other City agency which the Planning Board deems necessary,~~
- (16) ~~A community facilities impact analysis in accordance with the subdivision or site plan review ordinance.~~

### **502.7 Subdivision General Provisions:**

- A. Unusable Land. Unusable land as defined in Section 201 of this Ordinance, may not be considered in the determination of buildable lots, but it may, with the approval of the Planning Board, be designated for parks or other open or common space, provided that there is no danger to health or safety.
- B. Preservation of Natural Areas. The Planning Board may require that the plan of a proposed subdivision provide for the preservation or enhancement of natural features such as water courses, trees with diameter in excess of 10", scenic vistas, and wetland areas. Streets and lots must be laid out so as to take advantage of natural topography and southerly exposure. Wherever possible, extensive grading and filling must be avoided.
- C. Design Standards for Streets and Private Rights-of-Way. All streets in a proposed subdivision must be constructed to the following specifications, and the cost of construction must be paid by the applicant. All streets and private ways must be designed by an engineer registered in the State of Maine. The plan and profile of the design must be approved by the City Engineer. (Ord. of 03-07-05; 4-5-10; 8-6-12)

**Table 502.7.C.1**

	<b>Arterial</b>	<b>Collector</b>	<b>Local St.</b>	<b>Private Way</b>
(1) Minimum right-of-way	120'	60'	50-60'	50'
(2) Minimum width of pavement	(4) 12 foot traffic lanes	(2) 12 foot traffic lanes	24'	20'
(3) Minimum grade	0.5%	0.5%	1%	1%
(4) Maximum grade	0.6%	8%	8%	8%
(5) Maximum grade at intersections	3%	3%	3%	
(6) Minimum angle of intersections	60 degrees	60 degrees	60 degrees	60 degrees
(7) Minimum center line radius curves	200'	200'	100'	200'
(8) Minimum paved shoulder width	10'	8'	1'	1'
(9) Minimum road base				
Excavation	24"	21"	21"	21"
Sub-base; Compacted-gravel	21"	18"	18"	18"
Upper-base; Crushed gravel	3"	3"	3"	3"
(10) Bituminous concrete				
Lower base; 12.5mm or 19mm superpave	2"-4"	1 <sup>3/4</sup> "-2"	1 1/2"	1 1/2"
Top; 9.5mm or 12.5mm superpave	1 1/2" – 1 3/4"	1 1/2" – 1 3/4"	1 1/4" – 1 1/2"	1 1/4" - 1 1/2"
(11) Minimum Underdrain	4"	4"	4"	4"
(12) Property line minimum				
Radii at intersection	20'	20'	20'	20'
(13) Road crown minimum	1/4"/ft.	1/4"/ft.	1/4"/ft.	1/4"/ft.
(14) Curb radii at intersection				
90 degree intersection	25'	25'	25'	25'
Less than 90 degree intersection	30'	30'	30'	30'
(15) Sidewalks				
Minimum width	5'	5'	5.5'	0
Compacted gravel base course	12"	12"	12"	
Top	(Approval of City Engineer)			

- (16) Streets and Future Planning. The street design must provide for proper continuation of streets from adjacent subdivisions and built-up areas. Street design must also provide for streets projected to lead into affected land and for future streets in conformance with the Comprehensive Plan.
- (a) Minor Streets. Minor streets must be designed to discourage through traffic.
  - (b) Street Intersections. There must be maximum centerline length of 500 feet between street intersections.
  - (c) Dead End Streets and Private Rights-of-Way. A dead-end street or private way shall have a maximum length of 800 feet with either a cul-de-sac with a minimum turning radius of 35 feet or a T-intersection utilizing a 30 foot x 30 foot hammerhead. A dead end street, either public or private, may not begin from any point along another existing or proposed dead end street. A private right of way may only be taken off a City Street, while a driveway may be taken off either a private right of way or a City street. (Ord. of 03-07-05)
  - (d) Street Construction over Ledge. Where street construction is over ledge, a minimum of 15 inches of compacted gravel is required for the sub-base. If deemed necessary, the City may require more than 15 inches of compacted gravel.
  - (e) Street Impact. The applicant is responsible for the assessment and improvement of other street systems that would suffer direct and continued impact from the proposed development. If the Planning Board finds it necessary, the applicant shall undertake to improve, repair, or reconstruct the street systems. This assessment will look at speed, volume, type of vehicles, peak periods and critical rate factors.
  - (f) Curbs. Granite curbing is required for all new streets.
  - (g) Sidewalks. All projects shall have an internal sidewalk system that makes connections to existing systems whenever possible.
  - (h) Pavement. Where Private Rights of Way and driveways connect with a City Street, the Private Right of Way or driveway must have a paved apron with a minimum depth and width of twenty (20) feet to reduce impacts to City Streets. (Ord. of 03-07-05; 4-5-10)
- D. Water Supply. Where it is proposed to connect the project with the public water supply, a water main of at least eight (8) inches in diameter is required. The main must be designed and installed with the approval of the Portland Water District. The cost of installation shall be borne by the applicant. During subdivision design, and prior to final plan submission, the applicant shall complete an analysis of water demand in accordance with community impact requirements.
- E. Sewage Disposal. One of the following requirements for sewage disposal must be met.
- (1) Off-site Disposal. Sewer lines not less than eight (8) inches in diameter must be designed for all off-site disposal. Final plan approval is subject to approval by the Portland Water District and the Public Works Department. The applicant must pay all costs of installation and analysis.

- (2) On-site Disposal. If the municipal sewer system is not available, a description of the proposed sewage disposal system is required. The testing for, and design of, this system must meet standards established by the State of Maine.
  - (3) Communal Septic Systems. Communal septic systems are permitted for cluster housing developments only. Such systems shall meet all state and local requirements.
- F. Storm Water Management, Groundwater Pollution and Erosion/Sedimentation Requirements.

- (1) Storm Water Management Plan. The storm water management plan must be included in the final plan application. The primary objective of the program is to limit peak discharge, after development, to equivalent levels before development. In the development of the plan, the following practices are required:

- (a) Peak Discharge Measurement. Peak discharge must be measured for the 2, 10 and 25-year storm period. Estimation of the peak discharge and volume must be completed, using HydroCAD software based on the Department of Agriculture's TR-55 "Urban Hydrology for Small Watersheds" (1986) standards, as from time to time updated. The engineering design must include provisions for surface and subsurface runoff, especially where the displacement of surface and subsurface water is involved. Pre-construction and post-construction water flow estimates, and estimates of surrounding watershed impact and displacement of subsurface water are required.
- (b) Reduction of Peak Discharge. In reducing peak storm water runoff so as to maintain pre-construction water flow levels, the management plan must include techniques to detain water on the proposed site by, but not limited to:
  - (i) Minimizing slope length through trenching and maintaining flat slopes where possible,
  - (ii) Infiltrating precipitation at the source prior to runoff, which may be accomplished by delaying runoff from flat roofs, utilizing stone drains for low water table soils, or precast concrete lattice blocks and bricks,
  - (iii) Increasing the flow length by using diversion ditches and level lip spreaders,
  - (iv) Infiltrating runoff after concentration in dry wells or trenches, natural swales or dugout basins, seepage beds or ditches, where there are low water flows,
  - (v) Delaying runoff by using detention ponds for short-term storage of runoff, or permanent retention ponds for long-term storage.

Embankments for such ponds must have a slope ratio of no less than 4 units horizontal to one unit vertical.

(c) Construction Standards. In developing storm drainage plans, the following construction standards apply:

- (i) Shoulders beyond the pavement must be compacted and stabilized, and storm water runoff from adjoining properties and from the roadway must be conducted so that road shoulder embankments and pavement edges will not be undermined or eroded,
- (ii) Storm drain culverts and conduits must be at least 12 inches in diameter or larger if required by the City,
- (iii) Depending on conditions, storm drains must be laid with a cover depth of at least 24 inches,
- (iv) Headwalls, catch basins, manholes and all other elements of the stormdrain system must be constructed according to specifications approved by the Public Works Department. Catch basins must be located to accept drainage from all low points and sags in the roadway, and to prevent storm water from flowing along the gutters for more than 400 feet,
- (v) Construction standards shall also incorporate methods by which contaminants in stormwater are removed prior to leaving the development site,
- (vi) Best management practice standards shall be followed for the treatment of storm water quality such that all potential toxins or contaminants are removed before the storm water leaves the property.

(d) Improvement Costs. If the development depends upon storm water control which affects the existing system, whether natural or man-made, all costs of improvements shall be paid for by the applicant.

(e) Impact of Individual Lot Development. The developer shall set base elevations for individual foundations and identify on-site drainage paths to insure that subsequent development does not impede drainage, or result in excess stormwater on an individual lot.

(2) Groundwater Pollution. The Planning Board shall require the applicant to demonstrate that there will be no adverse effect on subsurface water quality. The applicant may have to establish present water quality conditions and install a monitoring system. Standards for assessment will include nitrate loading.

(3) Erosion and Sedimentation Plan. A subdivision plan must include a plan for erosion and sedimentation control during and after the construction period. The range of erosion and sedimentation control options to be incorporated in the plan is stated below. Any individual option or combination is acceptable, as long as it is considered in relation to the overall storm water management plan.

(a) Prevention of Erosion Prevention of erosion on construction sites may be accomplished by, but not limited to:

- (i) Minimizing the area of exposed fill, soil or subsoil, and the exposure time,
  - (ii) Seeding critical sediment-producing areas for a period of 2 to 12 months,
  - (iii) Preserving vegetation at critical sediment-producing and sediment entrapment locations,
  - (iv) Using contoured cross-slope ground preparation by roto-tilling, harrowing, fertilizer spreading, or hydro-fertilizing and seeding.
  - (v) Utilizing erosion controls applicable to road construction and construction sites,
  - (vi) Installing temporary graded channels with ridges on the downhill side to intercept surface water that may be used in conjunction with temporary chutes or flexible downdrails,
  - (vii) Installing temporary checkdams on all waterways draining more than one half acre of land under construction by using straw bale checks with filter fabric fence; filter fabric fence alone or filter fabric fence with wire fence, or other device deemed appropriate by the City.
- (b) Fine Grained Sediment. The applicant shall use a combination of sediment basins, filter fences, vegetation, tillage, top-soiling or crushed stone or gravel in controlling fine-grained sediment,
- (c) Entrapment and disposal of sediment from runoff prior to discharge. For entrapment, the applicant may use existing vegetation, sediment basins, and sediment traps. Trapped materials may be used for topsoil or fill for the project,
- (d) Stabilization of critical areas. In order to prevent erosion, the stabilization of critical areas using mulching, sod, existing vegetation, or new vegetation is required,
- (e) Design and stabilization of drainage channels. The plan must provide for the design and stabilization of drainage channels. Channel construction may include grassed water ways, rip-rap and permanent diversions to reduce velocity. Design should also incorporate structures at pipe conduit outlets to de-energize water movement, such as plunge pools, aprons or level lip spreaders. Any plan for drainage channels should include a program for maintenance,
- (f) Stabilization of stream channels and banks. The program must provide for the protection of existing stream channels, by utilizing vegetation, riprap, obstruction removal, banksloping, or other acceptable method,
- (g) Removal of excess subsurface water. Where appropriate, the use of subsurface water storage is required. High water tables in the City will require designs which address points of discharge, storage capacity, and potential impact,
- (h) Revegetation. The applicant must include a plan for the preservation of existing vegetation, selective clearing, and re-vegetation as part of the erosion and sedimentation control plan.



- G. Utility Easements. All utilities shall be underground. Easements for utilities at least 15 feet wide must be provided, either within or outside the subdivision. The applicant is required to install underground conduits and other necessary subsurface structures to provide underground power, internet, phone service, and other telecommunications services including, but not limited to television cable, throughout the subdivision. Underground structures must be constructed according to the requirements of the appropriate utility company.

### **502.8 Additional Requirements.**

A. Public Open Space:

- (1) Reservation of Land. The Planning Board shall require the reservation of land for parks, playgrounds, or conservation areas to benefit the public or residents of the proposed development. The reserved land must be of suitable dimension, topography, and general character for the proposed recreational use and must be reasonably accessible to residents of the development. It must be designated on the plan as "Reserved for Conservation or Recreation Purposes". The area to be reserved must be determined according to the following table:

Table 502.8.A.1.a

Average Size of Single Family	Percentage of Development Tract to be Reserved for Recreation Purposes
80,000 S.F. or greater	1.6%
40,000 S.F.	3.3%
20,000 S.F.	6.5%
15,000 S.F.	8.7%
10,000 S.F. or less	13.02%
Multiple Family Units	300 S.F. per unit

- b. The applicant shall improve reserved land according to the requirements of the Planning Board. In determining these requirements, the Board shall consider the Comprehensive Plan, and the long-range plans and recommendations of the Recreation and Conservation Commission.
- (2) Fee in lieu of land. Where a developed conservation or recreation area exists near a proposed subdivision, an applicant may make a cash contribution to the City, in lieu of land reservation for the purpose of further improving the recreational area to benefit the proposed development.
- (a) The contribution must equal the per acre value of an undeveloped housing site, as set by a disinterested appraiser who is satisfactory to the Planning Board, multiplied by the required area for reservation according to the table above.
- (b) The funds must be used for improvement of the recreation or conservation area, as mutually agreed by the applicant and the Planning Board, and

placed into a dedicated account for the agreed upon recreation or conservation purpose.

- (3) Recreation Land Ownership. As soon as the use of the recreation or conservation land has been established, the means of future ownership and control must be determined. The following alternatives are available, as agreed upon by the applicant and the Planning Board:

- (a) The land may be held and maintained in common by the future owners of the development, under the by-laws of a homeowners' association, as approved by the Planning Board.
- (b) It may be held and maintained in perpetuity by a conservation trust or other suitable private organization. It may be deeded to the City for future maintenance and improvement, if acceptable to the City.

#### B. Performance Guarantee.

- (1) As a condition of final approval for subdivision, the applicant, in accordance with the conditions of the final approval, must file a performance guarantee with the City.
- (2) Prior to the start of any construction, the applicant shall deliver either a certified check payable to the City, a performance bond running to the City, or a letter of credit running to the City in amount and form acceptable to the City. The check, bond or letter of credit must equal at least the total cost of furnishing, installing, connecting and completing all appropriate construction items within 2 years of its date.
- (3) Appropriate construction items includes, but is not limited to, all public infrastructure items such as roads, sidewalks, utilities, recreation facilities. (Ord. of 03-07-05)
- (4) Release of Check or Guarantee. Before releasing a check or bond the City must obtain the following:
  - (a) A statement by the Public Works Department that all street and storm drain systems have been constructed and completed in conformance with the Final Plan,
  - (b) A statement by the Westbrook Engineer, that all sewage disposal systems have been constructed and completed in conformance with the Final Plan,
  - (c) A statement by the Superintendent of the Portland Water District that all water mains and hydrants have been installed and completed in conformance with the Final Plan,
  - (d) A statement by a land surveyor, registered in the State of Maine, that all permanent boundary monuments on street and lot lines have been installed in the locations designated on the Final Plan. The cost of obtaining this statement shall be borne by the applicant. In releasing the check or bond, the City shall provide the applicant with a certificate of compliance. At the discretion of the Department, a phased release of the check or bond can be implemented.
  - (e) An affidavit from the applicant confirming that all construction bills, and other monies and credits owed as a result of the development activity have been paid to their respective parties.

- (5) Conditional Agreement. The applicant may substitute for the performance guarantee a conditional agreement with the City. The agreement must be described on the final plan and must include the conditions that:
- (a) No lot in the subdivision may be sold, and
  - (b) The Code Enforcement Officer shall not issue a building permit for the construction of a building on any lot in the subdivision until a certificate of compliance is issued.
- C. Driveway Access to Subdivision Lots. If excessive slopes, sharp curves or other safety factors exist, the applicant shall show planned driveway entrances onto streets shown on the final plan. Additionally, the Board may require that driveways be shared.
- D. Monuments. The following permanent reference monuments must be installed:
- (1) Granite. At all street corners and angles, granite reference monuments must be at least four (4) feet long, four (4) inches square in width, have #6 rebar in their center, and have no more or less than six (6) inches, give or take an inch, exposed above the ground.
  - (2) Iron. Along all lot lines, #6 rebar iron reinforcement rods must be installed at 100 foot intervals, must be at least four (4) feet long, and must have no more or less than six (6) inches, give or take an inch, exposed above the ground.
- E. Water Course Easement. The Planning Board may require easements, established under, and maintained by a homeowner's association, or in their absence an environmental agency, for the protection of natural water courses. These easements must be at least 20-foot wide and described on the final plan. Where improvements to natural water courses are required, all costs shall be paid by the applicant.
- F. Special Flood Hazards Area. The applicant must show that land designated as 'Special Flood Hazard Area' on the flood insurance rate maps meets the following requirements:
- (1) Proposed Land Use. That the proposed land use will not experience flood damage,
  - (2) Utility System. That all proposed public and private utility systems are constructed by the applicant to minimize or eliminate flood damage,
  - (3) Drainage Plans. That the drainage to be provided is adequate to reduce exposure to flood hazards. Preliminary information concerning special flood hazard areas may be drawn from Flood Insurance Rate Maps. The applicant must provide flood elevation data and show engineering justification when identifying the location of the special flood hazard area.
- G. Appearance Assessment. In preparing the final plan, the applicant shall incorporate the following criteria ~~in Sections 502.4.G.1–6~~ to ensure the harmonious relationship of the project to surrounding properties, buildings, and natural features. The following factors must be considered:
- (1) Relationship of Project to Site. The plan must provide for smooth transitions between the streetscape, driveway entrances, and project landscaping. Height and scale of

proposed structures must be consistent with existing structures.

- (2) Relationship of Project to Surrounding Property. The plan must provide for smooth transitions between land, proposed structures, and surrounding properties. Compatible transitions may be achieved by utilizing screening materials, landscaping, and natural topography.
  - (3) Relationship of Landscape Design. Landscape design ~~must~~ includes all forms of planting and vegetation, including existing vegetation, topography, water patterns, and utilitarian structures such as, but not limited to, fencing and curbing. Wherever practicable, the applicant shall maintain existing topography and vegetation. Landscaping must provide a transition between buildings, parking, and pedestrian walkways, while breaking up long open areas and traffic patterns. Suitable plant material must be selected according to its structure, texture, color, ultimate growth, and hardness. ~~It must be protected through appropriate buffer to avoid damage where vegetation is used for screening purposes, it must~~ **It should** be equally effective in winter and summer. The design may provide for the use of materials such as fences, walls and a variety of paving types where there is difficulty in achieving vegetative growth.
  - (4) Relationship of Lighting to Project. The design, type, and location of street lighting are to be reviewed. The lighting materials must blend with the overall project scheme enhancing design and landscaping. Standards and fixtures must be compatible with surrounding developments and, if maintained by a public utility, meet their requirements. Excessive brightness must be avoided and lighting must be confined to areas in accordance with this Ordinance.
  - (5) Relationship of Signs to the Project. Sign installation or modification must conform to this Ordinance. Sign materials and design must be an integrated element of the overall site plan and must blend with proposed landscaping. Signing must be compatible with surrounding properties and not obstruct or interfere with the vision of drivers.
  - (6) Village Review Structure. Where a structure lies within the Village Review **Overlay Zone**, the applicant must incorporate the standards of the Village Review **Overlay Zone**.
- H. **Development Impact Fees. The Planning Board may require the applicant to participate in municipal infrastructure improvements. Where it is demonstrated that the applicant's proposed development will result in a negative impact or decline in level of service of any existing municipal infrastructure system or services, the Planning Board shall assess and establish the applicant's level of participation in accordance with improvements of that system or service.** ~~Community Facilities Impact Analysis. The Planning Board may require the applicant to conduct a community facilities impact analysis that will consider the following demographic features:~~
- (1) ~~Demographic Description. The analysis must identify the demographic market the project intends to serve, including: (1) type of family; (2) average family size; (3) numbers and ages of children; (4) anticipated time period to fill all units or lots. Associated data, such as anticipated family income levels, type of employment, and projected housing costs may also be presented to support projections associated with~~

~~the above demographic description. If transfers from existing City families and homes are expected, the impact on the secondary market must be projected. The basis for all projections must be provided.~~

~~(2) Community Facilities Impact Analysis. Utilizing the above demographic data, the applicant shall conduct analyses of the following:~~

- ~~(a) Estimated impact on the sewage disposal system, including flow estimates and assessment of capacity,~~
- ~~(b) Estimated impact on the water system, including flow estimates, capacity and assessment of existing or potential water pressure,~~
- ~~(c) Estimated impact on traffic systems, including the impact of projected trips on flow characteristics and the impact of traffic on the existing road structures within a reasonably determined distance from the subdivision,~~
- ~~(d) Estimated impact on the school system,~~
- ~~(e) Estimated impact on public safety providers,~~
- ~~(f) Estimated impact on the public works department, including solid waste disposal,~~
- ~~(g) Estimated impact on existing storm water management systems, including flow and water quality,~~
- ~~(h) Estimated impact on the recreation resources and provisions of methods to meet proposed needs,~~
- ~~(i) Any other study deemed appropriate by the Planning Board.~~

~~Once these analyses have been completed, the applicant shall present appropriate projections and impact assessments to the appropriate City agency for review and comment.~~

~~I. *Reserved. (Removed by Ord. of 11/17/14)* The Planning Board may make additional requirements concerning trees, esplanades, public walks, driveways, and similar public improvements that must be included in the final plan.~~

~~J. The Planning Board may make additional requirements concerning trees, esplanades, public walks, driveways, and similar public improvements that must be included in the final plan.~~

(Ord. of 4-5-10)

**502.9 Solar Access Requirements.** An applicant must take into consideration the solar orientation of proposed housing units. In planning for solar contingencies, the applicant shall consider the following:

- A. ~~E.~~ Southerly Exposure. When practicable, the project must utilize southerly exposure and topography in lot layouts and building locations. Higher densities should be oriented towards southerly exposures.
- B. ~~F.~~ Building Design. Where the review of building elevations is appropriate, the applicant shall incorporate into the building design a balanced solar exposure. The applicant shall identify building techniques designed to minimize energy costs and shall consider the height and impact on adjacent buildings.

- C. ~~G.~~ Landscape Design. Landscape plans must include a reference to the vegetative impact on exposure, solar access during colder periods and shade potentials during warmer periods. The design, height, and canopy for all trees shall be taken into consideration.

**502.10 Findings of Fact.** Prior to granting approval, the Planning Board shall make its findings of fact based on the information provided above. The findings shall address the following areas:

- A. POLLUTION AND SEWERAGE DISPOSAL
- B. WATER
- C. SOIL EROSION
- D. TRAFFIC
- E. SEWERAGE  
Septic systems are proposed. Municipal sewerage is proposed.
- F. SOLID WASTE
- G. AESTHETICS
- H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES
- I. FINANCIAL AND TECHNICAL CAPACITY
- J. RIVER, STREAM OR BROOK IMPACTS

**502.11 CONCLUSIONS**

1. The proposed site plan **will/will not** result in undue water or air pollution.
2. The proposed site plan **has/has not** sufficient water available for the reasonably foreseeable needs of the site plan.
3. The proposed site plan **will/will not** cause an unreasonable burden on an existing water supply.
4. The proposed site plan **will/will not** cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
5. The proposed site plan **will/will not** cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.
6. The proposed site plan **will/will not** provide for adequate sewage waste disposal.
7. The proposed site plan **will/will not** cause an unreasonable burden on the municipality's ability to dispose of solid waste.
8. The proposed site plan **will/will not** have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

9. The proposed site plan **conforms/does not conform** with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.
10. The developer **has/does not have** adequate financial and technical capacity to meet standards of this section.
11. The proposed site plan **is/is not** situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, subchapter I, article 2-B M.R.S.A.
12. The proposed site plan **will/will not** alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
13. The proposed site **is/is not** situated entirely or partially within a floodplain.
14. All freshwater wetlands **have/have not** been shown on the site plan.
15. Any river, stream, or brook within or abutting the site plan **has/has not** been identified on any maps submitted as part of the application.
16. The proposed site plan **will/will not** provide for adequate storm water management.
17. The proposed plan **will/will not** negatively impact the ability of the City to provide public safety services.
18. Any other finding made by the Board not found above, but particular to the unique qualities of a given application.

## 504 Site Plan Review Requirements and General Provisions.

**504.1 Purpose.** The site plan review process is designed to ensure that a given project fits harmoniously with surrounding properties. Site plan review insures that public infrastructure is adequate enough to absorb the impacts of new or expanded developments by requiring the applicant to make such improvements prior to moving forward. ~~Site plan review applies to the development proposals for new or altered, within a five (5) year period, commercial, retail, industrial, and institutional structures, and multiple family dwellings consisting of three or more attached dwelling units and their accessory uses and structures, whether or not the development includes subdivision or re-subdivision of the site. Site plan review is not required for detached single and two family dwelling units, agricultural and forest management practices, physical expansions or alterations of 3,000 square feet. Site plan review does not include clear cutting of timber, land filling, soil removal or impacts to wetlands; however, an application for such activities shall be made to and approved by the Code Enforcement Officer in accordance with Chapter VI of this Ordinance.~~

504.2 Applicability. Site Plan Review is required for any project consisting of commercial, retail, industrial or institutional structures, or multiple family dwellings consisting of three or more attached dwelling units, and their accessory uses and structures that exceeds 3,000 square feet of any combination of the following:

- New structures
- Expansions
- Alterations
- New or altered impervious cover

**504.3 Authority.** The authority over site plan review is vested in the Westbrook Planning Board, unless otherwise stated in this document,

**504.4 No building permits may be issued without Site Plan approval; Required Mylar Submission.** Mylars must be submitted to the City within 90 days of Planning Board approval or the approval shall be null and void. The Code Enforcement Officer shall not issue any permits until a site plan has been approved by the Planning Board and a Mylar signed by the Planning Board. ~~Mylars must be submitted to the City within 90 days of Planning Board approval or the approval shall be null and void.~~

~~**Exemptions from Site Plan Review** No person shall undertake any development without obtaining approval therefore under this chapter (Section 504). An exemption from site plan review does not exempt this proposal from other approvals or permits, nor is it an authorization for construction. The Code Enforcement Officer will determine what other permits, such as a building permit, are to be required. A person seeking approval under this section shall submit a completed application form and shall include a plan that shows the proposed changes and the existing conditions and a detailed statement of how the proposed changes meet the criteria of this section. The applicant shall be responsible for paying the application fee set forth in the Master Fee Schedule attached hereto as Appendix B.~~



~~The Planning Department shall apply the following criteria to its review of any proposed change(s) to an approved site plan. Any proposed change(s) must meet all of the following requirements:~~

**504.5 Minor Amendment to an Approved Site Plan.**

- A. A person seeking approval under this section shall submit a completed application form and shall include a plan that shows the proposed changes and the existing conditions and a detailed statement of how the proposed changes meet the criteria of this section.
- B. The applicant shall be responsible for paying the application fee set forth in the Master Fee Schedule.
- C. A minor amendment to a Planning Board approved site plan may be reviewed administratively by the City Planner provided all the following requirements are met:

- (1) ~~a-~~The site plan was approved since adoption of this ordinance (adopted 2/9/2004) and has obtained no more than two administrative change approvals;
- (2) ~~b-~~The proposed change(s) would be located within existing structures, and there would be no demolitions, or building expansions other than those permitted by subsection c of this section;
- (3) ~~c-~~Any necessary building expansion would have an increased maximum gross density factor of no greater than five (5) percent, there would be no increase in the number of dwelling units and the proposed change(s) would require a minimal increase in paved surfaces;
- (4) ~~d-~~The proposed change(s) would not add curb cuts or driveways; would not disrupt the circulation and parking on-site; and would add no drive-thru services;
- (5) ~~e-~~The curbs and sidewalks adjacent to the lot shall meet minimum requirements and shall be in sound condition and sidewalks in good repair with uniform material and level surface and meet the accessibility requirements of the Americans with Disabilities Act;
- (6) ~~f-~~The proposed change(s) would not increase parking demands as determined by Section 505.1 or traffic generation as determined by the International Traffic Engineers Trip Generation Manual, latest edition and would result in no significant increase in hours of operation;
- (7) ~~g-~~The proposed change(s) would not increase stormwater impacts to the site or to adjoining properties;
- (8) ~~h-~~The proposed change(s) would not reduce screening from adjoining properties and would not reduce the amount, intent or quality of landscaping; and
- (9) ~~i-~~The proposed change(s) would not increase demand on public or private utilities and would pose no disturbance or require improvements within the public right-of-way.

- D. Based on ~~the~~ its review of the proposed change(s) the ~~Planning Department~~ City Planner may:

- (1) ~~a-~~Grant administrative approval of the proposed change, with or without conditions;
- (2) ~~b-~~Place the item on the consent agenda for Planning Board approval; or
- (3) ~~c-~~Determine that the proposed change is not minor and requires

Planning Board approval of a site plan amendment application.

- E. Changes to aspects of the approved site plan that were at issue during the approval process may require Planning Board approval of a site plan amendment.
- F. Changes to any condition of approval placed by the Planning Board during its approval will require review and approval by the Planning Board and cannot be approved under this section. (Ord. of 6-1-09; 6-22-09)
- G. An exemption from Planning Board review does not exempt a project from other approvals or permits, nor is it an authorization for construction. The Code Enforcement Officer will determine what other permits, such as a building permit, are to be required.

#### **504.6 Site Plan Submission Requirements.**

**504.6.1 Sketch Plan Submission Requirements.** The following information is required for sketch plan submission:

- A. Project name, names of property owner, applicant, and designer,
- B. Date, north point, scale,
- C. Perimeter boundary, area of proposed development and preliminary building footprints, areas reserved for future development,
- D. Tentative easements or rights of way locations, lot lines, lot numbers, acreage,
- E. Estimated soil boundary locations from the U.S.A.D.A./S.C.S medium-intensity soil survey noting areas of severe and very severe soil limitations, as applicable
- F. Land cover areas, (e.g. woods, fields),
- G. Topographic features: areas of steep slopes, bedrock outcrops, ponds, streams, aquifers, aquifer groundwater recharge areas, floodplains, and
- H. ~~Tentative~~ Location of existing and proposed structures, ~~owners of existing structures, and neighboring land uses,~~
- I. Names and addresses of abutting land owners ~~Non-refundable Sketch Plan application fee in an amount established by the City Council.~~
- J. Locator map
- K. Non-refundable Sketch Plan application fee in an amount established by the City Council.
- L. An electronic copy of all application materials in a format acceptable to the City Planner

(Ord. of 03-07-05; 11/17/14)

**504.6.2 Final Plan Submission Requirements.** The following information is required for final plan submission:

- A. Application Information. An applicant for site plan review shall submit the following as part of the final plan.
  - (1) Project name,
  - (2) Name, address, phone number of applicant,
  - (3) Name, address, phone number of owner,
  - (4) Name, address, phone number of authorized representative,

- (5) Name, registration number, address, phone number of engineer, surveyor, architect, landscape architect or planner,
- (6) Interest of applicant in property ~~and abutting property,~~
- (7) Tax map and ~~tax~~ lot numbers,
- (8) Acreage to be developed,
- (9) Acreage of the site,
- (10) Covenants deed restrictions, easements, or rights of way existing or planned,
- (11) Existing use of the property,
- (12) Variances requested of the Zoning Board of Appeals,
- (13) ~~Construction schedule, A costs~~ estimate worksheet and ~~performance guarantee arrangement, along with appropriate statements of proof of financial capability and a statement of relationship between developer, design consultant and project contractor~~ a financial capacity statement from a financial institute confirming the ability of the applicant to carry out the project,
- (14) Statement of technical capacity
- (15) Electronic copy. An electronic copy of all application materials shall be submitted with the initial and each subsequent submission. This shall be in a file format acceptable to the City Planner.
- (16) Non-refundable Final Plan application fee in an amount established by the City Council, and
- (17) ~~If a public hearing is scheduled, the applicant must pay notification and advertising costs.~~

(Amended per Ord. of 11/17/14)

- B. Map Requirements. The Site Plan Map must consist of 15 blueprints to be retained by the City, with a maximum size of 30"x40" and at a scale that is appropriate for the size of the project, level of detail involved, and needs of the reviewer(s).

- (1) Date, title, scale, north arrow, name of project,
- (2) A boundary outline with dimensions and lot area, in relation to surrounding streets, walls and adjoining fond and land uses,
- (3) Names and addresses of present landowners and abutting landowners,
- (4) Locations of existing buildings and other structures, fire hydrants, street lights, utility poles, underground water and sewer facilities, existing trees greater than 10" in diameter on property less than one acre in size OR areas of tree save and other natural landscape features on property one acre or more and any other utilities on the site,
- (5) Preliminary design drawings of site plans, floor plans, elevations in sufficient detail to show access, layout and building construction or modification,
- (6) Location and dimension of all proposed buildings, and private and public utilities.
- (7) Location map,
- (8) Performance bond or conditional agreement, as required by the Planning Board.
- (9) All necessary easements, shown on plan,
- (10) Accurate dimensions of streets, right-of-ways, width of pavement, parking, loading and associated curbing,
- (11) Identification of soils with severe or very severe limitations for the type of

development proposed in accordance with the U.S.D.A.S.C.S medium intensity soil survey for Cumberland County, the location of any sand and gravel aquifer and aquifer recharge area, and any wetland area as defined by DEP and Army Corp of Engineer requirements,

- (12) Digital Transfer of any site plan data in GIS format on the City's Horizontal Datum: Maine Stateplane Coordinate System: Maine West Zone 4101, FIPS Zone 1802, North American Datum 1983; Units: Feet; Vertical Datum: National Geodetic Vertical Datum, 1929,
- (13) Digital Transfer on a compact disc (CD) of any site plan data in Computer Aided Design (CAD) format as a .dwg file,
- (14) Zoning requirements, proposed project dimension calculations in relation to existing zoning standards.
- (15) ~~Eight (8) copies (on 11x17 sized paper) of the overall site plan sheet for review by the Recreation and Conservation Committee.  
(Ord. of 03-07-05)~~

C. Supporting Documents. Any of the following sketches or plans may be combined in one plan for presentation purposes:

- (1) Site plan showing existing natural and topographical features including watercourses and waterbodies, trees and other vegetation, and any other pertinent features,
- (2) A plan of all buildings with new construction or expansion of an existing facility, including type, size, and footprint, floor layout, setback, elevation of first floor slab, storage and loading areas,
- (3) An elevation view of all buildings indicating their height, color, bulk, surface treatment, and signs attached to buildings,
- (4) A circulation plan noting all pedestrian and vehicle traffic flow, both within the development and in terms of ingress and egress impact on surrounding road systems,
- (5) The size and proposed location of water supply and sewage disposal systems and provision for future expansion of those systems,
- (6) A landscaping plan indicating grade change, vegetation to be preserved, new plantings used to stabilize areas of cut and till and screening; the size, location, purpose, type of vegetation, and number of planting categorized by the type of plant.
- (7) A drainage plan, including location, elevation, layout of catch basins, stormwater retention or detention area, and other surface and subsurface drainage features,
- (8) A topographical plan, at 2-foot intervals, showing existing and proposed contours and finished grade elevations,

- (9) Any other exhibits or data deemed necessary by the Planning Board to evaluate the proposed development for site plan review purposes,
- (10) Statements from the following officials:
- (a) The Portland Water District as to the conditions under which the District will supply water and sewage removal, approval of the size and location of mains, valves and hydrants proposed, and the approval of and required pre-treatment facility. If septic is to be used, a statement from the plumbing inspector that the system is adequately designed to serve the facility,
  - (b) The Fire Chief approving the safety features related to fire and emergency protection,
  - (c) The City Engineer regarding the adequacy and design of drainage and street systems, both proposed and existing,
  - (d) The Police Chief relative to traffic circulation,
  - (e) Where the use may involve the production of a substantial amount of waste, the applicant shall request review by the Director of Public Works for an appropriate recycling plan,
  - (f) Director of the public transit authority regarding the potential to serve the site, and how internal circulation for public transit vehicles will be provided,
  - (g) Any other agency or committee deemed appropriate by the Planning Board.

**504.7 Dual Reviews.** Where the development also involves subdivision, all appropriate subdivision standards apply. The review process for both may occur at the same time. All conditional uses shall be required to receive Planning Board approval during the subdivision or site plan review process.

**504.8 Development Impact Fees.** The Planning Board may require the applicant to participate in municipal infrastructure improvements. Where it is demonstrated that the applicant's proposed development will result in a negative impact or decline in level of service of any existing municipal infrastructure system or services, the Planning Board shall assess and establish the applicant's level of participation in accordance with improvements of that system or service.

## 505 Site Plan Review Design and Performance Standards.

505.1 The General design and performance standards for site plan review are as follows:

- A. Utilization of the Site.** The plan for development must reflect the natural capabilities of the site to support development. Environmentally sensitive and natural drainage areas must be buffered and preserved to the maximum extent possible. The landscape must be preserved in its natural state as practicable. This includes minimizing tree removal and disturbance of soil whenever possible.
- B. Handicap Access.** The plan must indicate the location and type of handicap access to restroom facilities, parking areas, and entrances and exits. The plan must be in accordance with the standards established in the Americans with Disability Act (ADA), as revised.
- C. Appearance Assessment.** In preparing the final plan, the applicant shall incorporate the following criteria to ensure the harmonious relationship of the project to surrounding properties, buildings, and natural features. The following factors must be considered:
- (1) Relationship of Project to Site. The plan must provide for smooth transitions between the streetscape, driveway entrances, and project landscaping. Height and scale of proposed structures must be consistent with existing structures.
  - (2) Relationship of Project to Surrounding Property. The plan must provide for smooth transitions between land, proposed structures, and surrounding properties. Compatible transitions may achieved by utilizing screening materials, landscaping, and natural topography.
  - (3) Relationship of Landscape Design. Landscape design must include all forms of planting and vegetation, including existing vegetation, topography, water patterns, and utilitarian structures such as, but not limited to, fencing and curbing. Wherever practicable, the applicant shall maintain existing topography and vegetation. Landscaping must provide a transition between buildings, parking, and pedestrian walkways, while breaking up long open areas and traffic patterns. Suitable plant material must be selected according to its structure, texture, color, ultimate growth, and hardness. It must be protected through appropriate buffer to avoid damage where vegetation is used for screening purposes, it must be equally effective in winter and summer. The design may provide for the use of materials such as fences, walls and a variety of paving types where there is difficulty in achieving vegetative growth.
  - (4) Relationship of Lighting to Project. The design, type, and location of street lighting are to be reviewed. The lighting materials must blend with the overall project scheme enhancing design and landscaping. Standards and fixtures must be compatible with surrounding developments and, if maintained by a public utility, meet their requirements. Excessive brightness must be avoided and lighting must be confined to areas in accordance with this Ordinance.
  - (5) Relationship of Signs to the Project. Sign installation or modification must conform to this Ordinance. Sign materials and design must be an integrated element of the

overall site plan and must blend with proposed landscaping. Signing must be compatible with surrounding properties and not obstruct or interfere with the vision of drivers.

(6) Village Review Structure. Where a structure lies within the Village Review Overlay Zone, the applicant must incorporate the standards of the Village Review Overlay Zone.

**D. Landscape Plan.** The landscape plan shall be consistent with existing vegetation, provide significant buffers where such are deemed necessary, and result in a harmonious blend with surrounding properties.

**E. Odors.** Odorous matter released from any operation or activity shall be controlled in accordance with the provisions of this ordinance. In addressing changes in odors as a result to the Board may require the applicant to establish pre- and post-development odor threshold levels. Any measurement conducted shall be conducted in accordance with the "Standard Method for Measurement of Odor in Atmosphere" or the "Dilution Method," as developed by the American Society for Testing and Materials. The Board shall act as the observer in this assessment.

**F. Noise.** Adequate provision must be made to control unnecessary noise from and at the site in accordance with the standards for each zoning district in this Ordinance. The Planning Board may require the applicant to establish pre and post-construction noise levels.

**G. Technical and Financial Capacity.** The applicant has demonstrated technical and financial capacity to carry out the project.

**H. Solid Waste.** The project must demonstrate an adequate plan for solid waste disposal.

**I. Historic, Archaeological and Botanical Resources or Unique Features.** Adequate provision must be made to mitigate adverse impact on existing scenic or natural beauty, rare or irreplaceable historic sites, or other features of importance to the City. Where such sites are identified, appropriate measures to protect or study these areas shall be put in place, be part of the site design and take into consideration the timing of construction.

**J. Hazardous Matter.** The handling, storage and use of materials identified by a state or federal agency shall have an appropriate plan of action and be done so in accordance with appropriate standards. For any toxic or hazardous waste storage, consistent DEP definitions, the Planning Board may require:

- (1) Environmental Evaluation. An environmental evaluation of geologic, hydrologic, and soils conditions of the site in question,
- (2) Description of Wastes. A description of wastes to be stored, the manner in which they are to be stored and the manner of removal,
- (3) Ground water quality. A background establishing existing ground water quality around the site, and a system to monitor any changes should contamination occur,

(4) Other Provisions. The findings and use of hazardous matter must be shown to be consistent with other provisions of this Ordinance.

**K. Vibrations.** Adequate provision must be made to control vibrations in accordance with the standards for each zoning district in this Ordinance. The Planning Board may require the applicant to establish pre and post-construction vibration levels.

**L. Others.** Based on particular cases, the Planning Board may choose to add other criteria in their final decision

## **505.2 Parking and Loading Design and Site Circulation.**

A. ~~a~~-Table of Off-Street Parking. The following minimum parking requirements apply unless the zoning for a particular district provides otherwise.

### Table of Off-Street Parking 505.2.A.1

<b>Principal Use</b>	<b>Number of Spaces</b>
Single Family and Duplex	2 per unit
Efficiency Units/Multi-Family	1 per unit
1-2 bedrooms/Multi-Family	1.5 per unit
3 or more bedrooms/Multi-Family	2 per unit
Hospital	1.2 per employee/largest shift
Theatre/Stadium	0.3 per seat
Restaurant	0.3 per seat
Industrial	0.6 per employee at the largest shift
Church	0.3 per seat
College	0.5 per student
College Housing	1 per two beds
General Retail	6 per 1000 S.F. of sales area
Offices,Banks,Funeral Homes	5 per 1000 S.F.
Major Retail Center	5.5 per 1000 S.F.
Hotels,Motels,Boarding Houses	1 per rented room and 0.5 per employee
Inn, Boarding Houses	1 per rented room and 2 for the owner
Elementary/Junior High School	1.3 per classroom
Senior High School	1 per staff plus 1 per 5 students
Medical Offices	4 per 1000 S.F.
Auto Sales and Service	1.5 per 100 S.F.
Bowling Alleys	4.2 per lane
Sanitariums/Nursing Homes	1 per 3 rooms plus 1 per employee
Drive-in Window Services	8 stacking spaces for 1 <sup>st</sup> window, and 2 per additional window
Other Commercial or Business	1 per 250 S.F.



- B. ~~b.~~–Design of Off-Street Parking. Each off-street parking area must be designed with adequate access, turning radii, and snow storage areas in addition to the following minimum standards:

Table 505.2.B.1

Parking Angle	Stall Width	Skew Width	Stall Depth	Aisle Width
90°	9'0"	0"	18'5"	24'0"
60°	8'6"	10'5"	19'0"	(1 way) 16'0"
45°	8'6"	12'9"	17'5"	(1 way) 12'0"
30°	8'6"	17'0"	17'5"	12'0"

(Amended per Ord. of 11/17/14)

- C. ~~c.~~–Parking On and Off Site

- (1) On-Site Parking Facilities. Except as provided in subsection (2), parking must be provided on the lot occupied by the use to which the space is appurtenant.
- (2) Off-Site Parking Facilities. Parking may be located off-site if it is located so that it will adequately service the use for which it is intended. In making this determination under site plan review, the Planning Board shall consider the following factors:
  - (a) The proximity of the off site parking,
  - (b) Ease of pedestrian access to the off-site parking including any necessary improvements,
  - (c) The legal interest of the applicant in the land for which the off site parking is proposed. The applicant must have a legally sufficient interest to establish control as long as the use exists.

- D. ~~d.~~–Parking Required for Each Use. Where multiple use occurs, on-site parking facilities or loading bays must be provided in accordance with the standards above and below, respectively, except where the applicant can show through a parking study that each use has different operating hours, so that the peak period parking demand is non-conflicting. Non-conflicting periods may consist of daytime as opposed to evening hours of operation or weekday as opposed to weekend hours of operation. Where the applicant can demonstrate non-conflicting periods of use, the Planning Board may grant approval for shared use of parking spaces.

- E. ~~e.~~–Screening. All parking may be screened from adjacent properties with either fencing or natural materials. In making this determination the Planning Board shall take the need of the abutters into consideration.

- F. ~~f.~~–Circulation. ~~The layout and design of all means of on-site pedestrian and vehicular traffic must provide for safe circulation.~~ The layout of the site must provide for safe movement of passenger, service and emergency vehicles within the site. Turning movements shall meet minimum standards for the designated activity. All roadways and parking areas shall be designed to harmonize with topographic and natural features to minimize grading and fill.

- G. ~~g~~-Loading Facilities. Following is the Table of minimum Off-Street Loading Space Requirements.

Table 505.2.G.1

**Number of Loading Bays Required for New Structures**

Type of Use	Gross Floor Area of Structure (in thousands of S.F.)				
	1-7	8-24	25-100	101-250	Each 250 add.
Commercial & Industrial Uses.	1	2	3	4	1
Institutional, Office Buildings, Hotels, Residential.	1	1	1	3	1
Truck Terminals & Storage (Dependent on facility)	15 bays/ 100,000 S.F. of gross floor area				

- H. ~~h~~-Size of Loading Areas. Each truck-loading bay must be between 12 and 14-feet wide depending on conditions of ingress and egress. Access to the bay must include a minimum maneuvering area of 125 feet in length, or more where required. The bay area must be long enough to accommodate standing trucks so as to remove them from the flow of traffic. All loading bays must be screened, with areas for trucks to park in when waiting for loading activities.
- I. ~~i~~-Planning Board Discretion. The Planning Board may relax or expand any of the requirements in this section ~~Section 505.4~~ in the case of site plan review if the applicant can describe statistically how its operation will require a different treatment.

(Ord. of 4-5-10)

505.3 Transportation Network Standards

**A. Adequacy of Road System.** Vehicular access to the site must be on roads which have adequate capacity to accommodate additional traffic. Intersections in the vicinity of the project must be maintained at a level of service D.

- (1) If the intersection is already below D, improvements shall at least maintain the existing level of service for that intersection. This requirement may be waived if the project is within a designated growth area or there is an approved project to modify the existing traffic system.

**B. Vehicular Access.** The site layout must provide for safe ingress and egress to and from public and private roads by requiring adequate location, numbers and control of access points including minimum site distance, turning lanes, and traffic signals if necessary.

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- (1) The Planning Board may also require a study showing the existing and projected levels of service for entrances and intersections that are substantially affected by the proposed development.
- (2) The project's design must also provide for the best possible access for public safety and health personnel and vehicles.
- (3) Points of access shall avoid hazardous conflicts with existing turning movements, especially where an accident critical rate factor equal to or greater than one (1) exists.
- (4) A minimum of curb cuts is desired, shared access with adjacent properties is used whenever practicable.

**C. Pedestrian and other modes of Transportation.** The site must provide a system of pedestrian movement where there are safe and convenient connections between buildings and parking areas.

- (1) The system shall also encourage alternative modes of transportation and provide convenient access.
- (2) Connections shall also be made to the neighborhood, and to other corridor systems planned for the community.

**505.4 Utilities/Services/Erosion and Sediment Control Standards**

**A. General.** Standard requirements for water, sewer, storm drainage systems and street construction, where applicable, shall be the same as those required in subdivision ordinance. The Planning Board reserves the right to increase those minimum standards where it is deemed necessary. All utilities shall be underground.

~~**Storm Water Management, Groundwater Pollution and Erosion and Sedimentation Requirements.** In designing a storm water management plan, groundwater pollution plan, and erosion and sedimentation plan, the applicant must observe the standards described in Westbrook's subdivision ordinance.~~

**B. Municipal Services and Utilities Capacity.** The development shall not exceed the capacity of utilities such as sewer, storm drains and water lines or on municipal services such as, but not limited to, fire, police, solid waste disposal, or other services. Any improvement costs required as a result of this impact, shall be borne by the applicant.

**C. Storm Water Management, Groundwater Pollution.** Adequate provisions must be made for the collection, treatment and disposal of stormwater. To the extent possible, the plan retains stormwater using natural features, has a program to reduce contaminants before they exit the property, and the rate of flow shall not exceed pre-existing conditions.

**D. Erosion and Sedimentation Control.** Best management practices shall be used in erosion control. All site activities shall utilize natural conditions to the best extent possible such that filling, excavation and earth moving is kept at a minimum. In designing a storm water management plan, groundwater pollution plan, and erosion and sedimentation plan, the applicant must observe the standards described in

Westbrook's subdivision ordinance.

~~**Utility and Road Standards.** Standard requirements for water, sewer, storm drainage systems and street construction, where applicable, shall be the same as those required in subdivision ordinance. The Planning Board reserves the right to increase those minimum standards where it is deemed necessary. All utilities shall be underground.~~

~~**Hazardous Matter.** For any toxic or hazardous waste storage, consistent DEP definitions, the Planning Board may require:~~

~~Environmental Evaluation. An environmental evaluation of geologic, hydrologic, and soils conditions of the site in question,~~

~~Description of Wastes. A description of wastes to be stored, the manner in which they are to be stored and the manner of removal,~~

~~Ground water quality. A background establishing existing ground water quality around the site, and a system to monitor any changes should contamination occur,~~

~~Other Provisions. The findings and use of hazardous matter must be shown to be consistent with other provisions of this Ordinance.~~

~~**Odors.** Odorous matter released from any operation or activity shall be controlled in accordance with the provisions of this ordinance. In addressing changes in odors as a result to the Board may require the applicant to establish pre and post development odor threshold levels. Any measurement conducted shall be conducted in accordance with the "Standard Method for Measurement of Odor in Atmosphere" or the "Dilution Method," as developed by the American Society for Testing and Materials. The Board shall act as the observer in this assessment.~~

~~**Noise.** Adequate provision must be made to control unnecessary noise from and at the site in accordance with the standards for each zoning district in this Ordinance. The Planning Board may require the applicant to establish pre and post construction noise levels.~~

~~**Vibrations.** Adequate provision must be made to control vibrations in accordance with the standards for each zoning district in this Ordinance. The Planning Board may require the applicant to establish pre and post construction vibration levels.~~

~~**Unique Features.** Adequate provision must be made to mitigate adverse impact on existing scenic or natural beauty, rare or irreplaceable historic sites, or other features of importance to the City.~~

~~Reserved (Removed per Ord. of 11/17/14)~~

~~Reserved~~

**505.13 Site Plan Design and Performance Standards in the Gateway Commercial District adjacent to specific Residential Zones**

**505.13.1. Purpose.** The purpose of this section of the Site Plan Review Ordinance is to ensure that commercial/retail development in the Gateway District is compatible with adjacent residential neighborhoods. (Ord. of 11/17/14)

**505.13.2 Applicability.** The additional standards in this subsection 505.11 must be met when a commercial or retail development, but not an industrial use, is proposed in the Gateway Commercial District that:

- A. Is situated on a parcel of land that is within 500 ft. of a residentially zoned occupied property at the time the development's site plan receives its first substantive review, as defined in 1 M.R.S.A. § 302, and
- B. Is situated on a parcel or combination of parcels greater than 10 acres.
- C. Projects in a common scheme of development within 500 ft. of a residentially zoned occupied property shall also be subject to the provisions of subsection 505.11.
- D. If the provisions of this subsection conflict with any other provisions in this ordinance, the more restrictive provision shall govern; further, no waivers of the provisions of this subsection may be granted. (Ord. of 11/17/14)

**505.13.3 Definitions.** Items defined in Section 201 of the Land Use Ordinances apply to all terms in Section 505.13. In the case of conflict, the definitions in this section will apply to terms in Section 505.13. (Ord. of 11/17/14)

**Common Scheme of Development:** A plan or process of development which:

- A. Takes place on contiguous or non-contiguous parcels or lots in the same immediate vicinity; and
- B. Exhibits characteristics of a unified approach, method, or effect such as:
  - (1) unified ownership, management, or supervision;
  - (2) sharing of common equipment or labor; or
  - (3) common financing.

**Decibel:** The practical unit of measurement for sound pressure level, abbreviated dB. The abbreviated dB(A) shall refer to readings taken on the A-weighted scale.

**Earthen Berms:** A mound comprised of clean fill or rock that is at a minimum covered with loam and seed. Berms may have trees and shrubs planted on them to increase their efficiency in visual and audio screening.

**Residentially zoned occupied property:** A parcel or parcels of land in a Residential

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Growth Area 1, Residential Growth Area 2, or Residential Growth Area 3 zone of the city on which one or more residences are established.

Visual Screening: The combination of buffer materials that block the development site from view.

#### 505.13.4 Standards

- A. Buffering: In addition to any other buffering requirements in this ordinance, uses governed by this subsection shall provide buffering and screening between the proposed use and all abutting residentially zoned occupied property. The types of screening include, but are not limited to, earthen berms, vegetation with year-round foliage, and sound barrier walls – all of which are subject to the approval of the Planning Board based on materials and design. The approved buffering system must be installed prior to the issuance of any permanent occupancy permit, and the Planning Board may require installation of some or all of the buffering prior to demolition or site preparation where reasonably necessary to protect the health and safety of surrounding residentially improved properties.

The Planning Board shall review the buffering/screening system in accordance with the following standards:

##### (1) Space and Bulk Standards

- (a) Minimum height: Buffering/screening must be at least 10 feet high as measured from the existing ground level as established prior to the beginning of grading, excavation or construction, but in no case be less than 10 feet above finished grade;
- (b) Minimum width: A buffer of at least 150 feet as measured from the lot line of the proposed development must be maintained between the proposed building and any residentially zoned occupied property. If the proposed buffering utilizes plantings or earthen berms, these must be placed within the 150' buffer in a location that maximizes screening.
- (c) Minimum length: The buffer zone and all screening within it must be continuous in the area between the proposed site and any residentially zoned occupied property. A gap may be allowed in the buffering for the sole purpose of emergency vehicle access, provided that the gap shall be limited to the minimum necessary for such access.

##### (2) Performance

- (a) Visual Screening: The buffering must provide complete visual screening of the proposed development, including, but not limited to, any buildings, roof-top equipment, loading areas, parking areas, light poles and other light

fixtures. The measurement of the visual screening will be taken from the property line of all abutting residentially zoned occupied property at an elevation at least 5 feet above ground level.

- (i) As part of the site plan application submission, the applicant must provide photo-simulations. The simulations must show the view from at least one (1) vantage point along each property line of the development site that abuts residentially zoned occupied property.
  - (ii) After the visual screen has been installed, the Code Enforcement Officer must make a positive determination that complete visual screening has been achieved at all points along the property line(s) where residentially zoned occupied property abuts. A gap may be allowed in the visual screening for the sole purpose of emergency vehicle access, provided that the gap shall be limited to the minimum necessary width for such access.
- (b) Lighting: The buffering system must limit the spill of artificial light onto abutting residentially zoned occupied property based on the standards of this subsection:
- (i) A study, submitted by a recognized lighting specialist or engineer, must demonstrate that the buffer and screening will minimize the spill of lighting off-site to no more than [0.2 foot-candles] in any location, and that no artificial light will spill onto any adjacent residentially zoned occupied property,
  - (ii) Lighting must minimize “night glow” by using the lowest wattage possible and have an amber hue,
  - (iii) Fixtures must be 90 degree cutoffs and no portion of the bulb or its glass shield shall extend below the bottom of the lighting case,
  - (iv) Lighting affixed to any exterior wall facing abutting properties must be downshielded so that no light directly spills onto adjacent parcels.
- (c) Noise: The buffer or screening system must limit the decibel level of all sounds or noise that reach the property line abutting residentially zoned occupied property to the following levels, and at the following times:
- (i) During daytime hours (6 am – 6 pm) – 60 dB(A)
  - (ii) During nighttime hours (6 pm – 6 am) – 50 dB(A)
  - (iii) Weekend hours Saturday – Sunday (9 am – 6 pm) daytime hours – 60 dB(A)
  - (iv) Weekend hours Sat. – Sun. nighttime hours(6 pm – 9 am) – 50 dB(A)
- (c.1) Exceptions: The following sources of noise shall be excluded from meeting these standards:

- (i) Natural phenomena.
- (ii) Any siren, whistle, or bell lawfully used on the premises in an emergency situation, provided that burglar alarms are terminated within thirty (30) minutes of activation.
- (iii) Snow removal equipment, except that equipment used on any side that abuts residentially zoned occupied property shall be used during daytime hours only.
- (iv) Noise generated by refuse and solid waste collection, except that equipment used in this manner shall be used during daytime hours only.
- (v) Noise generated from power equipment such as, but not limited to, power saws, sanders, lawn and garden tools, lawn mowers, snow blowers, or similar devices operated during daytime hours.
- (vi) Emergency or extraordinary situations.

(c.2) Measurement Procedures: For the purpose of determining noise levels as set forth in this Ordinance, the following guidelines shall be applicable.

- (i) After an initial inspection to determine that noise is being emitted from a property under the jurisdiction of this ordinance, the Code Enforcement Officer reserves the right to hire a consultant or expert in the field of sound measurement. All costs billed by the consultant or expert must be paid for by the owner of the property from which the sound is being emitted.
- (ii) All personnel conducting sound measurements shall be trained in the current techniques and principles of sound measuring equipment and instrumentation.
- (iii) Instruments used to determine sound level measurement must conform to the current Standards of A.N.S.I. Type I or Type II meters.
- (iv) The general steps listed below must be followed when preparing to take sound level measurements:
  - (1) The instrument manufacturer's specific instructions for the preparation and use of the instrument must be followed.
  - (2) The sound level meter must be calibrated before and after each set of measurements. The calibrator itself shall be recalibrated at least once every year.
  - (3) The sound level meter must be placed as specified by the manufacturer's instructions and at least four (4) feet above the ground. It shall be placed so as not to be interfered with by individuals conducting the measurements.

(c.3) Sound Barrier Walls: If sound barrier walls are used, their technical specifications must be submitted to demonstrate that:

- (i) Noise levels at the property line(s) are limited to the regulations set in subsection (2)(c)(i)-(iv) and (2)(c)(c.1)(i)-(vi).
- (ii) The walls shall be placed in the most effective location within the 150



foot buffer.

- (iii) Landscaping is placed between the wall and residentially zoned occupied property. The required photo simulations must demonstrate that the landscaping provides at least 25% screening of the wall surface at the time of installation, and 75% screening when the vegetation has reached full maturity.

## B. Hours of Operation

- (1) Delivery Hours: Delivery by vehicles with more than two axles and refrigeration units shall not be made between the hours of 11:00 p.m. and 7:00 a.m. The Planning Board may grant exceptions to this requirement provided that its review and approval finds that,
  - (a) Noise barriers: A fully enclosed, noise-proof barrier, is used to block release of any noise or light in excess of the standards provided in subsections (2)(c)(i)-(iv), (2)(c)(c.1)(i)-(vi) and (2)(b)(i)-(iv) , and
  - (b) Delivery Area Lighting: On-site lighting is limited only to that reasonably necessary to accommodate such after-hours deliveries and shall not exceed the standards set forth in subsection (2)(b)(i)-(iv).
  - (c) Truck Idling: Delivery trucks shall not idle for longer periods than necessary to perform delivery functions.
- (2) Retail Hours of Operation: Retail hours of operation shall not commence earlier than 7:00 a.m. nor end later than 11:00 p.m.
- (3) Non-Retail Hours of Operation: Non-retail activities, such as outside loading or moving of pallets or stock in trade or stacking of delivery vehicles, shall not be allowed outdoors if they exceed the noise or lighting restrictions in (2)(c)(i)-(iv), (2)(c)(c.1)(i)-(vi) and (2)(b)(i)-(iv) . Non-retail activities within the building are permitted between 11:00 p.m. – 7:00 a.m.

## C. Building Design Standards:

The following standards are intended to ensure that retail and commercial buildings are compatible in design with the surrounding area and community character of the city. All additions to existing retail and commercial service buildings, built either before or after the adoption of this Ordinance, are required to meet these building design standards.

- (1) Internal Subdivision: The building footprint must be designed and constructed in such a way as to enable future possible internal subdivision and re-use by future, unrelated parties.
- (2) Structural & Decorative Elements: The building shall employ building setbacks,

height, roof treatments, door and window openings, and other structural and decorative elements to reduce apparent size and scale.

- (3) **Building Scale:** The apparent mass and scale of large buildings shall be reduced through the use of materials and architectural elements that provide a pedestrian scale and visual interest.
- (a) Building facades visible from public streets and public spaces shall be stepped back or projected forward at intervals to provide a minimum of forty percent (40%) facade modulation. The minimum depth of modulation should be one foot and the minimum width shall be five feet. Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings or other such features along no less than fifty percent (50%) of their horizontal length.
  - (b) **Articulation.** Buildings shall be articulated to reduce the apparent scale of buildings. Architectural detail options may include reveals, battens, and other three dimensional details that create shadow lines and break up the flat surfaces of the facade. The following are recommended methods to achieve this:
    - (i) Tripartite articulation that establishes a building top, middle, and base to provide pedestrian-scale and architectural interest.
    - (ii) Windows should be articulated with mullions, recesses, etc., as well as applying complementary articulation around doorways and balconies.
    - (iii) Arcades, balconies, bay windows, dormers, and/or columns may be used.
    - (iv) A distinctive roofline to reduce perceived building height and mass, increase compatibility with smaller scale and/or residential development, and add interest to the overall design of the building. Roofs with particular slopes may be required by the Planning Board to complement existing buildings or otherwise establish a particular aesthetic objective consistent with buildings nearby. This compatibility may be accomplished by:
      - (a) The use of alternating dormers, stepped roofs, gables, or other roof elements to reinforce the modulation or articulation interval.
      - (b) Flat-roofed designs alone are prohibited. Cornices and decorative facings shall be used to eliminate the view of the flat roof from ground level.
      - (c) In retail areas, small-scale additions may be used to reduce the apparent bulk. Clustering smaller uses and activities around entrances on street-facing facades also allows for small retail or display spaces that are inviting and add activity to the streetscape.

- (c) **Building Materials:** Building materials shall be unified throughout the building, and shall complement other buildings in the vicinity.
  - (i) Predominant exterior building materials may not include the following: smooth-faced concrete block, tilt-up concrete panels; pre-fabricated steel panels, vinyl siding (ground floor applications). Wood-textured cementitious fiber board products may be considered in lieu of wood siding.
  - (d) **Building Color.** Façade colors shall be non-reflective, using neutral or earth tones. The use of high intensity colors, metallic color, black, or fluorescent colors on facades is prohibited. Building trim or architectural accent elements may feature brighter colors, but they shall not be high intensity, metallic, black, or fluorescent in nature.
- (4) Delivery and service areas must be located on areas of the building or site that are not within 500 feet of residentially zoned occupied property.

#### D. Additional Requirements

##### (1) Access Management:

- (a) No egress from or ingress to a site subject to this section shall be permitted over residentially zoned property, except for emergency vehicles.

##### (2) Traffic Study:

- (a) As part of any site plan development application subject to this section, a developer must commission an independent traffic study to ascertain the traffic flow on streets that may be impacted as a result of development on the proposed site. The Planning Board shall determine the streets to be studied.

If a site plan development application is granted final approval by the Planning Board and development is permitted, then nine (9) months following the initiation of the intended use of the site, the developer must commission a second independent traffic study to ascertain the post-occupation flow of traffic on streets. The Planning Board shall determine the streets to be studied.

If, in the judgment of the Planning Board, the results of the second traffic study evidence a measurable increase of traffic flow on the streets designated by the Planning Board, the developer shall work with the City

Administration and take steps to moderate the increased traffic flow by the use of such measures as, for example, stop sign installation and construction of speed slowing devices.

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- (3) Impact Analysis. The Planning Board will require an impact analysis to be conducted by a qualified consultant retained by the City at the applicant's expense. In addition to the standards found in section 507 of the Site Plan Review Ordinance, the study shall assess and provide data on the following:
- (a) Data Description: The same data must be provided by the analysis as that stated in Section 507(A) of the Site Plan Review Ordinance.
  - (b) Impact Analysis: The consultant also must conduct an analysis of and provide data on the following:
    - (i) Estimated economic impact on the City of Westbrook including,
      - Employment,
      - Businesses,
      - Municipal tax revenues,
      - Project generated revenue retained and redirected into Westbrook's economy,
      - General assistance resources, and
      - Social services.
    - (ii) A proposed project's impact on residentially zoned occupied property within 500 feet of the proposed development.

Once the Study has been completed, the consultant in conjunction with the Department of Planning, Engineering and Code Enforcement shall present it to the Planning Board for review and comment. The Planning Board may ask for additional information or comments from other community agencies. The consultant shall use the information, data, and conclusions of the Study to make recommendations on the applicant's participation in municipal infrastructure improvements based on Section 508 of the Site Plan Review Ordinance.

In deciding whether to approve a project, the Planning Board must make a specific finding as to a project's impact on the city, basing that finding on the analysis described in this subsection.

- (4) In deciding whether to approve a project, the Planning Board must make specific findings as to a proposed development's compliance with the city's comprehensive plan. (Ord. of 11/17/14)

505.13.5 Applicability Date: Notwithstanding any other provision of law and to the maximum extent permitted by law, this ordinance amendment, if and when adopted, shall relate back in time, and be applicable to, any project, development or land use application that has not had substantive review of such application, within the meaning of 1 M.R.S.A. § 302, as of August 2, 2004. (Ord. of 08-15-05)

506 ~~Appearance Assessment.~~

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~~For appearance assessments, the factors described under section 502.6, subsection G., shall apply.~~

~~507 - Community Facilities Impact Analysis:~~

~~The Planning Board may require the applicant to conduct a community facilities impact analysis. In conducting analysis for residential development, the applicant is directed to use the factors outlined in the subdivision ordinance. For commercial, industrial or institutional development the applicant shall take the following factors into consideration:~~

- ~~A. Data Description. The analysis must identify data associated with the project including, but not limited to, the following: (1) Number of employees, shifts, and period of operation; (2) Where retail business is concerned, anticipated trade area, trade area population description and desired customer mix; (3) Area of operating space, seating capacity, rooms, beds, or number of pumps whichever is appropriate; (4) Where waste production is involved, description of type, volume, and method of removal.~~
- ~~B. Community Facilities Impact Analysis. Utilizing the above data, the applicant must conduct an analysis of the following: (1) Estimated impact on sewage disposal system, including assessment of capacity and ability to accept particular types of flowage; (2) Estimated impact on the water system, including flow estimates, impact on capacity and assessment of existing or potential water pressure; (3) Estimated impact on the traffic system including the impact of projected trips on flow characteristics and the impact of traffic on the immediate existing road structures, trip distribution and all modal choices; (4) Estimated impact on public safety providers; (5) Projected percentages of in-migration and demographic breakdown resulting from employment related to the proposed business; (6) Estimated impact on public works department, including solid waste disposal; (7) Estimated impact on existing storm water management systems, including flow and water quality impact; (8) Any other study deemed appropriate by the Planning Board.~~

~~Once the analyses have been completed, the applicant shall present them to the Department of Community Development and Planning for review and comment. The Department may ask for additional information, changes to conclusions, a peer review, or comments from other community agencies.~~

~~508 Development Impact Fees:~~

~~The Planning Board may require the applicant to participate in municipal infrastructure improvements. Where it is demonstrated that the applicant's proposed development will result in a negative impact or decline in level of service of any existing municipal infrastructure system or services, the Planning Board shall assess and establish the applicant's level of participation in accordance with improvements of that system or service.~~

509 Handicap Access:

~~The plan must indicate the location and type of handicap access to restroom facilities, parking areas, and entrances and exits. The plan must be in accordance with the standards established in the Americans with Disability Act (ADA), as revised.~~

510 Approval Expiration:

~~Site Plan approval expires unless the work necessary to accomplish the purpose for which it was requested is commenced within one year and completed within two years after the date of Planning Board approval or is completed in accordance with a phased completion schedule proposed by the applicant and approved by the Planning Board, as incorporated in the final approval. Failure to complete a subsequent phase within the required period shall also have the effect of causing the permit to expire. Any applicant may come back before the Board and request a permit extension. An extension request must occur within one year after approval was granted. An extension of the completion date established for the project must be requested within two (2) years after the project was approved by the City. Deadline dates for phased developments shall be established at the time of approval. The Planning Board may choose not to grant more than two permit extensions for the same project. (Ord. of 4-5-10)~~

511 Appeal:

~~The applicant, abutting landowner, or aggrieved party may appeal a site plan review decision of the Planning Board to the Superior Court of the State of Maine within thirty (30) days of the Planning Board decision.~~

~~(Ord. of 03-07-05)~~

512 Standards and Criteria:

~~The following standards and criteria shall be used in conjunction with the minimum design and performance standards of Section 504, to guide the Planning Board through the decision process:~~

- ~~5121 **Utilization of the Site.** The plan for development must reflect the natural capabilities of the site to support development. Environmentally sensitive and natural drainage areas must be buffered and preserved to the maximum extent possible. The landscape must be preserved in its natural state as practicable. This includes minimizing tree removal and disturbance of soil whenever possible.~~
- ~~5122 **Adequacy of Road System.** Vehicular access to the site must be on roads which have adequate capacity to accommodate additional traffic. Intersections in the vicinity of the project must be maintained at a level of service D. If the intersection is already below D, improvements shall at least maintain the existing level of service for that~~

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~~intersection. This requirement may be waived if the project is within a designated growth area or there is an approved project to modify the existing traffic system.~~

~~5123 **Access to the Site.** Vehicular access shall be safe and convenient. All roadways shall have minimum sight distance in all directions. Points of access shall avoid hazardous conflicts with existing turning movements, especially where an accident critical rate factor equal to or greater than one (1) exists. A minimum of curb cuts is desired, shared access with adjacent properties is used whenever practicable.~~

~~5124 **Internal Vehicular Circulation.** The layout of the site must provide for safe movement of passenger, service and emergency vehicles within the site. Turning movements shall meet minimum standards for the designated activity. All roadways and parking areas shall be designed to harmonize with topographic and natural features to minimize grading and fill.~~

~~5125 **Pedestrian and other modes of Transportation.** The site must provide a system of pedestrian movement where there are safe and convenient connections between buildings and parking areas. The system shall also encourage alternative modes of transportation and provide convenient access. Connections shall also be made to the neighborhood, and to other corridor systems planned for the community.~~

~~5126 **Stormwater Management.** Adequate provisions must be made for the collection, treatment and disposal of stormwater. To the extent possible, the plan retains stormwater using natural features, has a program to reduce contaminants before they exit the property, and the rate of flow shall not exceed pre-existing conditions.~~

~~5127 **Erosion Control.** Best management practices shall be used in erosion control. All site activities shall utilize natural conditions to the best extent possible such that filling, excavation and earth moving is kept at a minimum.~~

~~5128 **Utilities.** The plan shall demonstrate adequate water supply (for drinking and emergency purposes), sewage disposal, electrical, telephone, gas, and telecommunication or how the applicant is going to provide hook ups and new capacity to the site. All utilities shall be underground.~~

~~5129 **Hazardous, Special and Radioactive Materials.** The handling, storage and use of materials identified by a state or federal agency shall have an appropriate plan of action and be done so in accordance with appropriate standards.~~

~~51210 **Technical and Financial Capacity.** The applicant has demonstrated technical and financial capacity to carry out the project.~~

~~51211 **Solid Waste.** The project must demonstrate an adequate plan for solid waste disposal.~~

~~51212 **Historic, Archaeological and Botanical Resources.** Where such sites are identified,~~

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~~appropriate measures to protect or study these areas shall be put in place, be part of the site design and take into consideration the timing of construction.~~

~~512.13 **Landscape Plan.** The landscape plan shall be consistent with existing vegetation, provide significant buffers where such are deemed necessary, and result in a harmonious blend with surrounding properties.~~

~~512.14 **Others.** Based on particular cases, the Planning Board may choose to add other criteria in their final decision~~

**505.14 Findings of Fact.** Prior to granting approval, the Planning Board shall make its findings of fact based on the information provided above. The findings shall address the following areas:

- A. Utilization of the Site
- B. Landscape Plan
- C. Stormwater Management
- D. Parking and Loading
- E. Transportation Network Standards
- F. Utilities
- G. Erosion Control
- H. Odor, Noise, Vibration or similar nuisance matters.
- I. Hazardous Materials
- J. Technical & Financial Capacity
- K. Solid Waste
- L. Historical, Archeological and Botanical Resources, or Unique Features
- M. Other

### **505.15 CONCLUSIONS**

1. The proposed site plan **will/will not** result in undue water or air pollution.
2. The proposed site plan **has/has not** sufficient water available for the reasonably foreseeable needs of the site plan.
3. The proposed site plan **will/will not** cause an unreasonable burden on an existing water supply.
4. The proposed site plan **will/will not** cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
5. The proposed site plan **will/will not** cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.
6. The proposed site plan **will/will not** provide for adequate sewage waste disposal.
7. The proposed site plan **will/will not** cause an unreasonable burden on the



- municipality's ability to dispose of solid waste.
8. The proposed site plan **will/will not** have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
  9. The proposed site plan **conforms/does not conform** with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.
  10. The developer **has/does not have** adequate financial and technical capacity to meet standards of this section.
  11. The proposed site plan **is/is not** situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, subchapter I, article 2-B M.R.S.A.
  12. The proposed site plan **will/will not** alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
  13. The proposed site **is/is not** situated entirely or partially within a floodplain.
  14. All freshwater wetlands **have/have not** been shown on the site plan.
  15. Any river, stream, or brook within or abutting the site plan **has/has not** been identified on any maps submitted as part of the application.
  16. The proposed site plan **will/will not** provide for adequate storm water management.
  17. The proposed plan **will/will not** negatively impact the ability of the City to provide public safety services.
  18. Any other finding made by the Board not found above, but particular to the unique qualities of a given application.