

# **NOTE TO ZONING BOARD OF APPEALS**

## **TAB 16 - CHAPTER 90, SITE PLAN**

Chapter 90, Site Plan, in the City Code of Ordinances, identifies the main standards that the Planning Board considered in issuing a Site Plan Permit to Nordic Aquafarms. The Board used the administrative process identified in Chapter 90 to review Nordic's application, and made specific findings of fact on the application as required by Section 90-42(b).

The language in this document includes any and all amendments to the City Code of Ordinances that apply to Chapter 90, as such were adopted by the City Council through December 31, 2020.

The following identifies the page numbers for the five Articles in Chapter 90, Site Plan.

- Article I - In General (Pages 1 - 23)
- Article II - Review Criteria and Procedures \*\* Includes Section 90-42. Criteria for Review by Planning Board (Pages 24 - 32)
- Article III - Preliminary Plan (Pages 33 - 37)
- Article IV - Final Plan (Pages 38 - 39)
- Article V - Board Review of Multi-Family Housing Project (40-41)

# **CHAPTER 90**

## **SITE PLAN**

### **ARTICLE I. IN GENERAL**

#### **Sec. 90-1 Definitions.**

- (a) In the interpretation and enforcement of this chapter, all words shall carry their customary dictionary meanings. For the purpose of this chapter, certain words and terms are defined as follows:
- (1) The term "city" means the City of Belfast.
  - (2) The term "municipal officers" means the City council.
  - (3) Words used in the present tense include the future tense, words used in the singular include the plural, and words used in the plural include the singular.
  - (4) The word "shall" is always mandatory; the word "may" is permissive.
  - (5) The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.
  - (6) The word "lot" includes the words "plot" and "parcel."
  - (7) The word "building" includes the word "structure."
- (b) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

#### **ACCESSORY STRUCTURE OR USE**

A use or structure which is incidental and subordinate to the principal use or structure.

#### **AFFORDABLE HOUSING**

Housing that is targeted to persons who cannot afford the median cost to purchase or rent a housing unit in Belfast, and that includes provisions to ensure the affordability of the housing unit for a period of not less than 20 years.

#### **AGGRIEVED PARTY**

A person whose land is directly or indirectly affected by the granting or denial of a permit or variance under this chapter, or a person whose land abuts land for which a permit or variance has been granted.

#### **AREA OF SHALLOW FLOODING**

The designated AO and AH zones on the City's flood insurance rate map (FIRM), with a 1% or greater annual chance of flooding to an average depth of one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

#### **AREA OF SPECIAL FLOOD HAZARD**

The land in the floodplain having a 1% or greater chance of flooding in any given year, as specifically identified in the flood insurance study.

**AVERAGE DAILY TRAFFIC (ADT)**

The number of vehicles using a street, in both directions, during a twenty-four-hour period, specified as the average traffic by the state department of transportation, or the number of vehicles specified as the average daily traffic generated by a land use as specified by the Traffic Generation Handbook of the Institute of Traffic and Transportation Engineers.

**BASE FLOOD**

The flood having a 1% chance of being equaled or exceeded in any given year, commonly called the one-hundred-year flood.

**BASEMENT**

Any area of a building having its floor subgrade (below ground level) on all sides.

**BASIN (DRAINAGE)**

Those facilities which provide temporary or permanent impoundments of water for flood control and other water resource purposes.

**BITUMINOUS MIXING OPERATION**

A use generally associated with gravel and other mineral extraction operations which involves portable or fixed machinery or equipment used to manufacturing bituminous concrete (a.k.a. hot top).

**BREAKAWAY WALL**

A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

**BUFFER YARD**

A unit of land, together with a specified type and amount of planting thereon, and any structures, such as but not limited to fences, retaining walls and berms, which may be required between land uses to eliminate or minimize conflicts.

**BUILDING**

See "Structure."

**BUILDING INSPECTOR**

The code enforcement officer.

**BUSINESS PARK**

A planned development designed and arranged for business and professional uses, uses that are accessory or uses that provide services to business and professional uses.

**CALIPER**

A measurement of the size of a tree equal to the diameter of its trunk measured six inches above natural grade for trees having calipers less than or equal to four inches in diameter, and measured 12 inches above grade for tree calipers greater than four inches in diameter.

**CEO**

See "Code enforcement officer."

**CERTIFICATE OF COMPLIANCE**

A document signed by the code enforcement officer stating that a structure or development is in compliance with all of the provisions of this chapter.

**CHANNEL**

See "Watercourse."

**CITY ENGINEER**

The City engineer may be a regular employee of the City or a consultant to the City. The individual designated as City engineer shall be a registered professional engineer, licensed by the state.

**COASTAL WETLAND**

All tidal and subtidal lands; all lands below any identifiable debris line left by tidal action; all lands with vegetation present that is tolerant of saltwater and occurs primarily in a saltwater or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

**CODE ENFORCEMENT OFFICER (CEO)**

Any person responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

**DETENTION STORAGE**

The temporary detaining or storage of stormwater in aboveground or belowground reservoirs or other areas under predetermined and controlled conditions, with a controlled rate of discharge therefrom.

**DEVELOPMENT**

Any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; subdivisions; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

- (1) **MAJOR DEVELOPMENT** Structures which, together with parking lots and other impervious surface, cover a ground area in excess of three acres but less than seven acres. For purposes of City review authority of projects subject to the State of Maine Site

Location Development Law, major development shall also include subdivisions in excess of 20 acres as defined in 38 M.R.S.A. § 481 et seq. After July 1, 1997, major developments shall include two types of subdivisions, generally, as defined in 38 M.R.S.A. § 482(5).

- (2) **MINOR DEVELOPMENT** A development which has a floor area in excess of 3,000 square feet or a development which will utilize more than one acre of nonvegetated surfaces but less than three acres.

**DISCHARGE**

The outflow of water, silt or other mobile substances passing along a conduit, a watercourse, or a channel or released from detention storage.

**DRAINAGE**

The removal of surface water or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during or after development and includes the means necessary for water supply preservation or for prevention or alleviation of flooding.

**DRAINAGE AREA OF BASIN (WATERSHED)**

The area contributing runoff water to a watercourse, drainage system or detention basin.

**DRAINAGEWAY**

See "Watercourse."

**DRIVEWAY**

A vehicular accessway serving not more than two lots or dwelling units.

**DWELLING, MULTIFAMILY**

A dwelling containing three or more dwelling units.

**DWELLING, SINGLE-FAMILY**

A dwelling containing one dwelling unit.

**DWELLING, TWO-FAMILY**

A dwelling containing two dwelling units.

**DWELLING UNIT**

A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family. The term shall include single-family and multifamily housing, condominiums, timeshare units, apartments, and mobile homes, but not recreational vehicles.

**EARTH AND EARTH REMOVAL**

The term "earth" shall include topsoil (loam), sand, gravel, and clay taken from the land. The term "earth removal" shall mean the extraction of topsoil, sand, gravel, and clay from the earth. See Development, Filling and Mineral extraction.

**EARTH FILLING**

The placement of clean soil material, rocks, bricks, or cured concrete that is not mixed with other solid or liquid waste and is not derived from an ore mining activity, in a different location from that where the material was removed.

**ELEVATED BUILDING**

A nonbasement building.

**ELEVATION CERTIFICATE**

An official form (FEMA Form 81-31, 05/90, as amended) that:

- (1) Is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and
- (2) Is required as a condition for purchasing flood insurance.

**EMERGENCY OPERATIONS**

Includes operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

**EROSION**

The detachment and movement of soil, organic matter or rock fragments by water, wind, ice or gravity.

**ESSENTIAL SERVICES**

The construction, alteration or maintenance of gas, electrical or communication facilities; steam, fuel, telephone, electric power or water transmission or distribution lines, towers and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. For the purposes of this chapter, such systems do not include poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, nor do such systems include service drops or buildings which are necessary for the furnishing of such services. Facilities shall be for the public interest, and, if other than City-owned facilities, such facilities shall be deemed public facilities by the City council.

**EXCAVATION**

Any act by which organic matter, earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed, and shall include the conditions resulting therefrom.

**FAMILY**

One or more persons occupying premises and living as a single housekeeping unit.

**FILLING OF LAND**

See "Earth filling."

**FLOOD and FLOODING**

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. The overflow of inland or tidal waters.
  - b. The unusual and rapid accumulation or runoff of surface waters from any source.
- (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (1) of this definition.

### **FLOOD BASE ELEVATION**

The elevation of the highest flood of not less than one-hundred-year, twenty-four-hour duration as set forth by the floodplain maps and profiles adopted therein.

### **FLOOD ELEVATION STUDY**

An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

### **FLOOD INSURANCE RATE MAP (FIRM)**

An official map of a community on which the administrator of the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community.

### **FLOOD INSURANCE STUDY**

See "Flood elevation study."

### **FLOODPLAIN AND FLOODPRONE AREA**

Any land area susceptible to being inundated by water from any source (see definition of "flood" and "flooding").

### **FLOODPLAIN MANAGEMENT**

The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

### **FLOODPLAIN MANAGEMENT REGULATIONS**

Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, such as a floodplain ordinance, grading ordinance, and erosion control ordinance, and other applications of police power. The term describes such state or local regulations, or any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

### **FLOODPROOFING**

Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and

sanitary facilities, structures and their contents.

**FLOODWAY**

See "Regulatory floodway."

**FLOODWAY ENCROACHMENT LINES**

The lines marking the limits of floodways on federal, state, and local floodplain maps.

**FLOOR AREA**

The sum of the horizontal areas of the floors of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

**FLOOR AREA FACTOR**

A ratio derived by dividing the total floor area by the net buildable site area.

**FLOOR AREA RATIO**

A ratio derived by dividing the total floor area by the total site area.

**FOUNDATION**

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

**FREEBOARD**

A factor of safety, usually expressed in feet above a flood level, for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

**FREQUENTLY FLOODED**

See "Hydric soils." Frequently flooded means that flooding is likely to occur often under usual weather conditions, with more than a 50% chance of flooding in any year, or more than 50 times in 100 years.

**FRESHWATER WETLAND**

See "Wetland."

**GENERAL SURFACE WATER RESOURCE AREAS**

Areas along all brooks, streams, wetland and natural drainageways not protected by 38 M.R.S.A. but considered to have value in their natural state for the maintenance of biotic systems and in their capacity to carry stormwater.

**GROSS FLOOR AREA**

- (1) Gross floor area — The sum of the gross area of the several floors of a building or buildings measured from the exterior faces of exterior walls, or from the centerlines of walls separating two buildings. In particular, floor area generally includes:

- a. Basement space, except as specifically excluded.
  - b. Elevator shafts or stairwells at each floor.
  - c. Floorspace in penthouses.
  - d. Attic space, whether or not a floor has been laid, providing structural headroom of seven feet six inches or more.
  - e. Floorspace in interior balconies or mezzanines.
  - f. Any other floorspace used for dwelling purposes, no matter where located within a building.
  - g. Floorspace in accessory buildings, except for floorspace used for accessory off-street parking.
  - h. Any other floorspace not specifically excluded.
- (2) The gross floor area of a building shall not include:
- a. Cellar space, except that cellar space used for retailing shall be included for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.
  - b. Elevator or stair bulkheads, accessory water tanks, or cooling towers.
  - c. Uncovered steps.
  - d. Attic space, whether or not a floor actually has been laid, providing structural headroom is less than seven feet six inches.
  - e. Floorspace used for mechanical equipment.

**HABITAT, SIGNIFICANT WILDLIFE**

Areas designated by the state department of environmental protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. §§ 480A-480S.

**HAZARDOUS WASTE**

Any gaseous, liquid, or solid materials or substance designated as hazardous by the United States Environmental Protection Agency or state department of environmental protection.

**HEIGHT OF A STRUCTURE**

The vertical measurement from the average grade of the ground to the highest point on the roof.

**HISTORIC STRUCTURE**

Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the Department of the Interior; or
  - b. Directly by the Secretary of the Interior in states without approved programs.

**HYDRIC SOILS**

Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part (USDA Soil Conservation Service 1987). In general, hydric soils are flooded, ponded, or saturated for usually one week or more during the period when soil temperatures are above biologic zero (41° F.) as defined by Soil Taxonomy (USDA Soil Survey Staff 1975). These soils usually support hydrophytic vegetation.

**IMPERVIOUS SURFACE**

Any hard-surfaced manmade area that does not readily absorb or retain water, including but not limited to building roofs, paved or graveled parking and driveway areas, sidewalks and paved recreational facilities.

**IMPERVIOUS SURFACE RATIO**

Is a measure of the intensity of land use which is determined by dividing the total area of all impervious surfaces on a site by the lot area.

**IMPROVED LOT**

A parcel which has been developed, including but not limited to construction of buildings and/or installation of utilities.

**INDUSTRIAL PARK**

A subdivision of land intended or designed exclusively for and/or developed for more than one distinct industrial use, its accompanying accessory use and uses that service industrial uses.

**INTERMITTENT STREAM**

See "Stream."

**LICENSED PLUMBING INSPECTOR (LPI)**

An individual licensed by the state department of human services to review and inspect requests for internal and external plumbing permits and to enforce the provisions of the state plumbing codes as well as local codes related to plumbing.

**LOCALLY ESTABLISHED DATUM**

An elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum or any other established datum and is used in areas where mean sea level data is too far from a specific site to be practically used.

**LOT**

A registered or recorded parcel of land of at least sufficient size to meet minimum zoning requirements for use and dimensions and to provide such yards and other open spaces as are required in this chapter. For the purposes of this chapter, an easement shall not be considered a lot.

**LOT AREA**

The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

### **LOT LINES**

- (1) **FRONT LOT LINE** The line separating any lot from a street or streets.
- (2) **REAR LOT LINE** A lot line which is opposite and most distant from the front lot line. In the case of a triangular or irregular lot, the rear lot line is a line 10 feet long within the lot, parallel to and farthest from the front lot line.
- (3) **SIDE LOT LINE** Any lot line not a front or rear lot line.

### **LPI**

Licensed plumbing inspector.

### **MAINE EROSION AND SEDIMENTATION CONTROL HANDBOOK FOR CONSTRUCTION**

The handbook developed and published by the state department of environmental protection, first draft dated April 15, 1990, and titled "Urban BMP's."

### **MEAN SEA LEVEL**

For purposes of the National Flood Insurance Program, means the National Geodetic Vertical Datum of 1929 or other datum to which base flood elevations shown on the City's flood insurance rate map are referenced.

### **MINERAL EXPLORATION**

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

### **MINERAL EXTRACTION**

Any operation within any twelve-month period which removes more than 100 cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other mined material from its natural location or which transports the product removed away from the extraction site. Uses associated with mineral extraction include, but are not limited to, bituminous mix plants, crushing/screening operations, and ready-mix concrete plants.

### **MUNICIPAL UTILITY**

See "Utility."

### **NGVD**

National Geodetic Vertical Datum; see "Mean sea level."

### **NORMAL HIGH-WATER MARK (LINE)**

That line which is apparent from visible markings or changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to

rivers and great ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water.

### **ONE-HUNDRED-YEAR FLOOD**

See "Base flood."

### **OPEN SPACE**

Land used for recreation, resource protection, amenities and/or buffers. In no event shall any area of a lot constituting the minimum lot area of the lot or any part of any existing or future road or right-of-way be counted as constituting open space.

### **PARKING FACILITY**

A parking deck or garage.

### **PARKING LOT**

A parcel or area of land designed for the parking of motor vehicles.

### **PARKING SPACE, OFF-STREET**

A space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to public street or alley and maneuvering room (see section 90-12).

### **PEAK FLOW**

The maximum rate of flow of water at a given point in a channel, watercourse, or conduit resulting from a specified five-, twenty-, fifty-, one-hundred-year, etc., storm or flood.

### **PERFORMANCE GUARANTEE**

A financial guarantee to ensure that all improvements, facilities, or work required by this chapter will be completed or maintained in compliance with this chapter.

### **PERMANENT FOUNDATION**

Any of the following:

- (1) A full poured concrete or masonry foundation;
- (2) A poured concrete frost wall or a mortared masonry frost wall, with or without a concrete floor;
- (3) A reinforced floating concrete pad, for which the City may require an engineer's certification if it is to be placed on soil with high frost susceptibility; or
- (4) Any foundation which, pursuant to the building code for the City, is permitted for other types of single-family dwellings.

### **PERMITTEE**

Any person receiving a permit from the City.

### **PERSON**

An individual, corporation, governmental agency, municipality, trust, estate, partnership, or association, two or more individuals having a joint or common interest, or other legal entity.

**PLANNED UNIT DEVELOPMENT**

A development in which clustering of units or uses permits better land use practices to be employed.

**PREMISES**

Land with or without the buildings and structures thereon.

**PRINCIPAL BUILDING OR STRUCTURE**

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

**PUBLIC FACILITY**

Any facility, including but not limited to buildings, property, recreation areas, and roads, which is owned, leased or otherwise operated or funded by a governmental body or public nonprofit entity.

**PUBLIC UTILITY**

See "Utility."

**RECENT FLOODPLAIN SOILS**

The following soil series as described and identified by the National Cooperative Soil Survey; Alluvial, Cornish, Charles, Fryeburg, Hadley, Limerick, Lovewell, Medomak, Ondawa, Podunk, Rumney, Saco, Suncook, Sunday, and Winooski.

**REGULATORY FLOODWAY**

- (1) The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot; and
- (2) In zone A, the channel of a river or other watercourse and the adjacent land areas to a distance of 1/2 the width of the floodplain as measured from the normal high-water mark to the upland limit of the floodplain.

**REPLACEMENT SYSTEM**

A system intended to replace:

- (1) An existing system which is either malfunctioning or being upgraded with no significant change or design flow or use of the structure; and
- (2) Any existing overboard wastewater discharge.

**RIPRAP**

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

**RIVER**

A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed 15 square miles to its mouth.

**RIVERINE**

Relating to, formed by, or resembling a river (including tributaries), stream, brook, or other natural flowage.

**ROAD**

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

**SCENIC OR NATURAL BEAUTY OF THE AREAS**

As determined by the City's comprehensive plan.

**SEDIMENTATION**

The deposition of soil particles that have been transported from their site of origin by water, ice, wind, gravity, or other natural means.

**SETBACK**

The nearest horizontal distance from a lot line or normal high-water line to the nearest part of a structure, road, parking space or other regulated object or area.

**SHORE FRONTAGE**

The length of a lot bordering on a water body or a wetland measured in a straight line between the intersections of the side lot lines with the shoreline at normal highwater elevation.

**SHORELAND ZONE**

The land located within 250 feet, horizontal distance, of the normal highwater line of any great pond, river, or saltwater body, within 250 feet of the upland edge of a coastal or freshwater wetland, or within 75 feet of the normal high-water line of a stream.

**SIGNIFICANT WILDLIFE HABITAT**

See "Habitat, significant wildlife."

**SOILS, HYDROLOGIC**

- (1) Group A — Low runoff potential: Soils having high infiltration rates even when thoroughly wetted and consisting of deep well to excessively drained sands or gravels.
- (2) Group B: Soils having a moderate infiltration rate when thoroughly wetted, and consisting of moderately deep, moderately well drained to well drained soils with moderately fine to moderately coarse textures.
- (3) Group C: Soils having slow infiltration rates when thoroughly wetted, consisting of moderately fine to fine texture soils with a layer that impedes the downward movement of water. The majority of the soils in the state generally fall into this group.
- (4) Group D — High runoff potential: Soils having a very slow infiltration rate when thoroughly wetted, consisting mainly of silt to silty clay and clay soils. These soils are also characteristic of wetland type areas.

**SPECIAL FLOOD HAZARD AREA**

See "Area of special flood hazard."

**STEEP SLOPE**

Land area where the inclination of the land's surface from the horizontal is 15% or greater. See "Sustained slope."

**STORMWATER DRAINAGE SYSTEM**

All facilities used for conducting stormwater to, through or from a drainage area to the point of final outlet.

**STORMWATER RUNOFF**

The waters derived from rains falling within a tributary drainage basin, flowing over the surface of the ground or collected in channels, watercourses or conduits.

**STORMWATER RUNOFF, EXCESS**

The volume and rate of flow of stormwater discharged from a developed drainage area which is or will be in excess of that volume and rate which existed before development.

**STREAM**

A free-flowing body of water from the outlet of a great pond or the point of confluence of two perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or, if not available, a fifteen-minute series topographic map, to the point where the body of water becomes a river. Intermittent streams run six months or less during any twelve-month period. See "Tributary stream."

**STREET**

For the purpose of this chapter and for determining minimum road frontage requirements, a street is considered to be any public way maintained by public authority, or a private way of a specified width, or a private way shown on a recordable subdivision plan, approved by the planning board.

**STREET, ARTERIAL**

A street which serves or connects major urban activity centers, is a high-volume travel corridor, provides for long trip desires and/or is part of any integrated network providing intercounty and interstate service.

**STREET, COLLECTOR**

A street serving as an intracity travel corridor channelizing and distributing traffic to and from arterial and local streets.

**STREET LINE**

The right-of-way line of a street.

**STREET, LOCAL**

A street providing access to adjacent land, service to travel short distances, and the lowest level of mobility and access service to other streets.

**STRUCTURE**

Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, utility poles and associated appurtenances, sidewalks and handicap ramps. The term includes structures permanently or temporarily located, such as decks, signs (see the City sign ordinance), gas or liquid storage tanks that are principally stored above ground and satellite dishes. The term includes any structure having a roof supported by columns or walls. Buildings separated only by party walls or abutting walls without openings shall be deemed to be separate buildings.

### **SUBSTANTIAL COMPLETION**

The state at which a certificate of occupancy can be granted.

### **SUBSTANTIAL DAMAGE**

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damage condition would equal or exceed 50% of the market value of the structure before the damage occurred.

### **SUBSTANTIAL EXPANSION**

Expansion of a structure in excess of 30% of the gross floor area or volume prior to expansion. See "Floor area" and "Volume of a structure."

### **SUBSTANTIAL IMPROVEMENT**

Any reconstruction, rehabilitation, addition, or other improvement of structure, the cost of which equals 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

### **SUBSTANTIAL RISK**

The risk is not imaginary or illusory, is considerable in quantity, and is not merely trivial.

### **SUBSTANTIAL START**

Completion of 30% of a permitted structure or use measured as a percentage of estimated total cost.

### **SUBSURFACE WASTEWATER DISPOSAL SYSTEM**

A collection of treatment tanks, disposal areas, holding tanks and ponds, private individual surface spray systems, cesspools, wells, surface ditches, alternative toilets, or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 M.R.S.A. § 414, any surface wastewater disposal system

licensed under 38 M.R.S.A. § 413(1)(A) or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 M.R.S.A. chapter 13, subchapter 1.

### **SUSTAINED SLOPE**

A change in elevation where the referenced percentage grade is substantially maintained or exceeded throughout the measured area. Substantially shall mean for at least 30% of the measured area.

### **TECHNICAL STANDARDS HANDBOOK**

The City technical standards handbook ordinance maintained by the City, codified herein as chapter 98.

### **TRACT OR PARCEL OF LAND**

All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road.

### **TRIBUTARY STREAM**

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

### **UNREASONABLE CONGESTION**

Traffic congestion, which when it exceeds a reasonable level of service, causes increased air pollution and energy consumption, hinders the passage of public safety vehicles, contributes to lost labor productivity, increases stress, and in general degrades the quality of life in the state. Level of service D, as determined from a capacity analysis, shall be considered the minimum level of service needed to provide safe and convenient traffic movement. Where a road or intersection in the vicinity of the proposed development is determined to operate at level of service E or level of service F in the horizon year, the board shall find that the proposed development will result in unreasonable congestion, unless:

- (1) Improvements will be made to raise the level of service of the road or intersection to D or above;
- (2) The level of service of the road or intersection will be raised to D or above through transportation demand management techniques;
- (3) The board finds that it is not possible to raise the level of service of the road or intersection to D or above by road or intersection improvements or by transportation demand management techniques, but improvements will be made or transportation demand management techniques will be used such that the proposed development will not increase delay at a signalized intersection, decrease the reserve capacity at an unsignalized intersection, or otherwise worsen the operational condition of the road or intersection in the

horizon year; or

- (4) The board finds that improvements cannot reasonably be made because the road intersection is located in a central business district or because implementation of the improvements will adversely affect a historic site as defined in chapter 375(11) of the state department of environmental protection regulations, and transportation demand management techniques will be implemented to the fullest extent possible.

### **UNSAFE CONDITIONS**

A roadway segment or intersection determined to be a high accident location by the state department of transportation.

### **UTILITY**

- (1) A municipal or public utility or communication facility includes the following: Central Maine Power, New England Telephone, Belfast Water District, Belfast Sanitary District, cable TV, a private telephone company or paging service, any utility regulated by the state public utilities commission, and any other commercial communication tower.
- (2) Major municipal or public utilities/communication facilities include water; sanitary treatment plants; electric transmission lines; electric generation plants; and microwave, radio, and other commercial telecommunication transmitters and towers.
- (3) Minor municipal or public utilities/communication facilities include pumping and pressure control stations; standpipes, reservoirs, wells and other water storage structures; telephone equipment huts (over 200 square feet); and electricity regulating substations.

### **V ZONE**

That land area of special flood hazard subject to a 1% or greater chance of flooding in any given year, and subject to additional hazard from high-velocity water due to wave action.

### **VARIANCE**

As it applies to the floodplain, means a grant of relief by the board of zoning appeals from the terms of a floodplain management regulation, or from any dimensional requirement of this chapter, in accordance with 30-A M.R.S.A. § 4353(4).

### **VEGETATION**

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

### **VIOLATION**

The failure of a structure, use or other development to fully comply with the regulations found in this chapter.

### **VOLUME OF A STRUCTURE**

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

### **WATER BODY**

Any great pond, river, stream or tidal area.

## **WATER CROSSING**

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

## **WATERCOURSE**

A channel, drainageway, stream, or brook, or any defined area of land conveying surface water or runoff. A watercourse may be intermittent or perennial (perennial means greater than six months in any twelve-month period).

## **WETLAND (FRESHWATER)**

A wetland as identified on the duly adopted shoreland zoning maps, and includes freshwater swamps, marshes, bogs and similar areas which are:

- (1) Ten or more contiguous acres; or
- (2) Less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that, in a natural state, the combined surface area is in excess of 10 acres; and
- (3) Inundated or saturated by surface water or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria or to the definition of stream.

## **WETLAND ASSOCIATED WITH GREAT PONDS AND RIVERS**

Wetlands contiguous with or adjacent to a great pond or river, and which during normal high water are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below the normal high-water line of the great pond or river. Wetlands associated with a great pond or river are considered to be part of that great pond or river.

## **YARD, FRONT**

A yard adjoining the front lot line, extending between the principal structure and the street.

## **YARD, REAR**

A yard adjoining the rear lot line and extending between the rear lot line and the principal structure.

## **YARD, SIDE**

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

## **Sec. 90-2 Violations; enforcement; penalties.**

- (a) Violations generally. Any violation of this chapter shall be deemed to be a nuisance and a

land use violation enforceable under the provisions of 30-A M.R.S.A. § 4452.

- (b) Responsibility for enforcement; notice of violation. This chapter shall be enforced by a code enforcement officer appointed by the City council. If the code enforcement officer shall find that any provision of this chapter is being violated, he shall notify in writing the person responsible for such violation and/or the City manager, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings, structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be maintained as a permanent record.
- (c) Legal action. When the action described in subsection (b) of this section does not result in the correction or abatement of the violation or nuisance condition, the City manager, upon notice from the code enforcement officer, is hereby authorized to cause the commencement of any and all actions and proceedings, either legal or equitable, including actions seeking injunctions of violations and the imposition of penalties, that may be available or necessary to enforce the provisions of this chapter in the name of the City.
- (d) Penalty; additional remedies. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision of this chapter shall be penalized in accordance with 30-A M.R.S.A. § 4452. In addition, the City shall be entitled to all of the relief, including its costs and legal fees, as allowed by 30-A M.R.S.A. § 4452. Notwithstanding any provision to the contrary, including the provisions of 30-A M.R.S.A. § 4452, The City shall be entitled to judgment against any violator for its costs, expert witness fees, code enforcement expenses and attorneys' fees incurred in enforcing this chapter. The City shall also have the right to enforce this chapter through civil action, either at law or equity. The enforcement provisions contained in this subsection shall exist in addition to those which may exist under state statutory law or Rule 80K of the Maine Rules of Civil Procedure, or any other court rule or statutory provision. Each and every day of violation shall constitute a new and separate offense for which a minimum penalty of \$100 shall be assessed.
- (e) Conditions for issuance of permits. No code enforcement officer may issue any permit for a building or use within a development unless the development has been approved under this chapter and unless all conditions of the approval have been met.

### **Sec. 90-3 Scope and applicability of chapter.**

This chapter outlines site plan application requirements and approval procedures to be followed by the code enforcement officer and/or the planning board for all major and minor developments.

### **Sec. 90-4 Conflicting regulations or restrictions.**

Unless specified in this chapter, this chapter does not repeal any other law, ordinance, regulation, rule, code or otherwise lawful deed restriction or covenant. Whenever the requirements of this chapter are at variance with the regulations or restrictions of any other lawfully adopted law,

ordinance, code, rule or regulation imposed by any governmental authority or any deed restriction or covenant, that which is more restrictive or imposes the higher standards or requirements shall govern. Notwithstanding any other provisions of this chapter, no premises shall be used or maintained in violation of any state or federal pollution control or environmental protection law or regulation.

**Sec. 90-5 Amendments.**

The provisions set forth in this chapter may from time to time be amended, supplemented or repealed in accordance with the Revised Statutes of Maine, as amended, the Charter, and the comprehensive plan of the City. Any amendment to the provisions of this chapter shall be adopted by the City Council, provided it holds a public hearing on the proposed amendment for which hearing seven days' public notice is given.

**Sec. 90-6 Purpose of chapter.**

This chapter implements the comprehensive plan for the City which was adopted by the City Council on March 14, 1995, and is to supplement the zoning ordinance duly adopted by the City and establish standards and procedures for the review of developments in the City.

**Sec. 90-7 Administration.**

The code enforcement officer and/or the Planning Board of the City shall administer this chapter. The code enforcement officer, or his appointed designee, shall be the enforcing officer. The City engineer, or designee, shall make a written report to the board with respect to the traffic, proposed grades, drainage, profiles, cross sections, relationship of abutting land, roads, parking or other impervious surfaces of development before the final plan may be approved. The board may also obtain reports from the engineers of utility companies and districts (water, sanitary, electric, telephone, cable TV), and such others, including fire and police departments, as it deems advisable. Such reports shall be in writing. A permanent record of all Planning Board meetings, proceedings and correspondence shall be maintained by the code enforcement officer.

**Sec. 90-8 General submission requirements; joint municipal review.**

- (a) Submission requirements. As to any intended development, the developer shall prepare and formally submit:
  - (1) To the City, a preapplication for study, and modification where required.
  - (2) To the code enforcement officer and/or Planning Board, a preliminary plan for study, and modification where required; and a final plan for review, and modification where required, approval, approval with conditions, or disapproval.
- (b) Joint municipal review. If any portion of the proposed development crosses municipal boundaries, the Planning Board and the municipal reviewing authority from each affected municipality shall meet jointly to discuss the application.

**Sec. 90-9 Preapplication.**

Before submission of a formal preliminary plan, a preapplication for a development shall be made to the code enforcement officer and shall include four copies of a sketch plan. The intent of the preapplication phase is to provide an opportunity for the developer to meet with the code enforcement officer and other reviewing agencies to informally review the proposal. The preapplication shall include the following information:

- (1) A fifty-foot/one-hundred-foot scale (200 feet if clarity is maintained).
- (2) True north arrow.
- (3) Abutters and neighbors within 150 feet.
- (4) Five-foot contours. For developments with unvegetated area less than two acres this provision may be modified by the code enforcement officer when in his opinion the existing contours do not warrant five-foot conditions.
- (5) Available utilities, including easements, both public and private.
- (6) Road frontage, including existing street names.
- (7) Location plan.
- (8) Name of owner.

#### **Sec. 90-10 Dedication of streets and public lands.**

The approval of a final plan by the code enforcement officer and/or the Planning Board shall not be deemed as acceptance by the City of the dedication of any street or other public way or grounds. All street names, public or private, require approval of the City Council.

#### **Sec. 90-11 Filing of approvals with City officials.**

A copy of the approval of a development plan shall be filed with the code enforcement officer, the assessor, the sewer department and the highway department of the City.

#### **Sec. 90-12 Applicability of technical standards.**

Chapter 98, pertaining to technical standards, shall apply to all developments subject to review under the regulations of this chapter.

#### **Sec. 90-13 Performance guarantees.**

- (a) Types of guarantees. With submittal of the application for final plan approval, the developer shall provide one of the following performance guarantees for an amount of 110% of the total construction cost of all required improvements, taking into account the time span of the construction schedule and the inflation rate for construction costs:
  - (1) Either a certified check payable to the City or a savings account or certificate of deposit naming the City as owner for the establishment of an escrow account.
  - (2) A performance bond payable to the City issued by a surety company, approved by the City manager and City attorney.
  - (3) An irrevocable letter of credit from a financial institution to the City, being in an amount sufficient for the construction of the required improvements, against which the City may draw if construction is inadequate or incomplete. This letter shall be in a form

satisfactory to the City attorney. The conditions and amount of the performance guarantee shall be determined by the Planning Board and/or code enforcement officer with the advice of the City engineer, highway superintendent, code enforcement office and/or City attorney.

- (b) Release of guarantee. Prior to the release of the performance guarantee, the code enforcement officer shall determine to his satisfaction, in part upon the report of the City engineer and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements.
- (c) Default. If, upon inspection, the City engineer and/or the code enforcement officer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, they shall so report in writing to the developer and/or builder. The code enforcement officer shall take any steps necessary to preserve the City's rights upon default under this chapter.

### **Sec. 90-14 Appeals.**

Powers of Zoning Board of Appeals. The Zoning Board of Appeals shall have the power to hear and decide administrative appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the code enforcement officer or Planning Board in the enforcement or administration of this chapter. A request for an administrative appeal shall comply with the procedures described in chapter 102, Zoning, article II, Administration, division 4, Appeals and Variances.

### **Sec. 90-15 Fees.**

The City Council shall establish all fees applicable to this chapter.

### **Sec. 90-16 Conformance with comprehensive plan and other applicable regulations.**

All proposed developments shall be in conformity with the comprehensive plan of the City and with the provisions of all pertinent federal, state, and local codes, ordinances, rules and/or regulations.

### **Sec. 90-17 Applicability of state standards.**

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The latest standards of the state department of environmental protection as referenced in 38 M.R.S.A. §§ 481-490 shall be applied to for all projects which require City approval as major developments and/or developments which substantially affect the environment, as delegated under the review authority provisions of 38 M.R.S.A. § 489A.

### **Sec. 90-18 Site location review.**

A permit application for site location review shall be required for all projects which require City approval as a major development and/or developments which substantially affect the environment, as delegated under the review authority provisions of 38 M.R.S.A. § 489A.

**Sec. 90.19. Expiration of Site Plan Approval.**

Post October 6, 2020, a Site Plan Permit approved by the Code Enforcement Officer or the Planning Board shall expire and be considered void 5 years after the date it is issued if no project development identified in the approved Site Plan Permit has occurred on the property. In the case of a Site Plan Permit that was approved prior to October 6, 2020, and if no project development identified in the approved Site Plan Permit has occurred on the property by December 31, 2025, said Permit shall be considered void on January 1, 2026.

An Applicant, for good cause shown, may request a 1 year extension regarding the date of expiration of a Site Plan Permit from the authority that issued the original Permit, however, the City is not required to approve the request for an extension if the original issuing authority determines that the Applicant has not demonstrated good cause shown.

**Sec. 90-20 through Sec. 90-40. (Reserved)**

## CHAPTER 90, SITE PLAN

### ARTICLE II. REVIEW CRITERIA AND PROCEDURES

#### Sec. 90-41 Criteria for review by code enforcement officer.

- (a) The code enforcement officer shall conduct an initial review of each application for a major or minor development and/or any application for a development which substantially affects the environment.
- (b) The code enforcement officer shall review and render a decision on an application for:
  - (1) Any minor development which is either:
    - a. A permitted use; or
    - b. A permitted use requiring Planning Board review which has been previously approved by the Planning Board.
  - (2) Any major development and/or development which substantially affects the environment which has been reviewed and approved by the state department of environmental protection.
- (c) The code enforcement officer shall refer all other applications to the Planning Board for review and decision as provided in this chapter. In conducting his review of the site plan and application, the code enforcement officer shall consider each of the criteria set out in this subsection. No application shall be approved unless the code enforcement officer makes an affirmative finding that the development meets or exceeds each of the following enumerated criteria:
  - (1) **Pollution.** The proposed development will not result in undue water or air pollution. In making this determination, consideration shall be given to:
    - a. The elevation of the land above sea level and its relation to the floodplain (compliance with chapter 78, article II).
    - b. The nature of soils and subsoils and their ability to adequately support waste disposal.
    - c. The slope of the land and its effect on effluents.
    - d. The availability of streams for disposal of effluents.
    - e. The applicable state and local health and water resource rules, regulations and codes.
  - (2) **Sufficient water.** The proposed development has sufficient water available for the reasonable foreseeable needs of the major development and will not unreasonably affect other existing local drinking water resources.
  - (3) **Municipal water supply.** The proposed development will not cause an unreasonable burden on an existing municipal water supply, if one is to be used.
  - (4) **Soil erosion and sediment control.** The proposed development 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. The criteria in Maine Erosion and Sediment

Control Handbook for Construction, Best Management Practices, prepared by Cumberland County SWCD and the state department of environmental protection, 1991, shall be followed.

- (5) **Highway or public road congestion.** The proposed development 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, and, furthermore, the developer has made adequate provision for traffic movement of all types into, out of or within the development area. The code enforcement officer shall consider traffic movement both on-site and off-site. Before issuing a permit, the code enforcement officer shall find that any traffic increase attributable to the proposed development will not result in unreasonable congestion or unsafe conditions on a road in the vicinity of the proposed development. A traffic study may be required.
- (6) **Sewage waste disposal.** The proposed development will provide adequate sewage waste disposal in compliance with federal, state and local laws, rules, ordinances and regulations.
- (7) **Municipal solid waste and sewage waste disposal.** The proposed development will not cause an unreasonable burden on the City's ability to dispose of solid waste and sewage. If municipal services are to be utilized, a letter from the City indicating current capacity and availability of municipal sewer shall be submitted for the record.
- (8) **Aesthetic, cultural and natural values.** The proposed development will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, archeological sites, significant wildlife habitat identified by the state department of inland fisheries and wildlife or the City as rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
- (9) **Conformity with City ordinances and plans.** The proposed development conforms with the floodplain regulations (chapter 78, article II), the comprehensive plan, the zoning regulations (chapter 102), the shoreland zoning regulations (chapter 82), the subdivision ordinance, and the technical standards (chapter 98).
- (10) **Financial and technical capacity.** The developer has adequate financial and technical ability to develop the project in a manner consistent with state and local performance, environmental and technical standards.
- (11) **Surface waters; outstanding river segments.** Whenever 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 38 M.R.S.A. chapter 3, subchapter I, article 2-B, the proposed development will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.
- (12) **Groundwater.** The proposed development will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater or any public or private water source.

- (13) **Flood areas.** If the development or any part of it is located in a floodprone area, based on the Federal Emergency Management Agency's flood boundary and floodway maps and flood insurance rate maps and information presented by the applicant, then the developer shall determine the one-hundred-year flood elevation and flood hazard boundaries within the development. All structures in the proposed development must be constructed with their lowest floor, including basement, at least two feet above the one-hundred-year elevation.
- (14) **Freshwater wetlands.** All freshwater wetlands within the proposed development shall be identified on plans submitted as part of the application.
- (15) **Rivers or streams.** Any river or stream within or abutting the proposed development shall be identified on maps submitted as part of the application. For purposes of this section, the terms "river" and "stream" are defined as provided in section 90-1.
- (16) **Stormwater.** The proposed development will provide for adequate stormwater management.
- (17) **Prevention or control of air pollution.** No use shall be allowed which creates a substantial risk of air pollution, whether by dust, chemicals, odor or otherwise, which would pose a significant risk of harm to local populations within the City or injury to wildlife, vegetation or to property, or harm to use and enjoyment of surrounding property. It is not the intent of this provision to merely require compliance with state or federal air quality standards, but rather to enforce a standard which may be more encompassing and strict than those state and federal standards as presently constituted.
- (18) **Solid waste management.** The proposed development will provide for adequate disposal of solid wastes. All solid waste will be disposed of at a licensed disposal facility having adequate capacity to accept the project's waste.
- (19) **Exterior lighting.** The proposed development will provide for adequate exterior lighting to provide for the safe use of the development in nighttime hours if such use is contemplated. All exterior lighting will be designed and shielded to avoid undue glare and adverse impact on neighboring properties and rights-of-way.
- (20) **Buffering of adjacent uses.** The development will provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of service and storage areas. The buffer may be provided by distance, landscaping, fencing, changes in grade, and/or a combination of these or other techniques.
- (21) **Noise.** The development will control noise levels such that it will not create unreasonable interference with use and enjoyment of neighboring properties.
- (22) **Storage of materials.**

- a. Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse shall have sufficient setbacks and screening, such as a stockade fence or a dense evergreen hedge, to provide a visual buffer sufficient to screen the proposed use from abutting residential uses and users of public streets.
- b. All dumpsters or similar large collection receptacles for trash or other waste shall be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it shall be screened by fencing or landscaping.
- c. Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and maintained in good condition.

**(23) Landscaping.** The development plan will provide for landscaping that breaks up parking areas, softens the appearance of the development and protects abutting properties from any significant adverse impacts of the development. (See chapter 98 for standards for landscaping parking lots.)

**(24) Buffering of residential uses.**

- a. Any lot within the urban compact line as now existing or as from time to time modified of the community that is used for nonresidential or multifamily residential purposes shall have a landscaped buffer on any property line that abuts a residential use or residentially zoned lot. The width of the buffer may vary depending on the treatment of the area. A buffer with dense planting, fencing, or changes in grade may be as little as five feet in width. A buffer with moderate levels of planting should be 10 feet to 15 feet in width.
- b. In all residential settings, the width of the vegetated buffer should be increased to a minimum of 25 feet. Areas adjacent to service, loading, or storage areas should be screened by dense planting, berms, or a combination thereof.

**(25) Location of off-street parking.** See chapter 98.

**(26) Hazardous waste.** The applicant shall demonstrate compliance with federal and state laws and regulations when hazardous waste is generated or stored on-site.

**(27) Protection of public health or welfare.** The proposed development shall provide for safe and healthful conditions. No proposed use may be approved which creates a substantial risk of causing damage to the public health or welfare.

**(28) Adequacy of waste disposal.** The applicant shall clearly demonstrate to the code enforcement officer that all quantities and types of waste generated by the proposed use can be dealt with and disposed of while maintaining safe and healthful conditions.

## Sec. 90-42 Criteria for review by planning board.

- (a) The planning board shall review and render a decision on:
- (1) Any major development and/or development which substantially affects the environment, except one previously approved by the state department of environmental protection.
  - (2) Any minor development which is a permitted use requiring planning board review which has not been previously reviewed by the planning board.
  - (3) After July 1, 1997, any subdivision, as defined in 38 M.R.S.A. § 482(5), that is, generally, either:
    - a. A nonresidential subdivision involving five or more lots with aggregate land area in excess of 20 acres; or
    - b. A residential subdivision involving 15 or more lots with an aggregate land area in excess of 30 acres.
- (b) The criteria for review are as set out in this subsection. No development shall be approved unless the planning board makes an affirmative finding that the development meets or exceeds the following enumerated criteria:
- (1) **Pollution.** The proposed development will not result in undue water or air pollution. In making this determination, consideration shall be given to:
    - a. The elevation of the land above sea level and its relation to the floodplain (compliance with chapter 78, article II).
    - b. The nature of soils and subsoils and their ability to adequately support waste disposal.
    - c. The slope of the land and its effect on effluents.
    - d. The availability of streams for disposal of effluents.
    - e. The applicable state and local health and water resource rules, regulations and codes.
  - (2) **Sufficient water.** The proposed development has sufficient water available for the reasonable foreseeable needs of the development and will not unreasonably affect other existing local drinking water resources.
  - (3) **Municipal water supply.** The proposed development will not cause an unreasonable burden on an existing municipal water supply, if one is to be used.
  - (4) **Soil erosion and sediment control.** The proposed development 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. The criteria in Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices, prepared by Cumberland County SWCD and the state department of environmental protection, 1991, shall be followed.
  - (5) **Highway or public road congestion.** The proposed development 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, and, furthermore, the developer

has made adequate provision for traffic movement of all types into, out of or within the development area. The board shall consider traffic movement both on-site and off-site. Before issuing a permit, the board shall find that any traffic increase attributable to the proposed development will not result in unreasonable congestion or unsafe conditions on a road in the vicinity of the proposed development. A traffic study may be required.

- (6) **Sewage waste disposal.** The proposed development will provide adequate sewage waste disposal in compliance with federal, state and local laws, rules, ordinances and regulations.
- (7) **Municipal solid waste and sewage waste disposal.** The proposed development will not cause an unreasonable burden on the City's ability to dispose of solid waste and sewage. If municipal services are to be utilized, a letter from the City indicating current capacity and availability of municipal sewer shall be submitted for the record.
- (8) **Aesthetic, cultural and natural values.** The proposed development will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, archeological sites, significant wildlife habitat identified by the state department of inland fisheries and wildlife or the City as rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
- (9) **Conformity with City ordinances and plans.** The proposed development conforms with the floodplain regulations (chapter 78, article II), the comprehensive plan, the zoning regulations (chapter 102), the shoreland zoning regulations (chapter 82), the subdivision ordinance, and the technical standards (chapter 98).
- (10) **Financial and technical capacity.** The developer has adequate financial and technical ability to develop the project in a manner consistent with state and local performance, environmental and technical standards.
- (11) **Surface waters; outstanding river segments.** Whenever 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 38 M.R.S.A. chapter 3, subchapter I, article 2-B, the proposed development will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.
- (12) **Groundwater.** The proposed development will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater or any public or private water source.
- (13) **Flood areas.** If the development or any part of it is located in a floodprone area, based on the Federal Emergency Management Agency's flood boundary and floodway maps and flood insurance rate maps and information presented by the applicant, then the developer shall determine the one-hundred-year flood elevation and flood hazard boundaries within the development. All structures in the proposed development must be constructed with their lowest floor, including the basement, at least two feet above the one-hundred-year elevation.

- (14) **Freshwater wetlands.** All mapped freshwater wetlands within the proposed development shall be identified on plans submitted as part of the application.
- (15) **Rivers or streams.** Any river or stream within or abutting the proposed development shall be identified on maps submitted as part of the application. For purposes of this section, the terms "river" and "stream" are defined as provided in section 90-1.
- (16) **Stormwater.** The proposed development will provide for adequate stormwater management.
- (17) **Access to direct sunlight for abutting property owner for solar energy system.** The planning board may, to protect and ensure access to direct sunlight for solar energy systems, prohibit, restrict or control development. The developer shall, on request of the planning board or code enforcement officer, submit development plans which include either one or a combination of the following:
- a. Restrictive covenants.
  - b. Height restrictions.
  - c. Increased setback requirements.
- (18) **Solid waste management.** The proposed development will provide for adequate disposal of solid wastes. All solid waste will be disposed of at a licensed disposal facility having adequate capacity to accept the project's waste.
- (19) **Exterior lighting.** The proposed development will provide for adequate exterior lighting to provide for the safe use of the development in nighttime hours if such use is contemplated. All exterior lighting will be designed and shielded to avoid undue glare and adverse impact on neighboring properties and rights-of-way.
- (20) **Buffering of adjacent uses.** The development will provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of service and storage areas. The buffer may be provided by distance, landscaping, fencing, changes in grade, and/or a combination of these or other techniques.
- (21) **Noise.** The development will control noise levels such that it will not create unreasonable interference with use and enjoyment of neighboring properties.
- (22) **Storage of materials.**
- a. Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse shall have sufficient setbacks and screening, such as a stockade fence or a dense evergreen hedge, to provide a visual buffer sufficient to screen the proposed use from abutting residential uses and users of public streets.
  - b. All dumpsters or similar large collection receptacles for trash or other waste shall be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public

street, it shall be screened by fencing or landscaping.

- c. Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and maintained in good condition.

**(23) Landscaping.** The development plan will provide for landscaping that breaks up parking areas, softens the appearance of the development and protects abutting properties from any significant adverse impacts of the development. (See chapter 98 for standards for landscaping parking lots.)

**(24) Buffering of residential uses.**

- a. Any lot within the urban compact line as now existing or as from time to time modified of the community that is used for nonresidential or multifamily residential purposes shall have a landscaped buffer on any property line that abuts a residential use or residentially zoned lot. The width of the buffer may vary depending on the treatment of the area. A buffer with dense planting, fencing, or changes in grade may be as little as five feet in width. A buffer with moderate levels of planting should be 10 feet to 15 feet in width.
- b. In all residential settings, the width of the vegetated buffer should be increased to a minimum of 25 feet. Areas adjacent to service, loading, or storage areas should be screened by dense planting, berms, or a combination thereof.

**(25) Location of off-street parking.** See chapter 98.

**(26) Hazardous waste.** The applicant shall demonstrate compliance with federal and state laws and regulations when hazardous waste is generated or stored on-site.

**(27) Prevention or control of air pollution.** No use shall be allowed which creates a substantial risk of air pollution, whether by dust, chemicals, odor or otherwise, which would pose a significant risk of harm to local populations within the City or injury to wildlife, vegetation or to property, or harm to use and enjoyment or surrounding property. It is not the intent of this provision to merely require compliance with state or federal air quality standards, but rather to enforce a standard which may be more encompassing and strict than those state and federal standards as presently constituted.

**(28) Protection of public health and safety.** The proposed development shall provide for safe and healthful conditions. No proposed use may be approved which creates a substantial risk of causing damage to the public health or welfare.

**(29) Adequacy of waste disposal.** The applicant shall clearly demonstrate to the planning board that all quantities and types of waste generated by the proposed use can be dealt with and disposed of while maintaining safe and healthful conditions.

**(30) Additional standards for development that may substantially affect the environment.** Additionally, if the proposed development meets the definition of development that may substantially affect the environment, as defined in 38 M.R.S.A. § 481 et seq., then section

484, Standards for Development, chapter 371, Definition of Terms used in the Site Location of Development Law and Regulations, chapter 372, Policies and procedures, chapter 373, Financial Capacity Standard, chapter 374, Traffic Movement Standard, chapter 375, No Adverse Environmental Effect Standard, chapter 376, Soil Types Standard, and chapter 377, Review of Roads and/or Major Development, and the provisions of section 90-17 shall apply.

**Sec. 90-43 Required findings.**

The code enforcement officer shall review regarding the criteria in section 90-41 and the planning board shall review regarding the criteria in section 90-42 and make specific findings of fact regarding each of such criteria. Findings of fact pertaining to the provisions of 38 M.R.S.A. § 481 et seq. must also be made by the planning board for all major developments and/or developments which substantially affect the environment. In order for the code enforcement officer or the planning board to grant approval, the code enforcement officer or the planning board, as the case may be, must make an affirmative finding that the development meets or exceeds each of the review criteria.

**Sec. 90-44 Acceptance of application; required notifications.**

When a site plan application is received, the code enforcement officer shall give a dated receipt, including the time of day, to the applicant and shall notify by mail all abutting property owners and property owners within 150 feet of the proposed development, the City Clerk and the reviewing authority of the municipalities that abut or include any portion of the development, specifying the location of the proposed development and including a general description of the project.

**Sec. 90-45 Public hearing.**

The planning board shall hold a public hearing/informational meeting on an application for development. It shall hold the hearing within 30 days after determining it has received a complete preliminary or final application. The City Clerk shall give notice as follows:

- (1) Notice shall be given to the applicant; and
- (2) Notice shall be published in a newspaper having general circulation in the City. The date of publication must be at least seven days before the hearing. The cost of the publication shall be paid by the applicant.

**Sec. 90-46 through Sec. 90-70. (Reserved)**

## CHAPTER 90, SITE PLAN

### ARTICLE III. PRELIMINARY PLAN

#### Sec. 90-71 Submission and general procedure.

- (a) All major and minor developments and/or developments which substantially affect the environment must be reviewed and approved by either the code enforcement officer and/or planning board as required in sections 90-41 and 90-42.
- (b) A request for approval of a development subject to approval by the code enforcement officer shall be made to the code enforcement officer in writing and shall be accompanied by five copies of a preliminary plan and required data. A request for approval of a development subject to approval of the planning board shall be made to the board in writing and shall be accompanied by 14 copies of a preliminary plan and required data. The preliminary plan shall be accompanied by one copy of the location map showing the relationship of the development to adjacent properties and public access.
- (c) The code enforcement officer, upon receiving the application, shall issue the applicant a dated receipt, including the time.
- (d) The code enforcement officer shall determine when the application is complete. The code enforcement officer's determination shall not be binding on the planning board. Upon determining that the application is complete, the code enforcement officer shall notify the planning board if the site location application is subject to planning board review. Within seven working days of receiving the preliminary plan application, the code enforcement officer shall notify the applicant in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the code enforcement officer has determined that a complete application has been filed, he shall notify the applicant and begin a full evaluation of the development.
- (e) For all major developments and/or developments which substantially affect the environment, the code enforcement officer shall send a complete preliminary application to the state department of environmental protection within 10 days of determining that the application is complete.
- (f) If any portion of a development subject to planning board review crosses municipal boundaries, the planning board and the municipal reviewing authority from the affected municipality shall endeavor to meet jointly to discuss the application.
- (g) If any portion of a major development and/or a development which substantially affects the environment abuts another municipality, the abutting municipality shall be notified and given an opportunity to have input in the same manner as provided in subsection (f) of this section for developments that cross municipal boundaries.

- (h) To be on the board's agenda, a complete application shall be submitted at least 13 calendar days prior to a regular meeting of the board.
- (i) The planning board shall begin review of an application for a development under the provisions of this chapter within 30 days after receiving the code enforcement officer's notification of a completed application.

**Sec. 90-72 Required information and format.**

**(a) The preliminary plan shall contain the following minimum information:**

- (1) The proposed name of the development.
- (2) The owner's name and address.
- (3) A deed reference to land being developed and the identity of current immediate abutters.
- (4) Engineer, registered in the state, including name, address, signature and seal.
- (5) Surveyor, registered in the state, including name, address, signature and seal.
- (6) Scale, both graphic and written.
- (7) Date and revision box.
- (8) Zoning designation (see chapter **102** and chapter **82**).
- (9) North arrow (true, magnetic, dated or grid).
- (10) The notation "Preliminary Site Plan."
- (11) The ownership, location and present use of abutting properties.
- (12) A location map showing where the proposed development is situated in relation to existing streets and landmarks. This shall show the development's outline only. Upon final plan approval, the location map shall be updated, showing streets and lot lines accurately, at the scale of applicable tax maps (or City maps as designated by the code enforcement officer). A broken line indication and distance to the nearest intersection or major topographic feature may be used.
- (13) Streets. Street plans and profiles shall be at a scale of one inch equals 20 feet horizontal, and one inch equals four feet vertical, unless a different scale is approved by the code enforcement officer and/or the City engineer.
  - a. The name, location, and width of all streets from which the development arises shall be indicated.
  - b. The name, location, and width of all streets proposed shall be indicated.
  - c. All street names shown for proposed streets located in a development shall be checked against local records to ensure that none are duplicates of existing street names or so similar as to cause confusion. Street names require the approval of the City council.
  - d. A preliminary plan of the plan and profile of streets shall be included, to be designed by a registered professional engineer and designed in accordance with chapter 98.
- (14) Drainage/erosion facilities. Type, location, profile of all existing surface water drainage and subsurface drainage as it relates to the affected watersheds both on and off the site. A written plan describing the existing and proposed drainage, with calculations, shall be submitted. Permanent and temporary erosion control plans are

- required in accordance with specifications outlined in chapter 98.
- (15) Utilities.
    - a. Preliminary location, profile, contours, and typical cross sections on all proposed utilities, drainage and streets shall be included, designed in accordance with chapter 98. Provisions of the Traffic Corridor Overlay District as defined in chapter 102 may apply.
    - b. The location of existing utilities, including water, electricity, telephone, hydrants, municipal sewer or other utilities, shall be shown.
    - c. The location of all existing sanitary and storm sewers showing size and profile, or the description, plan, and location of other means of sewage disposal with evidence of a successful soil test, shall be included. In areas outside of those presently sewered where disposal is proposed on-site, the code enforcement officer will require a written statement from a licensed Maine soil evaluator or engineer, as applicable, that the land is considered suitable for subsurface disposal systems using tanks or other approved methods according to the state subsurface wastewater disposal rules.
    - d. Should any expansion of municipal sewer be required for the development, the developer shall provide the code enforcement officer with a design of the sewer extension.
  - (16) Topography at two-foot contour intervals, unless otherwise prescribed by the code enforcement officer or the City engineer. In addition, the location of existing natural or manmade features influencing the layout of the proposed development shall be shown.
  - (17) Lot lines and approximate dimensions.
  - (18) Proposed uses of the property.
  - (19) Proposed public or common areas, if any.
  - (20) Standard boundary survey and description, provided by a registered land surveyor, of entire contiguous holdings. Such survey shall have been within the past five years.
  - (21) Traffic estimates and controls and off-street parking needs and facilities. A traffic study may be required by the City.
  - (22) Fire protection needs and plans.
  - (23) Landscaping and buffer plans.
  - (24) Road names. The developer shall name all development roads. Road names are subject to the approval of the City council.
  - (25) A copy of the development plan with slash marks every 50 feet from the entrance to the development. The purpose of this plan is to assist in the assigning of street numbers for the E-911 emergency system.
  - (26) A statement from the City sewage treatment plant indicating present capacity of the wastewater treatment facility for the development.
  - (27) The location on the plan of all existing buildings on the property being developed.
  - (28) Results of any and all soil tests or soil reports completed for the proposed development.
  - (29) Location of the limits of the floodplain, as defined on the flood insurance rate maps for the City. If not applicable, a note should be on the plan stating that no portion of the development is located in the floodplain.
  - (30) A note on the plan referencing the current City tax map number and lot number.

- (b) Each sheet of the preliminary plan shall be 36 inches by 24 inches. If more than one sheet is required, match lines will be on each. The scale shall be one inch equals 100 feet or as determined by the code enforcement officer and/or the City engineer. In addition to the preliminary plan, the code enforcement officer and/or planning board may require the developer to undertake studies where deemed necessary or desirable to protect the public convenience, safety, health and welfare in accordance with the guidelines stated in this chapter and all other ordinances, rules, regulations and codes adopted by the City.

**Sec. 90-73 Decision by code enforcement officer.**

- (a) The code enforcement officer, within 60 days of determining he has received a complete preliminary application, shall review the application under the provisions of section **90-41** for developments requiring code enforcement officer approval and shall issue a written order:
  - (1) Denying approval of the preliminary plan for the proposed development;
  - (2) Granting approval of the preliminary plan for the proposed development; or
  - (3) Granting approval of the preliminary plan upon any terms and conditions that he considers advisable to:
    - a. Satisfy the criteria listed in section 90-41;
    - b. Satisfy any other regulations adopted by the reviewing authority; and
    - c. Protect and preserve the public's health, safety and general welfare.
- (b) The applicant shall be notified of the code enforcement officer's written decision within seven working days after the decision has been reached regarding the approval of the proposed development plan has been approved by the code enforcement officer.
- (c) Within 60 days of preliminary approval by the code enforcement officer, the applicant shall submit a final plan for approval. Upon request by the applicant, the code enforcement officer may agree to an extension of the preliminary plan approval. In no case shall the preliminary plan approval be valid for more than six months before the final plan is presented for approval. If the applicant fails to comply with this provision, the application shall be considered denied.

**Sec. 90-74 Decision by planning board.**

The planning board shall, within 60 days of a public hearing, issue a written preliminary order:

- (1) Denying approval of the preliminary plan for the proposed development;
- (2) Granting approval of the preliminary plan for the development; or
- (3) Granting approval of the preliminary plan upon terms and conditions that the planning board considers advisable to comply with the provisions of this chapter and all other applicable ordinances, codes and regulations adopted by the City.

**Sec. 90-75 Notification of state department of environmental protection.**

The code enforcement officer shall notify the state department of environmental protection of the

planning board's preliminary written order within 10 days of the decision regarding all major developments and/or developments which substantially affect the environment.

**Sec. 90-76 through Sec. 90-100. (Reserved)**

## **CHAPTER 90, SITE PLAN**

### **ARTICLE IV. FINAL PLAN.**

#### **Sec. 90-101 Submission.**

A request for final approval of a development shall be made to the planning board through the code enforcement officer in writing at least 14 days before a regular meeting of the planning board and shall be accompanied by final plans and supporting data of the development, legibly drawn on drafting film. The applicant must submit the original together with 15 copies. The plan shall be drawn at the same scale as the preliminary plan. Within seven working days of receiving the final plan, the code enforcement officer shall notify the applicant in writing that, in his opinion, which opinion shall not be binding on the planning board, either that the final plan is complete, or, if the plan is incomplete, the specific additional material needed to make the plan complete. After the code enforcement officer has determined that a complete final plan has been filed, he shall notify the applicant and begin a full evaluation of the final plan.

#### **Sec. 90-102 Required information and format.**

The final plan may be presented on one or more sheets. Each sheet shall be numbered "1 of 3," "2 of 3," etc. Each sheet shall contain the following information when applicable:

- (1) All the information required for the preliminary plan, in final form.
- (2) Existing and proposed final lines of streets, ways, lots, easements for utilities and/or drainage and public areas within the development. Easements shall be recorded prior to filing the plat at the registry of deeds and the appropriate book and page number shall be noted on the final plan.
- (3) Sufficient data such as NGVD or local datum.
- (4) Profiles and cross sections every 50 feet, or break in grades from proposed streets to side lots. The plan scale shall be one inch equals 20 feet, and the vertical scale shall be one inch equals four feet, or as approved by the code enforcement officer or City engineer.
- (5) All curve data.
- (6) Unless otherwise approved by the code enforcement officer, separate intersection plans showing geometry for right-of-way lines and curblines, curve data, drainage flow, drainage structures and finish grades on 8 1/2-inch by eleven-inch or larger sheets at a scale of one inch equals 10 feet.
- (7) Tangent and curve data showing stationing of all existing and/or proposed streets or public ways, rights-of-way, building lines and easements in the development, to determine the exact location, direction and length of every street line, easement, lot line and boundary line sufficient to reproduce these lines upon the ground.
- (8) Centerline stationing and station equations at intersecting streets.
- (9) If subject to review and approval by the state department of environmental protection, evidence of such approval. If lacking state approval, planning board approval shall be conditional pending department of environmental protection approval.
- (10) Location of all permanent monuments, existing and proposed, wherever, in the opinion of the City engineer or code enforcement officer, such monuments are necessary to properly

determine the location on the ground (on the face of the earth). All monuments and control points shall be protected and not covered.

- (11) Designation of the location, size, type of planting and landscaping of such parks, esplanades or other open spaces as may be proposed or prescribed (see section **90-12**).
- (12) The signed seal of a state-registered professional engineer and signed seal of a state-registered land surveyor attesting that such final plan is correct. The design of proposed infrastructure for water, sewage and drainage must be designed, signed and sealed by a licensed engineer.
- (13) Design of any municipal sewers to be installed to serve the proposed development.
- (14) A parking plan, which shall be in compliance with the provisions of chapter 98.
- (15) Approval block. Space shall be provided on the plan drawing for the signatures of the planning board and date, together with the words "Approved: Belfast Planning Board."

#### **Sec. 90-103 Certification of improvements.**

The final plan for a development shall be accompanied by written certification from the City engineer that the design of sewer and drainage facilities, streets and utilities, traffic and safety features in the proposed development conforms to the requirements of all pertinent local codes and ordinances. The cost of certification and/or inspection of the required improvements conducted by the City shall be borne by the developer.

#### **Sec. 90-104 Decision by code enforcement officer.**

The code enforcement officer shall consider a final plan falling within the scope of section 90-41 within 30 days of submission of such final plan. The code enforcement officer shall review and make findings regarding the status of all the review criteria in section 90-41, and issue a written statement informing the developer or his authorized agent of approval, disapproval or conditional approval. The code enforcement officer and applicant may mutually agree in writing to a time extension not to exceed four months for the code enforcement officer to render a decision.

#### **Sec. 90-105 Decision by planning board.**

The planning board shall consider a final plan for a development at a regular meeting within 30 days of submission of such final plan. The board shall, after consideration and review, make findings regarding the status of all the review criteria in section 90-42, and issue a written statement informing the developer or his authorized agent of approval, disapproval or conditional approval. The written decision shall be issued to the applicant within 14 workdays of the decision of the board. If conditional approval is granted, the board and applicant may mutually agree to a time extension not to exceed four months.

#### **Sec. 90-106 Notification of state department of environmental protection.**

The code enforcement officer shall notify the state department of environmental protection of the planning board's final decision regarding all major developments and/or developments which substantially affect the environment.

## CHAPTER 90, SITE PLAN

### ARTICLE V. BOARD REVIEW OF A MULTI-FAMILY HOUSING PROJECT.

#### Sec. 90-130. Site Plan Review Required.

- a) Pursuant to MRSA 30-A, §4402, 6, effective July 1, 2018, a division of a new or existing structure into 3 or more dwelling units (multi-family housing), whether the division is accomplished by sale, lease, development or otherwise, regardless of the size of the structure, shall be subject to review and approval by the Planning Board pursuant to requirements of Chapter 90, Site Plan.
- b) Effective July 1, 2018, a structure that was constructed on or before July 1, 2018 that qualifies as multi-family housing in which one or more new units are proposed to be established, regardless of the size of the structure, shall be subject to review and approval by the Planning Board pursuant to requirements of Chapter 90, Site Plan.
- c) A multi-family housing project that is subject to Site Plan review shall be exempt from review as a subdivision (Chapter 94, Subdivisions), unless the project involves the creation of 3 or more lots.

#### Sec. 90-131. Site Plan Review Process.

- a) A multi-family housing project that involves the development of 6 or more new dwelling units in a new structure or structures, the development of 6 or more new dwelling units in an existing structure or structures, or the development of 6 or more new dwelling units in an existing multi-family housing project that has or has not previously been reviewed and approved by the Planning Board, shall be subject to Planning Board review and approval pursuant to procedures for both a Preliminary Plan, reference this Chapter, Article III, and a Final Plan, reference this Chapter, Article IV.
- b) A multi-family housing project that involves the development of 5 or less new dwelling units in a new structure or structures, the development of 5 or less new dwelling units in an existing structure or structures that are used for multi-family housing, or the development of 5 or less new dwelling units in an existing multi-family housing project that has or has not previously been reviewed and approved by the Belfast Planning Board, shall be subject to Planning Board review pursuant to a consolidated Preliminary Site Plan and Final Site Plan process. An Applicant shall be required to submit all information required pursuant to Secs. 90-71, 90-72, 90-100 and 90-101 in an application. The Planning Board shall be required to conduct a public hearing on the proposed project and shall provide public notification of the hearing pursuant to Sec. 90-45 requirements.
- c) Notwithstanding the provisions of a) or b) above, a project in which a minimum of 66 percent of the proposed dwelling units qualify as affordable multi-family housing dwelling units, regardless of the number of dwelling units proposed to be developed, or the number of

structures in which said units are located, shall be subject to Planning Board review pursuant to a consolidated merged Preliminary Plan and Final Site Plan process. An Applicant shall be required to submit all information required pursuant to Secs 90-71, 90-72, 90-100, and 90-101 in an application. The Planning Board shall be required to conduct a minimum of two public hearings on the proposed project application, with said hearings occurring a minimum of 7 days apart, and shall provide public notification of the hearings pursuant to Sec 90-45 requirements.

- d) A multi-family housing project that is proposed as an element of a mixed use development, regardless of the number of multi-family units that are proposed, shall be subject to Board review pursuant to requirements of Chapter 90, Site Plan, as both a Preliminary Plan, reference Article III, and a Final Plan, reference Article IV. This requirement also applies to multi-family housing that may qualify as affordable housing.

**Sec. 90-132. Special Criteria for a Multi-family Housing Project.**

The number of dwelling units that can be constructed on a property that includes the development of multi-family housing shall be based on net residential density. The following criteria shall not be included in the calculation of the lot area to determine net residential density and the maximum number of dwelling units that can be developed on the property:

1. Land that is situated below the high annual tide or normal high-water mark of any water body.
2. Land that is located within the 100 year flood plain as identified on the official Federal Emergency Management Agency flood maps adopted by the City of Belfast, reference Chapter 78, Floods. The Board, however, can consider information submitted by a Registered Land Surveyor that demonstrates that the property in question lies at least two feet above the 100 year flood level.
3. Land that is part of a publicly or privately owned street right-of-way or easement.
4. Land that is part of a utility easements that benefit an off-site property or properties.
5. Land meeting the definition of wetland or freshwater wetland as defined by the State Department of Environmental Protection or the U.S. Army Corps of Engineers.
6. Land that has been created by filling or draining a pond or wetland.
7. Land that is located on steep slopes that exceed a grade of 20 percent.