

## **ARTICLE 11: PERFORMANCE STANDARDS, SPECIFIC ACTIVITIES AND LAND USES**

### **SECTION 11.01 APPLICABILITY**

- A. The following performance standards apply to the following specific activities and land uses. New activities or land uses are not permitted if the applicable performance standards in this article are not met.
- B. If an applicant can meet the intent and purpose of the performance standard by an equivalent method, that equivalent method may be approved. The burden of proof as to whether the performance standard, and the intent and purpose of the performance standard, is met is that of the applicant. The Review Authority may waive the requirement to meet a standard if the applicant or landowner requests the waiver, in writing, and the Review Authority finds that, due to special circumstances, meeting the standard is not required in the interest of public health, safety, and general welfare, or is inappropriate. Waivers may be granted only in writing with written findings of facts and conclusions, and may be subject to conditions.
- C. The general performance standards in Article 10 that may be applicable to the specific activities or land uses contained in this article also apply.
- D. Where the Section calls for review by, or allows a waiver by, the Planning Board such review or waiver may be by the Staff Review Committee if the Staff Review Committee is allowed to act on the application.

### **SECTION 11.02 AGRICULTURAL PRACTICES IN THE SHORELAND ZONE** [Entire Section amended May 16,2001] [amended October 28, 2009]

Except for existing agricultural operations:

- A. All spreading of manure must be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
- B. Manure may not be stored or stockpiled within 75 feet, horizontal distance, of any river, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- C. Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area within the Shoreland Zone are required to file a Conservation Plan with the Planning Board. Non-conformance with the provisions of said plan is considered a violation of this Ordinance.

- E. There may be no new tilling of soil within 75 feet, horizontal distance, from any river or coastal wetlands; nor within 25 feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on May 16, 2001, and not in conformance with this provision may be maintained.
- F. Newly established livestock grazing areas may not be permitted within 75 feet, horizontal distance, of any river or coastal wetlands, nor; within 25 feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with these setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

### **SECTION 11.03 THE KEEPING OF ANIMALS**

This standard does apply to agriculture—land use category 16.1—but does not apply to kennels, which are regulated by Section 11.16. [amended August 6, 2003]

- A. Without Planning Board approval, as allowed in Item C following, animals other than typical household pets may be kept only on a lot of at least 2 acres, and all pens, stables, barns, or other shelters for animals must be set back at least 100 feet from any lot line, other than the front lot line. In the case of the front lot line all pens, stables, barns, or other shelters for animals must meet the front setback requirement of the Space and Bulk Regulations of the zone in which it is located.
- B. Without Planning Board approval, as allowed in Item C following, manure may not be stored within 100 feet of the normal high watermark of any water body, watercourse, or potable water supply.
- C. If the property on which the animals are to be kept is less than 2 acres and/or the applicant cannot feasibly or would rather not meet the setbacks in Items A and B, a permit for keeping animals may be authorized by the Planning Board if the following standards are met:
  - 1. All pens, stables, barns, or other shelters for animals are set back at least 100 feet from the nearest dwelling other than the applicant's.
  - 2. All manure is stored in a covered structure and at least 100 feet from the nearest dwelling, other than the applicant's, at least 100 feet from the nearest potable water supply, and at least 100 feet from the normal high watermark of any water body, or watercourse.
  - 3. All structures are set back the required number of feet, as defined in this Code.

4. Manure-storage structures are constructed according to plans approved by the Androscoggin Valley Soil and Water Conservation District.
5. All feed and grain are stored in rodent-proof containers.
6. All paddocks, pastures, or other similar areas are adequately fenced to contain the animals.
7. The limit on the number and species of animals set by the Planning Board is complied with. In determining these limits, the Planning Board must consider the size and layout of the lot; the amount of waste produced by the animals; the size of adjacent lots; the presence of vegetative screening and buffer strips; and the potential for noise, odor, and vermin problems.

#### **SECTION 11.04 CAMPGROUNDS**

Campgrounds must conform to the minimum requirements imposed under state licensing procedures and the following:

- A. Campgrounds must contain at least 5,000 square feet of buildable land per recreational vehicle site or shelter area site, not including roads and driveways. Wetlands and land below the normal high watermark of a water body are not included in calculating land area per site.
- B. The area intended for placement of the recreational vehicle, tent, or shelter, and utility and service buildings, must be set back at least 75 feet, horizontal distance, from the normal high waterline of any water body, and must be set back at least 100 feet from the exterior lot lines of the campground. Every waterfront site must have at least 50 feet of frontage on the water. [amended October 28, 2009]
- C. At least 200 square feet of off-street parking, plus maneuvering space, must be provided for each recreational vehicle, tent, or shelter site.
- D. All campgrounds must be screened from adjacent land areas by a continuous landscaped area not less than 25 feet in width containing evergreen shrubs, trees, fences, walls, or any combination that forms a visual barrier of not less than 6 feet high.

## **SECTION 11.05    CLEARING OR REMOVAL OF VEGETATION FOR ACTIVITIES OTHER THAN TIMBER HARVESTING IN THE SHORELAND ZONE**

[Entire Section amended May 16, 2001] [amended October 28, 2009]

- A. In a Resource Protection District of the Shoreland Zone the cutting or removal of vegetation is limited to that which is necessary for uses expressly authorized in that district.
- B. Except in Resource Protection District of the Shoreland Zone and except to allow for the development of permitted uses, within a strip of land extending 75 feet, horizontal distance, inland from the normal high-water line of any river, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation must be preserved as follows:
1. There may be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed 6 feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.
  2. Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of this requirement a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area as determined by the following rating system and criteria (a) through (e).

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 - < 4 in.	1
4 – <8 in.	2
8-< 12 in.	4
12 in. or greater	8

- (a) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (b) Each successive plot must be adjacent to, but may not overlap a previous plot;
- (c) Any plot not containing the required points may have no vegetation removed except as otherwise allowed by this Code;
- (d) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Code;
- (e) Where conditions permit, no more than 50 percent of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of these requirements “other natural vegetation” is defined as retaining existing vegetation under 3 feet in height and other ground cover and retaining at least 5 saplings less than 2 inches in diameter at 4½ feet above ground level for each 25-foot by 50-foot rectangle area. If 5 saplings do not exist, no woody stems less than 2 inches in diameter may be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40 percent of the total volume of trees 4 inches or more in diameter, measured at 4½ feet above ground level may be removed in any 10-year period.

3. In order to protect water quality and wildlife habitat, existing vegetation under 3 feet in height and other ground cover, including leaf litter and the forest duff layer, may not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Subsections B and B, 1, above.
  4. Pruning of tree branches, on the bottom one third of the tree is allowed.
  5. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings must be replanted with native tree species unless existing new tree growth is present.
- C. At distances greater than 75 feet, horizontal distance, from the normal high-water line of any river, tributary stream, or the upland edge of a wetland, there may be selective cutting of not more than 40 percent of the volume of trees 4 inches or more in diameter, measured 4 ½ feet above ground level, in 10-year period. Tree removal in conjunction with the development of permitted uses must be included in such 40-percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event may cleared openings for any purpose, including but not limited to, principal and accessory structures, access drives, lawns, and sewage disposal areas, exceed in the aggregate, 25 percent of the lot area within the Shoreland Zone or 10,000 square feet, whichever is greater, including land previously cleared. This provision does not apply to the C1, C5, or I Zones.

- D. Legally existing nonconforming cleared openings may be maintained, but may not be enlarged, except as allowed by this Code.
- E. Fields and other cleared openings that have reverted to primarily shrubs, trees, or other woody vegetation must be regulated under the provisions of this Section.

## SECTION 11.06 CLUSTER DEVELOPMENTS

### A. Purpose

The purpose of these provisions is to encourage the preservation of the rural character of the Rural Residential District by preserving undeveloped land, including farmland, forestland, and other undeveloped lands, and to allow innovative development layout in all zoning districts. This is accomplished by allowing an innovative type of development that permits homes to be built on lots that are smaller than normally allowed, but requires undeveloped land to be preserved. In a cluster development, streets and utility lines are usually shorter, thus allowing development at a lower initial construction cost and lower future maintenance costs.

### B. Basic Requirements for Cluster Developments

1. Cluster developments must meet all requirements for a subdivision, the street acceptance requirements, and all other applicable codes and ordinances, including the applicable performance standards of this Code.
2. Each lot and building must be an element of an overall plan for site development. The applicant must specify the placement of buildings and the treatment of spaces, paths, roads, utility service, and parking, and, in so doing, must consider all requirements of this section and other relevant sections of this Code.
3. A high-intensity soil survey must be submitted. Buildings must not be constructed on soil classified as poorly drained.
4. Except for in-ground homes, buildings may not be located or constructed on slopes steeper than 25 percent.
5. The total area of undeveloped land within the development must equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required in the district in which the development is located.
6. Cluster Space and Bulk Regulations:

DISTRICT	MINIMUM LOT WIDTH	MINIMUM LOT AREA	MINIMUM LOT AREA PER DWELLING UNIT	MINIMUM SETBACK	MINIMUM YARD AREAS
R3, R2, R6, GC, and NRPO Without Public Sewer	150 feet	20,000 square feet	20,000 square feet	25 feet front 20 feet side 20 feet rear	20 feet front 10 feet side 10 feet rear
R2, R4, and	60 feet	5,000	5,000 square feet	10 feet front	10 feet front

<b>R6; With Public Sewer</b>		square feet		10 feet side 10 feet rear	5 feet side 5 feet rear
<b>R1, R5, and C2; With Public Sewer</b>	50 feet	3,500 square feet	3,500 square feet	10 feet front 10 feet side 10 feet rear	10 feet front 5 feet side 5 feet rear

[Table amended October 3, 2001]

7. Maximum building height, maximum lot coverage, and waterbody setback regulations are those of the zoning district in which the development is located.  
[amended October 3, 2001]
8. Individual lots or dwelling units may not have direct vehicular access onto a public street that exists prior to the development.
9. Where a cluster development abuts a body of water, a usable portion of the shoreline, as well as access to it, must be part of the undeveloped land.
10. Buildings must be oriented with respect to scenic vistas, natural landscape features, topography, solar energy, and natural drainage areas.
11. Unless the development will be served by public water, the applicant must demonstrate the availability of water adequate for domestic purposes as well as for fire safety. The Planning Board may require the construction of storage ponds and dry hydrants or require homes to have sprinkler systems. The location of all wells must be shown on the site plan.
12. Unless the development will be served by the public sewer system, the location of subsurface wastewater disposal systems and an equivalent reserve area for replacement systems must be shown on the site plan. This reserve area must be restricted so as not to be built upon. The report of a licensed Site Evaluator must accompany the plan. If the subsurface disposal system is an engineered system, approval from the Maine Department of Human Services, Division of Health Engineering, must be obtained prior to Planning Board approval.
13. Utilities must be installed underground wherever possible. Transformer boxes, pumping stations, and meters must be located so as not to be unsightly or hazardous to the public.

### **C. Dedication and Maintenance of the Undeveloped Land and Any Common Facilities**

1. The undeveloped land is that area not included in the residential lots that equals at least the total area by which all of the lots in the cluster development are reduced below the normal minimum lot size in the district. There may be no further subdivision of the undeveloped land. This undeveloped land may be used only for

agriculture, forestry, conservation, or noncommercial recreation. However, easements for public utilities or structures accessory for noncommercial recreation, agriculture, or conservation may be approved by the Planning Board.

2. The undeveloped land must be shown on the site plan and with appropriate notation on the face thereof to indicate the following:
  - (a) that the undeveloped land may not be used for future building lots; and
  - (b) the final disposition of the undeveloped land, which may be one of the following:
    - (i) dedicated to the City for acceptance
    - (ii) deeded to a land trust
    - (iii) retained by the applicant
    - (iv) reserved for ownership by a formal organization composed of the lot owners in the cluster development
3. If any or all of the undeveloped land is to be reserved for use by the residents as in Item 2.(b)(iv), then:
  - (a) A formal organization must be formed and its bylaws must specify maintenance responsibilities. The bylaws must be submitted to the Planning Board for its approval along with approval of the site plan.
  - (b) Covenants for mandatory membership in the association, setting forth the owners' rights, interest, and privileges in the association and the undeveloped land, must be reviewed by the Planning Board and included in the deed for each lot.
  - (c) The homeowners' association is responsible for maintaining the undeveloped land and any common facilities unless accepted by the City.
  - (d) The association must levy annual charges against all property owners to defray the expenses connected with maintenance of the undeveloped land, other common and recreational facilities, and City assessments.
  - (e) The developer must maintain control of the undeveloped land and be responsible for its maintenance until development sufficient to support the association has occurred. Such determination is made by the Planning Board upon request of the homeowners' association or the developer.
4. If the undeveloped land is retained by the applicant, as in Item 2(b)(iii), then:

- (a) The land may be used only for active agriculture or forestry. The conditions of this use must be approved by the Planning Board and indicated on the site plan.
  - (b) The development rights of the undeveloped land must be deeded to either the City or another entity approved by the Planning Board and may not be deeded to any other person for development purposes.
  - (c) An area suitable for the noncommercial recreational use of the lot owners in the cluster development and of an appropriate size must be reserved. This area must be either dedicated to the City or reserved for a homeowners' association as in Item 3.
- 5. If the undeveloped land is deeded to a land trust, as in Item 2(b)(ii), the Planning Board must approve the land trust and the conditions of the deed.
  - 6. If the undeveloped land is dedicated to the City, as in Item 2(b)(i), the Planning Board must review the language of the dedication and the uses allowed in the undeveloped land and make a recommendation to City Council as to their adequacy and whether the land should be accepted by the City.

#### **D. Buffering**

That portion of the cluster development that abuts a public street not in the cluster development and along the exterior boundaries of the cluster development must be designed as a continuous landscaped buffer area not less than 50 feet wide. This buffer area may not contain structures or streets other than the streets providing access to the cluster development. The first 25 feet of the buffer strip, as measured from the exterior boundaries of the development, must contain natural vegetation if such exists.

### **SECTION 11.07 COMMERCIAL-VEHICLE PARKING**

The parking of a motor vehicle that is registered as a commercial vehicle and is over 1-ton capacity based upon the manufacturer's rating is not considered an accessory use to a residential use except in the R3 zone. The parking of any motor vehicle which is used for a Transportation Terminal use or Truck Terminal use is not considered an accessory use to any residential use.

### **SECTION 11.08 ASSISTED RESIDENTIAL FACILITY** [amended February 24, 2010]

- A. An assisted residential facility must be certified or licensed by the State of Maine Department of Human Services.

- B. An assisted residential facility may include the following as accessory uses: personal services for the residents of the facility, the office of a doctor who serves the medical needs of the residents, and/or the sale or rental of goods, merchandise, or equipment for the residents.
- C. Overnight guests are allowed to stay with residents but for no more than 8 nights during any one 30-day period, except as allowed in Item D, following.
- D. An assisted residential facility may not be converted to another use without meeting the space and bulk regulations and the Land Use Table requirements of the zone in which it is located.
- E. The minimum age of the residents of an assisted residential facility is 18 years.
- F. Before an Assisted Residential Facility is changed to any other use, or before any accessory use is added to an Assisted Residential Facility, Site Plan Approval from the Planning Board is required.

#### **SECTION 11.09 DAY-CARE HOMES AND DAY-CARE FACILITIES FOR CHILDREN OR ADULTS** [amended June 30, 2010]

In addition to all other requirements of the Code, day-care homes and day-care facilities are subject to the following standards.

##### **A. Approval of Day-care Homes**

A day-care home is allowed, as per the Land Use Table in Section 9.02, only if it has received a permit in accordance with requirements of this section. Upon receipt of a permit application, the CEO must notify by regular mail the abutters of the subject parcel of the pending application. The notice must advise the abutters that the permit will be issued if the application conforms to the standards in Item C following, and that the abutter can provide written information as to the conformance of the request with these standards within 30 days of mailing the notice. If the CEO finds that the application conforms to the standards and no information to the contrary is received during the 30-day period, the permit is to be issued.

1. If the CEO receives information that the application may not conform to the standards, the CEO will:
  - (a) notify the applicant
  - (b) refer the applicant to the Planning Board for consideration
  - (c) notify the parties providing the information of the referral

2. The Planning Board must hold a meeting in accordance with Site Plan Review requirements to consider the application for a day-care home within 45 days of the referral from the CEO. The Planning Board must determine if the applicant meets the requirements of Item C following. If the Planning Board finds that the application does meet the requirements, it will direct the CEO to issue the permit.

## **B. Approval of Day-care Facilities**

A day-care facility is allowed only after Site Plan Approval from the Planning Board, and it must meet the requirements in Item C following.

## **C. Requirements for Day-care Homes and Day-care Facilities**

All day-care homes and day-care facilities must conform to the following requirements:

1. A fenced outdoor play area must be provided with a minimum of 75 square feet per child. The fence must be at least 4 feet in height.
2. Outside play may not be allowed before 9 a.m. or after 8 p.m. on Saturdays, Sundays, and holidays and before 7 a.m. or after 8 p.m. other days.
3. Adequate lighting must be provided. If the day-care home or day-care facility is in or abuts a residential zone, security lighting must be turned off when the day-care home or day-care facility is not operating.
4. Hazardous traffic conditions may not be created when the day-care facility traffic is added to existing and foreseeable future traffic in its vicinity.
5. An adequate drop-off and pick-up site must be established for a day-care facility.
6. The design and external appearance of any building must constitute a compatible addition to its neighborhood, although it need not have a similar design, appearance, or architecture.

## **D. Denial of Application**

If the CEO finds that the application for a day-care home does not conform to the standards, the application must be denied and the applicant notified in writing of the reasons for the denial. If the Planning Board finds that the application referred to it for a day-care home or a day-care facility does not conform to the standards, it must be denied and the applicant notified in writing of the reasons for the denial.

## **E. Minimum Lot Size Requirement**

If located in a single-family dwelling, a day-care home is not required to meet the minimum lot size for both the day-care home and the single-family dwelling, only for the latter. A day-care home in a 2-family or multi-family dwelling, or a day-care facility located in a

single-family dwelling, must meet the minimum lot area for both the day-care home or facility and the dwelling unit.

## **SECTION 11.10 FARMSTAND**

The operator of a farmstand must provide adequate off-street parking for customers, which may be located in a Front Yard Area. If a farmstand building is less than 200 square feet in size, it may be located within the normal Front Setback Area and Yard Area, but in no case may a farmstand building be less than 15 feet from a street right-of-way.

## **SECTION 11.11 FENCES AND WALLS**

- A. Yard Area requirements do not apply to fences and walls, however, corner clearance requirements do apply and all fences and walls must be located so as to not cause vehicular or pedestrian safety hazards.
- B. Where feasible fences and walls must be set back an adequate distance from a property line to allow for maintenance.
- C. If a retaining wall is taller than 5 feet it must be set back from a property line at least a distance equal to the height of the wall, unless the wall has been approved by a registered professional engineer.
- D. Additional Requirements in the Shoreland Zone [added October 28, 2009]

Retaining walls that are not necessary for erosion control must meet the building setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:

1. The site has been previously altered and an effective vegetated buffer does not exist;
2. The wall is at least 25 feet, horizontal distance, from the normal high-water line of a waterbody;
3. The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
4. The total height of the wall is no more than 24 inches;
5. Retaining walls are located outside of the 100-year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record;
6. The area behind (uphill of) the wall is re-vegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and

7. A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body when a natural buffer area does not exist. The buffer area must meet the following characteristics:
  - (a) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
  - (b) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
  - (c) Only native species may be used to establish the buffer area;
  - (d) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
  - (e) A footpath not to exceed the standards in Section 11.05, B, 1, may traverse the buffer.

## **SECTION 11.12 GARAGE AND YARD SALES**

- A. Such sales may be held on a property only if the owner or occupant of that property has items for sale in the garage and yard sale.
- B. Garage and yard sales are permitted no more frequently than twice annually and for periods not to exceed 3 days.
- C. Sales conducted more frequently or for longer periods are classified as “Sales or Rental of Goods, Merchandise, or Equipment” in the Land Use Table. These uses require additional permits, may be located only in zoning districts where the use is allowed, and must meet applicable performance standards.
- D. Signs for garage and yard sales must meet the requirements of the Sign Ordinance.

## **SECTION 11.13 HOME OCCUPATIONS**

Home occupations are uses that are clearly accessory, incidental, and secondary to the residential use of the dwelling unit. They are only allowed in single- and 2-family dwelling units. However, a Home Occupation - A is allowed in a multi-family dwelling. Only 1 Home Occupation – B is allowed per dwelling unit or building accessory to a dwelling unit. More than 1 Home Occupation – A is allowed per dwelling unit, including a dwelling unit that has a Home Occupation – B, provided that in total the home occupations associated with any dwelling unit do not exceed the criteria listed in the definitions contained in this Code and the standards in A through K, following. Home occupations must meet the applicable criteria listed in the definitions contained in this Code, and must meet the following standards: [amended August 6, 2003]

- A. The home occupation may not produce any odors, fumes, dust, smoke, vibrations, glare, noise, or electrical interference in excess of that produced by normal residential use; it may not create a nuisance.
- B. There may be no external alteration of the building or site that changes its residential character.
- C. No more than 30 percent of the gross floor area of the dwelling structure may be utilized in the home occupation.
- D. The maximum number of employees on-site at any one time, other than family members who reside in the home in or at which the home occupation is located, is zero for a Home Occupation - A, and 8 for a Home Occupation - B.
- E. The home occupation must be conducted wholly within the principal building or within a building accessory to the principal building. Any accessory building that houses a home occupation may be no larger than 600 square feet in gross floor area, must meet the principal building-setback requirement of the Space and Bulk Regulations of the zone, and must be residential in appearance. However, any accessory building in existence on July 19, 2000, may be used for a home occupation provided that no more than 600 square feet of said building is used for a home occupation. [amended August 6, 2003]
- F. A home occupation may not be located in a dwelling unit that contains in-home lodging.
- G. The sale of items manufactured or produced on-site is allowed on-site, except that the sale of food items manufactured on-site is not allowed on-site.
- H. Only incidental sales of items not manufactured or produced on-site is allowed on-site.
- I. There may be no outdoor storage or display of equipment, materials, or items for sale, and no repairing of motor vehicles, recreational camping vehicles, or snowmobiles.
- J. Deliveries by trucks of a size larger than the single-unit trucks such as those used by Federal Express or United Parcel Service are only allowed once per month.
- K. To the extent necessary the Planning Board has the right to impose restrictions on maintenance activities and operations of a Home Occupation - B where such restrictions are necessary or appropriate to prevent or mitigate the impact of the use on abutting or neighboring properties. Restrictions may include, for example, limitation on the hours of winter snow removal or plowing, time of deliveries and office hours, and the amount and location of on-street and off-street parking. [amended May 16, 2001]

## **SECTION 11.14 IN-HOME LODGING**

The owner-occupant of a single-family home may rent lodging accommodations to up to but not more than 3 persons. Cooking facilities are not allowed in the bedrooms of the lodgers. However, the lodgers may have use of the kitchen facilities in the home.

#### **SECTION 11.15 INDIVIDUAL PRIVATE CAMPSITES** [amended October 28, 2009]

Individual private campsites not associated with campgrounds are permitted, provided that the following conditions are met:

- A. One campsite per lot existing on the effective date of this Ordinance, or 30,000 square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- B. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, must be set back 75 feet, horizontal distance, from the normal high-water line of rivers, tributary streams, or the upland edge of a wetland.
- C. Only one recreational vehicle may be allowed on a campsite. The recreational vehicle may not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy may be attached to the recreational vehicle.
- D. The clearing of vegetation for the siting of the recreational vehicle, tent, or similar shelter in a Resource Protection Zone is limited to 1000 square feet.
- E. A written sewage disposal plan, approved by the Local Plumbing Inspector, describing the proposed method and location of sewage disposal is required for each campsite. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- F. When a recreational vehicle, tent, or similar shelter is placed on a site for more than 120 days in any one calendar year, all requirements for residential structures must be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

#### **SECTION 11.16 KENNELS** [amended February 27, 2008]

- A. Structures or pens for housing or containing animals must be located at least 200 feet from the nearest lot line, except that in the R3 Zone the structures or pens for housing or containing animals may be less than 200 feet from the nearest property line provided that the owner of the kennel resides on the premises.
- B. All pens, runs, kennels, and other facilities must be designed, constructed, and located on the site in a manner that minimizes adverse effects on surrounding properties. The

applicant must demonstrate to the Board that the facility will not be a nuisance and that the facility will comply with the noise requirements in Section 10.30. The applicant may be required to employ all or a combination of the following, along with other techniques, to assure the Board that the animals will not be a nuisance to the general public: separating the structures and pens that house and contain the animals an adequate distance from property lines and other dwellings, existing changes in topography, the construction of berms, natural and planted evergreen hedges, fences, soundproofing, and locating the buildings and the openings of outdoor runs so as to shield neighboring properties.

- C. The owner or operator of a kennel must maintain the premises in a clean, orderly, and sanitary condition at all times. Garbage, offal, feces, or other waste material may not be allowed to accumulate on the premises. The premises must be maintained in a manner so as to not provide a breeding place for insects, vermin, or rodents.
- D. Temporary storage containers for any kennel wastes containing or including animal excrement must be kept tightly covered at all times, and emptied at least once every 3 days. Containers must be made of steel or plastic to facilitate cleaning and must be located as per Section 11.16, A and B, above.
- E. If outdoor runs are provided, they must be completely fenced in and must be paved with cement, asphalt, or a suitable material to provide for cleanliness and ease of maintenance.
- F. Any incineration device for burning excrement-soaked waste papers and/or animal organs or remains must be located at least 400 feet from the nearest residence other than the applicant's and must have a chimney vent at least 35 feet above the average ground elevation. The applicant also must provide evidence that approval from the MEDEP has been obtained for the proposed incinerator and that it meets state standards for particulate emissions, flue-gas temperature, and duration of required flue temperatures.

#### **SECTION 11.17 LIFE-CARE FACILITIES** [section deleted February 24, 2010]

#### **SECTION 11.18 MANUFACTURED HOUSING AND MOBILE HOMES**

- A. Single-unit manufactured housing and mobile homes, whether single- or double-wide, must meet all of the following requirements:
  - 1. the dimensional and density requirements of the zoning district in which it is located for single-family dwellings

2. placement on a permanent foundation, frost wall, grade beam, or floating slab, and skirting made of permanent material that blocks the view of the underside of the unit and is rodent- and weather-proof.
  3. a 3:12 or steeper pitched roof of wood, asphalt, or fiberglass composite shingles
  4. exterior siding that is residential in appearance
- B. A unit that does not meet these standards cannot be replaced by a unit that does not meet these standards.
  - C. Multi-unit modular housing must meet the same standards and requirements as site-built homes. If the unit has a tongue, wheels, or axle, they must be removed prior to occupancy. The space between the unit and the ground must be fully enclosed by a material that blocks the view to the underside of the unit and is rodent- and weather-proof.
  - D. A unit built as a mobile home and meeting the definition in this Code of *manufactured housing* may not be used for a nonresidential use except in a zoning district that allows single-unit mobile homes.
  - E. A mobile home or manufactured housing unit that does not meet the definition of *manufactured housing* in this Code may not be used for any use, except as a temporary construction office.

## **SECTION 11.19 MINOR EARTHMOVING ACTIVITIES**

The following minor earthmoving activities do not require a permit:

- A. The removal or filling of less than 50 cubic yards of material from or onto any lot in any 1 year, unless located in the Shoreland Zone.
- B. The removal or filling of less than 10 cubic yards of material from or onto any lot in any 1 year, if any part of the lot is in the Shoreland Zone. [amended August 6, 2003]
- C. The removal or filling of material incidental to construction, alteration, or repair of a structure, or in the grading and landscaping incidental thereto, unless it exceeds 500 cubic yards. [amended August 6, 2003]

Other earthmoving, processing, and storage in any district requires Site Plan Review from the Planning Board.

## **SECTION 11.20 MOBILE HOME PARKS**

## **A. General Requirements**

Except as stipulated herein, mobile-home parks must meet all the requirements for a residential subdivision, are only allowed in the Mobile Home Park Overlay District, and must conform to all applicable state laws and local ordinances or regulations. Where the provisions of this section conflict with specific provisions of the subdivision regulations, the provisions of this section prevail.

## **B. Lot-area and Lot-width Requirements**

Notwithstanding the district dimensional requirements contained in this Code, lots in a mobile-home park must meet the following lot-area and lot-width requirements:

1. Lots served by individual subsurface wastewater disposal systems:
  - (a) Minimum lot area: 20,000 square feet
  - (b) Minimum lot width: 100 feet
2. Lots served by a central, on-site subsurface wastewater disposal system approved by the Maine Department of Human Services:
  - (a) Minimum lot area: 12,000 square feet
  - (b) Minimum lot width: 75 feet
  - (c) The overall maximum: 1 dwelling unit per 20,000 square feet of total park area.
3. Lots served by public sewer:
  - (a) Minimum lot area: 6,000 square feet
  - (b) Minimum lot width: 65 feet
4. Lots located within the Shoreland Zone must meet the Space and Bulk Regulations for the district in which they are located.

## **C. Unit Setback Requirements**

Unit Setback requirements are as follows:

1. Structures may not be located less than 15 feet from any boundary lines of an individual lot.

2. On lots that abut a public way either within or adjacent to the park, or on lots that are located within the Shoreland Zone, structures must meet the Front Setback requirements found in the district dimensional requirements of this Code.

#### **D. Buffering**

1. A 50 foot wide buffer strip must be provided along all property boundaries that:
  - (a) abut the park, or
  - (b) abut residential land that is zoned at a density of less than half of that proposed in the park.

Further, no structures, streets or utilities may be placed in the buffer strip except that they may cross a buffer strip to provide services to the park.

2. Within 25 feet of any property line and within the buffer strip, visual screening or landscaping must be provided and maintained. The visual screening may consist of fences, berms, landscaping (such as shrubs and trees) and/or natural existing vegetation. This screening must effectively screen at least 80 percent of the homes from view from the adjacent property.

#### **E. Road Design, Circulation, and Traffic Impacts**

The following requirements apply:

1. Streets within a park must be designed by a professional engineer registered in the State of Maine.
2. Streets that the applicant proposes to be dedicated as public ways must be designed and constructed in accordance with the standards for streets in the City of Bath.
3. Streets that the applicant proposes to remain as private ways must meet the following minimum geometric design standards:
  - (a) Minimum width of right-of-way: 23 feet
  - (b) Minimum width of traveled way: 20 feet
4. On-street parking must be prohibited unless an 8 foot parking lane is provided, in which case on-street parking may be permitted on the side of the road where the parking lane is located.
5. Any mobile-home park expected to generate average daily traffic of 200 trips per day or more must have at least 2 street connections with existing public streets.

Any street within a park with an average daily traffic of 200 trips per day or more must have at least 2 street connections leading to existing public streets, other streets within the park, or other streets shown on an approved subdivision plan.

6. No individual lot within a park may have direct vehicular access onto an existing public street.
7. The intersection of any street within a park and an existing public street must meet the following standards:

**(a) Angle of Intersection**

The minimum angle of intersection is 75 degrees.

**(b) Maximum Grade Within 75 Feet of Intersection**

The maximum permissible grade within 75 feet of the intersection is 2 degrees.

**(c) Minimum Site Distance**

A minimum sight distance of 10 feet for every miles per hour of legal speed limit on the existing road must be provided. Sight distance is measured from the driver's seat of a vehicle that is 10 feet behind the curb or edge of the shoulder line, with the height of the eye 3½ feet above the pavement and the height of the object 4¼ feet.

**(d) Distance from Other Intersections**

The centerline of any street within a park intersecting an existing public street must be no less than 125 feet from the centerline of any other street intersecting that public street.

8. The application must contain an estimate of the average daily traffic projected to be generated by the park. Estimates of traffic generation must be based on the *Trip Generation Manual, 1991 Edition*, published by The Institute of Transportation Engineers. If the park is projected to generate more than 400 vehicle trip ends per day, the applicant also must include a traffic-impact analysis by a Registered Professional Engineer with experience in transportation engineering.

**F. Groundwater Impacts**

**1. Assessment Submitted**

Accompanying the application for approval of any mobile-home park that is not served by public sewer must be an analysis of the impact of the proposed mobile-home park on groundwater quality. The hydrogeologic assessment must be prepared by a

Certified Geologist or Registered Professional Engineer experienced in hydrogeology and must contain at least the following information:

- (a) a map showing the basic soil types
- (b) the depth to the water table at representative points throughout the mobile-home park
- (c) drainage conditions throughout the mobile-home park
- (d) data on the existing groundwater quality, from either test wells in the mobile-home park or existing wells on neighboring properties
- (e) an analysis and evaluation of the effect of the mobile-home park on groundwater resources; the evaluation must, at a minimum, include a projection of post-development nitrate-nitrogen concentrations at any wells within the mobile-home-park boundaries and at a distance of 1,000 feet from potential contamination sources, whichever is the shorter distance
- (f) a map showing any subsurface wastewater-disposal systems and drinking-water wells within the mobile-home park and within 200 feet of the mobile-home-park boundaries

## **2. Standards for Acceptable Groundwater Impact**

- (a) Projections of groundwater quality must be based on the assumption of drought conditions, assuming 60 percent of annual average precipitation.
- (b) A mobile-home park may not increase any contaminant concentration in the groundwater to more than half of the Primary Drinking Water Standards. A mobile-home park may not increase any contaminant concentration in the groundwater to more than the Secondary Drinking Water Standards.
- (c) If groundwater contains contaminants in excess of the primary standards and the mobile-home park is to be served by on-site groundwater supplies, the applicant must demonstrate how water quality will be improved or treated.
- (d) If the groundwater contains contaminants in excess of the secondary standards, the mobile-home park may not cause the concentration of the parameters in question to exceed 150 percent of the ambient concentration.

## **3. Subsurface Wastewater Disposal Systems and Drinking-water Wells**

These must be constructed as shown on the map submitted with the assessment. If construction standards for drinking-water wells are recommended in the assessment, those standards must be included as a note on the plan.

## **G. Sidewalks/Walkways**

The mobile home park must contain pedestrian walkways that link all units and all services and recreation facilities. Such walkways must be adequately surfaced and lit. A portion of the road surface may be reserved for walkways provided the roadway width is increased accordingly. Walkways must be a minimum width of 3 feet.

## **H. Lighting**

Outdoor lighting must be provided to adequately illuminate internal streets and pedestrian walkways. Lights must be sized and directed to avoid adverse impact on adjacent properties.

## **I. Storage**

At least 300 cubic feet of enclosed tenant storage facilities must be conveniently provided on or near each mobile home lot for the storage of materials and equipment.

## **J. Storm Drainage**

A storm drainage plan must be prepared by a Registered Professional Engineer showing ditching, culverts, storm drains, easements, and other proposed improvements sufficient to accommodate a 25-year storm.

## **K. Conversion to Other Use**

A development or subdivision that is approved under this section as a mobile-home park may not be converted to another use without approval of the Planning Board and without meeting the space and bulk regulations applicable to the new use and other requirements of this Code. The mobile-home-park plan must be recorded at the Sagadahoc County Registry of Deeds and filed with the City, and must include the following restrictions, as well as any other notes or conditions of approval:

1. The land within the park must remain in a unified ownership and the fee-simple title to individual lots or portions of lots may not be transferred.
2. A dwelling unit other than a manufactured housing unit may not be located within the park.

## **SECTION 11.21 PARABOLIC DISH ANTENNAS**

Parabolic dish antennas are allowed as accessory uses in all zoning districts. Antennas 3 feet and larger in diameter are not allowed in a required Yard Area, and are not allowed in

a Front Setback Area unless the landowner can demonstrate to the CEO that there is no other location on the lot where the antenna will receive signals adequately.

## **SECTION 11.22 PARKING AND USE OF MOTOR VEHICLES AND TRAILERS**

[amended January 25, 2023]

- A. The use of a lot to park or store an unregistered motor vehicle or trailer or a motor vehicle that does not have a valid Maine motor vehicle inspection certificate or is unable in its present condition to pass the Maine motor vehicle inspection test, and is not intact, is not permitted if such motor vehicle or trailer is visible from an abutting property, a public way, or any waterbody. A motor vehicle or trailer may be considered *visible* if only covered by a tarpaulin. *Not intact* means without any of the following: windows, windshield, doors, hood, trunk lid, fenders, roof, wheels, or inflated tires. However, a motor vehicle or trailer may be “up on-blocks” with wheels removed and still be considered *intact*. To be *intact* the motor vehicle must be right-side up, without broken glass, without broken light lenses, without a torn or ripped convertible top, and without excessive rust. This Section does not apply to a motor vehicle that is actively being restored or reconditioned provided the motor vehicle is right-side up and has no broken glass.
- B. The use of a lot to park or store 3 or more unregistered motor vehicles that are not capable of passing the Maine motor vehicle inspection test is not permitted.
- C. The use of a lot that does not meet the standards in items A and B, above, does not acquire legal nonconforming status
- D. The use of a motor vehicle, shipping container, or trailer or semitrailer as defined in 29-A M.R.S.A. section 101, or anything manufactured as a motor vehicle, shipping container, or trailer or semitrailer as defined in 29-A M.R.S.A. section 101, to house a principal or accessory use is not permitted in any district, except as allowed by Section 11.31 and 11.41 of the Land Use Code. Any motor vehicle, shipping container, or trailer or semitrailer as defined in 29-A M.R.S.A. section 101, or anything manufactured as a motor vehicle, shipping container, or trailer or semitrailer as defined in 29-A M.R.S.A. section 101, which was used to house a principal or accessory use as of August 9, 2000, may remain in place on a lot and is considered a legally nonconforming structure, however, it may not be relocated on the lot and if removed from the lot it may only be replaced with a conforming building. [amended May 16, 2001]

## **SECTION 11.23 PIERS, DOCKS, AND OTHER MARINE STRUCTURES** [Entire Section amended May 16, 2001] [amended October 28, 2009]

- A. Access from shore must be developed on soils appropriate for such use and constructed so as to control erosion.
- B. The location must not interfere with existing developed or natural beach areas.

- C. The facility must be located so as to minimize adverse effects on fisheries.
- D. The facility may be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and use of the area. A temporary pier, dock, or wharf in non-tidal waters may be no wider than 6 feet.
- E. No new structure may be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
- F. New permanent piers and docks on non-tidal waters may not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
- G. No existing structure built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland may be converted to residential dwelling units in any district.
- H. Except in the C1, C5, and I Districts, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland may not exceed 20 feet in height above the pier, wharf, dock or other structure.
- I. New permanent structures, and expansions thereof, projecting into or over water bodies require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A., Section 430-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

## **SECTION 11.24 PROVISIONAL USE PERMITS**

The City Council has the authority to issue Provisional Use Permits in those cases where it is satisfied that the use requested is appropriate for a temporary period of time, does not create a nuisance, and there is a hardship on the applicant that causes the request to be made. Any such permit must be for a specified period not exceeding 1 year and the Council may allow 6-month extensions for valid reasons. At the end of the specified period, and any extensions, the permit expires and the use must be discontinued.

## **SECTION 11.25 RECREATIONAL FACILITY**

Recreational facilities in Land Use Category 8.2 must meet following the standards:

- A. Containers and facilities for rubbish collection and removal must be provided.

- B. Adequate screening, buffers, or landscape must be built, planted, or maintained to protect any adjacent residential areas from adverse noise, light, dust, smoke, and visual impact.

## **SECTION 11.26 SEASONAL SALE OF HOME PRODUCE**

The seasonal outdoor display and sale of fresh fruits, vegetables, and nursery plants raised on the premises are permitted, provided that such display and sales are limited to the growing season and sufficient parking facilities for customers are available. No structures are allowed unless as permitted in Section 11.10 - FARMSTAND.

## **SECTION 11.27 SINGLE-FAMILY DWELLING IN RESOURCE PROTECTION DISTRICT**

[amended October 28, 2009]

The Planning Board may allow a single-family dwelling in the Resource Protection District, provided the applicant demonstrates that all of the following conditions are met:

- A. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- B. The lot on which the structure is proposed is undeveloped and was established and recorded in the Sagadahoc County Registry of Deeds before adoption of the Resource Protection District.
- C. The proposed buildings, sewage-disposal systems, and other improvements are:
  - 1. located on natural ground slopes of less than 20 percent; and
  - 2. located outside the floodway of the 100-year floodplain, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least 1 foot above the 100-year floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain ordinance.
- D. The total ground-floor area of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation may not be altered by variance.
- E. All structures, except functionally water-dependent structures, are set back from the normal high watermark or upland edge of a wetlands to the greatest practical extent, but not less than 75 feet. In determining the greatest practical extent, the Planning Board must consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's

elevation in regard to the floodplain, and its proximity to moderate-value and high-value wetlands.

F. The use will:

1. maintain safe and healthful conditions
2. not result in water pollution, erosion, or sedimentation to surface water
3. adequately provide for the disposal of all wastewater
4. not have an adverse impact on spawning grounds, fish, aquatic life, bird, or other wildlife habitat
5. conserve shore cover and visual as well as actual points of access to inland and coastal waters
6. protect archeological and historical resources as designated in the Comprehensive Plan

G. Applications for single-family dwellings in the Resource Protection District are processed as a Site Plan Review under this Code.

**SECTION 11.28 SMALL-SCALE UTILITY FACILITIES** [Title amended August 6, 2003]

A. Small-scale utility facilities, as defined in this Code, are permitted in all zoning districts. They are exempt from space and bulk regulations, and they must meet the following: [amended August 6, 2003]

1. A sketch plan showing the location and elevation view of the small utility structure and any screening as may be required by Item 2 must be approved by the Director of Public Works, the CEO, the Planning Board Chair or another Planning Board member designated by the Chair, and the Planning Director.
2. If in or abutting any residential district, or the NRPO, GC, P&O, or RP district the small-scale utility facility must be screened by evergreen shrubs, fencing, a landscaped earthen berm, or a combination thereof. The purpose of the screening is to soften and compliment the appearance of the facility from neighboring properties and public ways, and to mitigate impacts from noise and glare. The owner of the small-scale utility facility is responsible for maintaining the screening. [amended August 6, 2003]

B. The entity siting a small-scale utility facility must have a legal interest in the land on which the facility is located. [amended August 6, 2003]

## **SECTION 11.29 STORAGE OF BOATS**

- A. To be considered an accessory use the storage of a boat may be done only on the lot owned or occupied by the owner of the boat. Boats must be stored so as to meet the Yard Area requirement of the space and bulk regulations of the district in which it is located. If the boat is longer than 25 feet, it must meet district Setback requirements. [amended May 16, 2001]
- B. Notwithstanding A, above, a boat, regardless of size, may be stored for a temporary period of time between September 1<sup>st</sup> of one year and June 15<sup>th</sup> of the following year provided it meets the Yard Area requirement of the space and bulk regulations of the district in which it is located. [added May 16, 2001]

## **SECTION 11.30 TRANSIT SHELTERS**

The Front Yard Area and Front Setback provisions of the district need not be met by a shelter for persons waiting for transportation, if the following criteria are met:

- A. The structure is no more than 10 by 10 feet in horizontal dimension and not more than 8 feet tall.
- B. Except of shelters for public transit, the structure is not located within the street right-of-way.
- C. The structure is no closer than 15 feet to the edge of the pavement.

## **SECTION 11.31 TEMPORARY USES**

### **A. Special Events Such as Carnivals, Circuses, and Tent Sales**

- 1. The maximum length of time that such a special event is allowed is 3 days in any one location per year if operated in a residential zone, and 10 days if operated in any other zone.
- 2. The operator of a special event must provide adequate and appropriate parking, litter control and removal, restroom facilities, traffic control, and emergency-vehicle access.
- 3. The CEO may approve an application for a special event only after the application has received Site Plan Approval from the Staff Review Committee.

### **B. Contractor's Office, and Construction Equipment-sheds and Equipment-trailers**

- 1. The use must be incidental to a construction project in Bath.

2. May not contain sleeping or cooking accommodations.
3. Must be removed upon completion of the construction project.

### **C. Christmas Tree Sales**

1. The maximum length of display and sales is 45 days.

### **D. Portable Class Rooms**

1. Allowed for Planning Board-approved school renovations and to relieve overcrowding.

## **SECTION 11.32 TIMBER HARVESTING** [Entire Section amended May 16, 2001]

### **A. Timber harvesting in the Shoreland Zone must conform with the following provisions:**

1. Selective cutting of no more than 40 percent of the total volume of trees 4 inches or more in diameter measured at 4 ½ feet above ground level on any lot in any 10 year period is permitted. In addition:
  - a. Within 75 feet, horizontal distance, of the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland, there may be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, must be maintained.
  - b. At distances greater than 75 feet, horizontal distance of the normal high-water line of water bodies or the upland edge of a wetland, harvesting operations may not create single clearcut openings greater than 10,000 square feet in the forest canopy. Where such openings exceed 5,000 square feet they must be at least 100 feet apart. Such clearcut openings must be included in the calculation of total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.
2. Timber harvesting operations exceeding the 40 percent limitation in item 1, above, may be allowed by the ZBA upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Code. The ZBA must notify the Commissioner of the Department of Environmental Protection of each exception allowed, within 14 days of the ZBA's decision.
3. No accumulation of slash may be left within 50 feet of the normal high-water line of a water body. In all other areas slash must either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than 4

feet above the ground. Any debris that falls below the normal high-water line of a water body must be removed.

4. Timber harvesting equipment may not use stream channels as travel routes except when:
    - a. Surface waters are frozen; and
    - b. The activity will not result in any ground disturbance.
  5. All crossings of flowing water require a bridge or culvert, except in areas low with banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
  6. Skid-trail approaches to water crossings must be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts must be removed and areas of exposed soil revegetated.
  7. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil must be located such that an unscarified strip of vegetation of at least 75 feet in width for slopes up to 10 percent must be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each 10 percent increase in slope, the unscarified strip must be increased by 20 feet. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face may be closer than 25 feet from the normal high-water line of a water body or upland edge of a wetland.
- B. All other timber harvesting must conform to the requirements of 12 M.R.S.A. sections 8867-8869 and the rules adopted by the Commissioner of the Department of Conservation to implement said sections.
- C. The local regulation of timber harvesting activities in the Shoreland Zone is repealed on the statutory date established under 38 M.R.S.A. section 438-B(5), at which time the State of Maine Department of Conservation's Bureau of Forestry will administer timber harvesting standards in the shoreland zone. [added October 28, 2009]

### **SECTION 11.33 USE OF RECREATIONAL CAMPING VEHICLES AND TENTS**

- A. The use of a recreational camping vehicle or tent as a temporary or permanent dwelling unit is not permitted.

- B. A recreational camping vehicle or tent may be used on an occasional basis for temporary occupancy by residents of the dwelling unit on the property or by guests, and only on the lot owned or occupied by the owner of the recreational vehicle. For the purpose of this section, *occasional basis* means occupancy on not more than 14 nights in any 30-day period.
- C. Unoccupied recreational camping vehicles or tents may be parked or stored on a lot in any district, provided the lot is owned by the owner of the unit, but they must be parked or stored so as to meet the Yard Area requirements of the Space and Bulk Regulations of the district in which it is located. If the unit is longer than 25 feet, it must meet the Setback requirements of the district.

### **SECTION 11.34 SHARED PARKING**

Shared parking must be:

- A. Only for motor vehicles. [amended August 6, 2003]
- B. Within 200 feet of one of the principal uses using the parking. [amended August 6, 2003]
- C. With written permission of the owner of the parking lot.
- D. Only used at a time of day when parking spaces are not needed by the primary uses of the lot.

### **SECTION 11.35 ACCESSORY USES NOT ON THE SAME LOT AS THE PRINCIPAL BUILDING OR USE** [amended May 25, 2022]

- A. May only be allowed after Site Plan Approval.
- B. Must be located in a district that allows the accessory use as a Permitted Use or in a district that allows the principal use to which the accessory use is accessory as a Permitted Use.
- C. Must be within 350 feet of the principal building or use served as measured from lot-line to lot-line.
- D. May not include an accessory dwelling unit as defined in Article 2 of the Land Use Code as of April 1, 2022.

### **SECTION 11.36 MANUFACTURING, PROCESSING, CREATING, RENOVATING, OR ASSEMBLING OF GOODS, MERCHANDISE, OR EQUIPMENT IN THE DOWNTOWN COMMERCIAL DISTRICT**

This Standard applies to Land Use category 4.1 if located in the C1 zoning district.

- A. May not be located on the ground floor unless on the ground floor at least 30 percent of the gross floor area of the use is devoted to, available to, and physically arranged to accommodate walk-in, retail sales of the product of the business.
- B. Notwithstanding A, above, a Category 4.1 use may be located on the ground floor of a mixed use building, which must include a Category 2 use, a Category 3 use, or a Category 10.1 use, provided the Category 4.1 use occupies no more than 50% of the ground floor and does not occupy more of the storefront than is necessary for safe personal egress. The *storefront* means that portion of the building that abuts a street, a City owned parking lot, or the Kennebec River and is at least 15 feet in depth from that street, City owned parking lot, or Kennebec River. [amended May 4, 2005]
- C. The non-Category 4.1 use of the building must be physically separated from the Category 4.1 use of the building. [amended May 4, 2005]
- D. May only be conducted in a building, which existed on July 19, 2000. amended May 4, 2005]

### **SECTION 11.37 THE SALE OF MOTOR SCOOTERS AND SMALL ATVS** [Entire Section added March 11, 2009]

This Standard applies to Land Use category 12.6.

- A. Outdoor display or storage of motor scooters or small ATVs is not allowed overnight or during times when the business is not open to the public.
- B. The repair and/or service of motor scooters or small ATVs may not take place outside of an enclosed building.
- C. No more than 5 motor scooters and/or small ATVs may be displayed out of doors at any one time.

### **SECTION 11.38 ESSENTIAL SERVICES IN THE SHORELAND ZONE** [added October 28, 2009]

- A. Where feasible, the installation of essential services must be limited to existing public ways and existing service corridors.

- B. The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection Zone, except to provide services to a permitted use within said zone, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities must be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- C. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

**SECTION 11.39 SEPTIC WASTE DISPOSAL IN THE SHORELAND ZONE** [added October 28, 2009]

All subsurface sewage disposal systems must be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following:

- A. clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, may not extend closer than 75 feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland;
- B. a holding tank is not allowed for a first-time residential use in the shoreland zone; and
- C. any new system, excluding fill extensions, may not be constructed less than 100 feet, horizontal distance, from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.

**SECTION 11.40 ACCESSORY DWELLING UNIT** [added March 23, 2022]

In addition to all other requirements of the Code, accessory dwelling units are subject to the following standards:

**A. General Requirements for Accessory Dwelling Units**

1. One accessory dwelling unit shall be permitted per parcel that has a single-family dwelling or two-family dwelling, in the primary building or as an accessory building. An accessory dwelling unit must be clearly accessory to the principle dwelling unit(s) on the parcel.
2. The size of an accessory dwelling unit must meet the minimum size for a dwelling unit as set by the City's adopted building code standards and be no larger than 850 square feet. For principal dwelling units 1,000 square feet or smaller, an accessory dwelling unit may be no greater than 80% of the size of the

principal dwelling unit, as measured in square feet. An accessory dwelling unit may have no more than two bedrooms.

3. An accessory dwelling unit must meet one or more of the following conditions:
  - a. Be fully constructed within the existing footprint of any legal primary residence or accessory building; or
  - b. Share a common wall with the principal residence, providing yard setbacks; or
  - c. Be constructed as a new accessory building (detached) containing an accessory dwelling unit, providing yard area and lot setback requirements can be met for the zone.
4. When an ADU is significantly visible from one or more public ways, the building design shall:
  - a. Be clearly subordinate to the principal structure(s) in scale and position in relationship with the street and principal structure(s), including locating the entrance to the ADU in a primary structure in such a subordination position through locating it farther from the street, inside a common foyer, or on the side or rear of the primary building.
  - b. Not include outside stairways or fire escapes above the ground floor unless required by life and safety codes.
5. Accessory dwelling units shall comply with all dimensional requirements of the underlying zone except for lot coverage and lot area per dwelling unit requirements.
6. Each accessory dwelling unit shall have one on-site parking space In addition to the parking required for the principle dwelling. Tandem parking is permitted. The additional parking space can be located off-site if there is an approved shared parking agreement in accordance with Article 11.34.
7. An accessory dwelling unit may be located within a preexisting non-conforming primary or accessory structure provided that the structure meets the requirements in Article 6 of this code. The design of an accessory dwelling unit located in a non-conforming primary or accessory structure shall take into consideration to the extent practicable the privacy of adjacent properties as determined by the physical characteristics surrounding the accessory dwelling unit, including landscape screening, fencing, and window and door placement.
8. The height of a detached accessory dwelling unit shall not exceed the height of the primary structure.
9. An accessory dwelling unit shall not be used as rental property for less than 90 days.

## **B. Approval of Attached Accessory Dwelling Unit**

An attached accessory dwelling unit is allowed, as per the Land Use Table in Section 9.1.8.1, only if it has received a permit from the Code Enforcement Office. An attached accessory dwelling unit must meet the requirements of Article 11.40 A in accordance with the requirements of this section.

## **C. Approval of Detached Accessory Dwelling Unit**

A detached accessory dwelling unit is allowed as per the Land Use table in Section 9.1.8.2 only after site plan approval from the Planning Board, and it must meet the requirements contained in Section 11.40 A.

## **SECTION 11.41 MOBILE FOOD VENDING** [added January 25, 2023]

### **A. Purpose**

Mobile food vending units individually and cumulatively have an impact similar to small structures and to other businesses. The City acknowledges that mobile food vendors can be desirable in limited circumstances provided certain standards can be met. For businesses and zoning districts that specifically allow food trucks as an accessory use the following standards shall be met:

### **B. Requirements for Mobile Food Vending**

1. For permitted zoning districts that allow the use of a mobile food vendor as an accessory use:
  - (a). The mobile food vendor must be located on the same property as the permitted use or must meet the requirements of Section 11.35 of the Land Use Code.
  - (b). The mobile food vender must operate as an accessory use to an allowed principle use and is only allowed in zoning districts that specifically allow mobile food vending as a permitted use.
  - (c). Required accessible parking and accessible access to any accessible building(s) entrance(s) may not be displaced by the mobile food vendor and any associated appurtenances. For the purposes of this standard, the term “accessible” shall refer to parking spaces, building entrances, and access routes that were designed with the intent to meet the Americans with Disabilities Act standards for Accessible Design.
  - (d). A mobile food vender is allowed, as per the Land Use Table in Article 9, Section 10.4, only if it has received a permit from the Code Enforcement Office.

2. All mobile food vendors must:

- (a). Be registered by the Maine Department of Motor Vehicles and licensed by the Maine Department of Health and Human Services and must be inspected by the Code Enforcement Officer.
- (b). Have a valid mobile vending license issued by the City of Bath.
- (c). Not verbally solicit business from pedestrians or persons in vehicles and no sales to persons in vehicles.
- (d). Not have lighting except localized lighting that is used on or in the mobile food vending unit for the purpose of food preparation and menu illumination.
- (e). Be allowed signage to identify the name of the vendor and may have a menu board.
- (f). Provide at least one refuse receptacle and one recycling receptacle for use by patrons and in a convenient location that does not impede pedestrian or vehicular traffic. Trash and recycling receptacles must be removed from the premises with the mobile vending unit.
- (g). Contain all equipment needed for the preparation of food within the mobile vending unit except for trash and recycling receptacles.
- (h). Furniture, umbrellas, generators, or other objects or structures outside of the mobile vending unit, and within a 25-foot radius of the mobile vending unit must be removed from the premises with the mobile vending unit. No appurtenances related to the mobile vending unit may be left at the property once the unit closes. In addition, no required parking shall be displaced by such objects and/or structures, and vehicular and pedestrian access must not be obstructed.
- (i). Limit operation between 6:00 A.M and 11:00 P.M.

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