

---

## SECTION 5 SITE PLAN REVIEW

---

### Contents

A.	Purpose .....	5-3
B.	Activities Requiring Site Plan Review .....	5-3
C.	Activities Not Requiring Site Plan Review .....	5-3
D.	Prohibition .....	5-4
E.	Pre-Application.....	5-4
F.	Classification of Projects .....	5-5
G.	Fees .....	5-6
H.	Site Plan Review Application.....	5-7
I.	Additional Information Required of Major Developments .....	5-11
J.	Waiver of Submission Requirements .....	5-13
K.	Review Procedures .....	5-13
L.	Public Hearing Procedures .....	5-16
M.	Professional Review .....	5-17
N.	Expiration of Approvals .....	5-17
O.	Other Permits .....	5-18
P.	Access to Site and Records.....	5-18
Q.	Site Plan Review Criteria .....	5-18
1.	General.....	5-18
2.	Compliance with City Ordinances and Codes .....	5-18
3.	Utilization of the Site.....	5-19
4.	Traffic Access.....	5-19
5.	Pedestrian Access .....	5-21
6.	Buildings.....	5-22
7.	Storage of Materials.....	5-23
8.	Stormwater Management.....	5-23
9.	Erosion Control.....	5-24
10.	Water Supply .....	5-24
11.	Sewage Disposal.....	5-25
12.	Utilities .....	5-26
13.	Natural Features.....	5-26
14.	Groundwater Protection.....	5-26
15.	Water Quality Protection .....	5-26
16.	Hazardous, Special and Radioactive Materials .....	5-27
17.	Shoreland Relationship.....	5-27
18.	Capacity of the Applicant .....	5-27
19.	Solid Waste Management .....	5-28

	20. Historic and Archaeological Resources.....	5-28
	21. Floodplain Management .....	5-28
R.	Post-Approval Activities .....	5-28
S.	Appeal of Planning Board Action.....	5-29

**A. Purpose**

1. Site Plan Review regulations are established to promote the public health, safety and general welfare by requiring plans to be submitted to and reviewed by the Planning Board for certain uses which have a potential for significant impact on a neighborhood, but which when properly designed with respect to their surroundings can be acceptable uses in the neighborhood. The overall purpose of such review shall be to ensure orderly and beneficial development and the most appropriate use of land in keeping with the purposes of the district in which a development is proposed.
2. The Planning Board shall review and act upon plans for all projects requiring Site Plan Review, as specified by Article 2 of this Ordinance. The construction of a residential single or two-family dwelling shall not be covered by this section, except in the Cobbossee Corridor District.

**B. Activities Requiring Site Plan Review**

Except as provided in C, below, Site Plan Review and approval by the Planning Board shall be required for:

1. Any proposed use designated in Section 2, as requiring site plan approval from the Planning Board;
2. The construction, substantial alteration or external enlargement of any existing building or structure devoted to a use requiring site plan approval from the Planning Board; and
3. The enlargement or expansion of the parking, loading, outdoor display or storage area of any commercial or industrial use. However, the Code Enforcement Officer may approve enlargements and expansions no greater than 10% in any one year period that, in the opinion of the Code Enforcement Officer, do not have a substantial neighborhood impact.

**C. Activities Not Requiring Site Plan Review**

Unless specifically required by Section 2, Site Plan Review shall not be required for:

1. Uses designated in Article 2 as requiring only a permit from the Code Enforcement Officer or as requiring no permit at all, provided the project complies with all requirements of the City regulations;
2. External enlargement of a building otherwise requiring Site Plan Review, provided that such enlargement shall not exceed five hundred (500) square feet in gross floor area, and that only one (1) such enlargement shall be permitted in any five (5) year period without Site Plan Review.

**D. Prohibition**

No activity or use described in paragraph B. shall commence until the property owner has received site plan approval from the Planning Board and has received any necessary permits from the Code Enforcement Officer.

**E. Pre-application**

Prior to submitting a formal application, the applicant or his/her representative may request a pre-application conference with the Planning Board. A pre-application conference is strongly advised. The pre-application conference shall be informal and informational in nature. There shall be no fee for a pre-application review, and such review shall not cause the plan to be a pending application or proceeding under Title 1 M.R.S.A. §302. No decision on the substance of the plan shall be made at the pre-application conference.

All applications for projects in the Cobbossee Corridor District require at a minimum a preliminary meeting with the Planning and Economic Development Department and Preliminary and Final Site Plan Review with the Planning Board.

The Planning Board shall hold a site walk for all projects in the Cobbossee Corridor District before the submittal of a Preliminary application.

1. Purpose

The purposes of the pre-application conference are to:

- a. Allow the Planning Board to understand the nature of the proposed use and the issues involved in the proposal,
- b. Allow the applicant to understand the development review process and required submissions,
- c. Identify issues that need to be addressed in future submissions, and
- d. Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities.

In addition, the Board may schedule a site inspection if deemed necessary and resolve any requests for waivers and variations from the submission requirements.

2. Information Required

There are no formal submission requirements for a pre-application conference. However, the applicant should be prepared to discuss the following with the Board:

- a. The proposed site, including its location, size, and general characteristics,
- b. The nature of the proposed use and potential development,
- c. Any issues or questions about existing municipal regulations and their applicability to the project, and
- d. Any requests for waivers from the submission requirements.

**F. Classification of Projects**

Projects subject to Site Plan Review shall be classified by the Code Enforcement Officer into one (1) of the following classes:

1. Major Developments

Projects involving any of the following shall be classified by the Code Enforcement Officer as a Major Development:

- a. Any project which contemplates drilling for or excavating natural resources, including mineral extraction, on land or under water where the area affected is in excess of 30,000 square feet;
- b. Hazardous activities involving the consumption, generation, or handling of:
  - 1) Hazardous wastes as defined in Title 38, MRSA, Section 1303;
  - 2) Hazardous materials as defined in Title 38, MRSA, Section 1317;
  - 3) Oil, as defined in Title 38, MRSA, Section 542; and
  - 4) Low-level radioactive wastes, as defined in Title 38, MRSA, Section 1451.
  - 5) Special wastes as defined in Title 38 MRSA.
- c. Any building or buildings on a single parcel constructed or erected with a fixed location on or in the ground or attached to something on or in the ground which occupies a total floor area in excess of 20,000 square feet;

- d. Any project where parking lots, roads, paved areas, or other areas to be stripped or graded and not to be re-vegetated causes the total project, including any buildings, to occupy a ground area in excess of 60,000 square feet;
- e. Any project which is a conversion of an existing project meeting the description in paragraphs c and d, above; and
- f. Any multi-unit housing development involving a building or buildings built for the purpose of providing ten (10) or more housing units located on a single parcel of land.

2. Minor Developments

- a. Projects not classified by the Code Enforcement Officer as a Major Development shall be considered a Minor Development under this Section.
- b. Projects classified as Minor Developments have to submit the information specified in Section H. below. Projects classified as Major Developments are required to submit the information specified in Sections H., I. and J.

**G. Fees**

1. Application Fee

An application for Site Plan Review must be accompanied by an application fee. This fee is intended to cover the cost of the municipality's administrative processing of the application, including notification, advertising, mailings, and similar costs. The fee shall not be refundable. This application fee shall be paid to the municipality, and evidence of payment of the fee shall be included with the application.

2. Technical Review Fee

In addition to the application fee, the applicant for Site Plan Review may also pay a technical review fee to defray the municipality's legal and technical costs of the application review, as deemed required by the Planning Board. When required, the technical review fee must be paid to the municipality and shall be deposited in a non-interest bearing account. The application will be considered incomplete until evidence of payment of this fee is submitted to the municipality. The Board may reduce the amount of the technical review fee or eliminate the fee if it determines that the scale or nature of the project will require little or no outside review.

The technical review fee may be used by the Planning Board to pay reasonable costs incurred by the Board, at its discretion, which relate directly to the review of the application pursuant to the review criteria. Such services may include, but need not be limited to, consulting engineering or other professional fees, attorney fees, recording fees, and appraisal fees. The municipality shall provide the applicant, upon written request, with an accounting of his or her account and shall refund all of the remaining monies in the account after the payment by the City of all costs and services related to the review. Such payment of remaining monies shall be made no later than sixty (60) calendar days after the approval of the application, denial of the application, or approval with condition of the application. Such refund shall be accompanied by a final accounting of expenditures from the fund. The monies in such fund shall not be used by the Board for any enforcement purposes nor shall the applicant be liable for costs incurred by or costs of services contracted for by the Board which exceed the amount deposited to the trust account.

3. Establishment of Fees

The City Council shall establish the appropriate application fees and technical review fees.

**H. Site Plan Review Application**

Applications for Site Plan Review shall be submitted on application forms provided by the City. The complete application form, required fees, and the required plans and related information shall be submitted to the Code Enforcement Officer who shall forward it to the Planning Board. The submission shall contain at least the following exhibits and information:

1. Application Form

A fully executed and signed copy of the application form;

2. Fees

The City Council shall establish the appropriate application fees and technical review fees.

3. Copies

Twelve (12) copies of written materials plus ten (10) sets of maps or drawings containing the information listed below. The written materials shall be contained in a bound report or a three-ring notebook. The maps or drawings shall be at a scale sufficient to allow review of the items listed under the criteria for approval.

4. General Information

The following general information is required:

- a. Name of owner of record and address;
- b. Name of the applicant and address if different;
- c. The name of the proposed development;
- d. Names and addresses of all property owners within three hundred (300) feet of the property lines;
- e. Sketch map showing general location of the site within the City;
- f. Location map showing the boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time;
- g. The tax map(s) and lot number(s) of the parcel or parcels;
- h. A copy of the deed to the property, option to purchase the property or other documentation to demonstrate right, title, or interest in the property on the part of the applicant; and
- i. The name(s), registration number(s), and seal(s) of the land surveyor, architect, engineer, and/or similar professionals assisting with the preparation of the plan.

5. Information Regarding Existing Conditions

The following information regarding existing conditions is required:

- a. Zoning classifications(s) of the property and the location of zoning district boundaries if the property is located in more than one (1) zoning district or abuts a different district;
- b. The bearings and distances of all property lines of the property to be developed and the source of this information, prepared by a registered land surveyor as a Standard Boundary Survey;
- c. Location and size of any existing sewer and water mains, fire hydrants, other water supplies, culverts, and drains on the property to be developed and of any that will serve the development from abutting streets or land;

- d. Location, names, and present widths of existing streets and rights-of-way within or adjacent to the proposed development;
- e. The location, dimensions, and ground floor elevations of all existing buildings on the site;
- f. The location of buildings on abutting properties and within 100 feet of the property line of the proposed development.
- g. The location and dimensions of existing driveways, streets, parking and loading areas, and walkways on the site;
- h. Location of existing roads or driveways within two hundred (200) feet of the site;
- i. Topography of the site at an appropriate contour interval (1', 2', or 5') depending on the nature of the use and character of the site;
- j. Major natural features on the site and including within two hundred fifty feet (250') beyond the boundaries of the site, wetlands, streams, ponds, flood plains, groundwater aquifers, significant wildlife habitats including deer wintering areas identified in the Comprehensive Plan, scenic areas identified in the Comprehensive Plan, archaeological resources or other important natural features;
- k. Soils information if on-site sewage disposal is proposed. This information should be detailed enough to allow those portions of the site not suitable for on-site disposal systems to be identified;
- l. Location of existing natural drainage-ways, storm drainage facilities, including dimensions of culverts, pipes, etc., open drainage courses, wetlands, significant stands of trees, and other important natural features, with a description of such features to be retained;
- m. The direction of existing surface water drainage flow across the site;
- n. The location and dimensions of existing signs;
- o. The location and type of all existing exterior lighting; and
- p. A copy of such covenants or deed restrictions, if any, as are intended to cover all or part of the tract. Such covenants or deed restrictions shall be referenced on the plan.

- q. The location of recreational trails (including, but not limited to snowmobile, cross country, ski and biking trails); and
- r. Location and type of existing trees of 12-inch caliper DBH (4.5 feet above ground) or over existing fences and hedges.

6. Information Regarding Proposed Development Activity

The following information regarding the proposed development activity is required:

- a. The location of all building setbacks, yards, and buffers required by this Ordinance;
- b. The location, dimensions, including heights, and ground floor elevations of all proposed buildings on the site and proposed use thereof;
- c. The location and dimensions and materials to be used in the construction of proposed access drives and curb cuts to the lot from public streets;
- d. Location, dimensions and materials to be used in the construction of proposed pedestrian walkways;
- e. Location and arrangement of proposed off-street parking and loading areas and their appurtenant drives and maneuvering areas;
- f. Location and dimensions of all proposed utilities and easements including sanitary sewerage, water, electricity and fire protection systems;
- g. Evidence that the City's facilities have the wastewater collection and treatment capacity to adequately serve the proposed use, documented by a letter from the Gardiner Water Pollution Control Facility. The applicant shall provide the Superintendent of said facilities with sufficient information to enable the Superintendent to render an opinion.
- h. Soils test pit data if on-site sewage disposal is proposed.
- i. Evidence that the water Company's facilities have the distribution, supply and water treatment capacity to adequately serve the proposed use, documented by a letter from the Gardiner Water District. The applicant shall provide the Superintendent of said facilities with sufficient information to enable the Superintendent to render an opinion.

- j. Provisions for handling all solid wastes, including hazardous and special wastes and the location and proposed screening of any on-site collection or storage facilities;
- k. Location, intensity, type, size and direction of all existing and proposed outdoor lighting;
- l. Location, front view, dimensions, materials, and size of all existing and proposed signs, together with the material for securing the signs, and all permanent outdoor fixtures;
- m. The direction of proposed surface water drainage flow across the site and from the site, with an assessment of impacts on downstream properties such as changes in volume, location or quality of flows;
- n. Proposed landscaping and buffering to include types of vegetation;
- o. The anticipated beginning and completion dates of construction.
- p. An estimate of the daily traffic to be generated by the project; and
- q. Approval block. Space shall be provided on the plan drawing for the signatures of the Gardiner Planning Board and date, together with the words, "Approved City of Gardiner Planning Board."

**I. Additional Information Required of Major Developments**

Applications for major developments shall include the following additional information:

- 1. Existing and proposed topography of the site at one (1), two (2), or five (5) foot contour intervals, or such closer intervals as the Planning Board may determine;
- 2. A storm water drainage and erosion control program showing:
  - a. The existing and proposed method of handling storm water run-offs;
  - b. The direction flow of the run-off through the use of arrows;
  - c. The location, elevation, and size of all catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers;
  - d. Engineering calculations used to determine drainage requirements based upon the 25-year 24-hour storm frequency, if the project will significantly alter the existing

drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed; and

- e. Methods of controlling erosion and sedimentation during and after construction.
3. A groundwater impact analysis prepared by a groundwater hydrologist for projects involving common on-site water supply or sewage disposal facilities with a capacity of two thousand (2,000) gallons or more per day.
4. A utility plan showing, in addition to provisions for water supply and wastewater disposal, the location and nature of electrical, telephone, and any other utility services to be installed on the site.
5. A planting plan and schedule keyed to the site plan and indicating the general species and sizes of trees, shrubs, and other plants to be planted on the site.
6. A traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service and safety of adjacent streets.
7. A written statement from a professional engineer as to the adequacy of the water supply in terms of quantity and pressure for both domestic and fire flows, if public water supply is to be utilized.
8. The location, width, typical cross-section, grades and profiles of all proposed streets and sidewalks.
9. Construction drawings for streets, sanitary sewers, water and storm drainage systems, designed and prepared by a professional engineer registered in the State of Maine.
10. The location of any pedestrian ways, lots, easements, open spaces, and other areas to be reserved for or dedicated to public use and/or ownership. For any proposed easement, the developer shall submit the proposed easement language with a signed statement certifying that the easement will be executed upon approval of the development. In the case of any streets or other ways dedicated to public ownership, the developer shall submit a signed statement that he will maintain such streets or ways year-round until such time as they may be accepted by the City.
11. Written offers of dedication or conveyance to the municipality, in a form satisfactory to the City Attorney, of all land included in the streets, highways, easements, parks, or other open space dedicated for public use, and copies of agreements or other documents showing the manner in which spaces, title to which is reserved by the developer, are to be maintained.

12. Cost of the proposed development and evidence of financial capacity to complete it. This evidence should be in the form of a letter from a bank or other source of financing indicating the name of the project, amount of financing proposed, and their interest in financing the project.
13. An assessment of the impact of the development on wetlands, streams, ponds, flood plains, archaeological resources and significant wildlife habitats, including review letters from appropriate officials.

**J. Waiver of Submissions Requirements**

The Planning Board may, for good cause shown and only upon the written request of an applicant specifically stating the reasons therefor, waive any of the application requirements set forth in Sections H., I., and J. provided such waiver will not unduly restrict the review process. The Planning Board may condition such a waiver on the applicant's compliance with alternative requirements. Good cause may include the Board's finding that particular submissions are inapplicable, unnecessary, or inappropriate for a complete review. Notwithstanding the waiver of a submission requirement, the Planning Board may, at any later point in the review process, rescind such waiver if it appears that the submission previously waived is necessary for an adequate review. A request for a submission previously waived shall not affect the pending status of an application.

**K. Review Procedures**

The procedures for Site Plan Review are as follows:

1. Step 1: Submission Of Completed Application To The Code Enforcement Officer

The applicant shall submit the requisite number of copies of his/her application and supporting information required by Section H. and, in the case of major developments, Section I.

2. Step 2: Code Enforcement Officer Classification And Review

- a. Dated Receipt: The Code Enforcement Officer shall issue the applicant a dated receipt.
- b. Classification: The Code Enforcement Officer shall review the application and classify it as either a Major or Minor Development in accordance with the provisions of Section F. If the proposal is classified as a Major Development, the applicant shall be required to submit the additional information required in Section I.

- c. Fees Submitted: After classification, the applicant shall provide the Code Enforcement Officer with the applicable fees established by City Council.
- d. Review for Completeness and Compliance with the performance standards of Section 3 of this ordinance: The Code Enforcement Officer shall initially review the application and determine whether or not it is complete.
- e. Notice of Incomplete Application: If the application is found to be incomplete, the Code Enforcement Officer shall, within ten (10) days, notify the applicant in writing of the information needed to complete the application. Upon the applicant's submission of such additional information, Steps 1 through 4 shall be repeated.
- f. Application Forwarded: The Code Enforcement Officer shall forward copies of the application and supporting documents to the City Planner, if the City has retained the services of a professional planner, and members of the Planning Board and place the project on the agenda of the next regular Planning Board meeting occurring at least fourteen (14) calendar days before such meeting.
- g. Notice to land owners: Abutting property owners within 400 feet except 200 feet in the Central Business District shall be notified by mail by the City, of all pending applications for Site Plan Review. This notice shall indicate the time, date, and place of Planning Board consideration of the application.

### 3. Step 3: Planning Board Review

At the meeting of the Planning Board at which the proposed development is scheduled to be reviewed, the Planning Board shall:

- a. Code Enforcement Officer and City Planner Reports: Hear any report of the Code Enforcement Officer and if the City has retained the services of a professional planner the report of the City Planner regarding the proposed development;
- b. Applicant's Response: Hear any comments of the applicant regarding the Code Enforcement Officer's and City Planner's report;
- c. Request for Waivers: Hear any requests from the applicant for waivers pursuant to Section J;
- d. Determination of Completeness: Determine whether or not the application is complete;
- e. Notice of Incompleteness: If the application is determined to be incomplete, the Board shall inform the Code Enforcement Officer of the information required to

make the application complete. The Code Enforcement Officer shall, within five (5) days, send notification to the applicant, in writing, of the additional information required by the Planning Board. Upon the applicant's submission of such additional material, Steps 1, 2, 3, and 4 shall be repeated.

- f. Deciding on Public Hearing: If the application is determined to be complete, the Board shall deem the application pending and shall determine whether or not to set the matter to public hearing. If a public hearing is set, such hearing shall take place within forty-five calendar (45) days of the Planning Board's determination that the application is complete. This deadline may be extended by mutual agreement of the Board and the applicant, either in writing or orally, on the record at a public meeting.

If the proposed development has been classified as a Major Development such public hearing shall be mandatory. If the proposed development has been classified as a Minor Development such public hearing shall be held at the discretion of the Planning Board.

Public hearings held for the purpose of hearing testimony regarding proposals requiring Site Plan Approval under this Ordinance and notice thereof, shall be governed by Section L.

#### 4. Step 4: Planning Board Deliberation And Decision

- a. Within 35 days of the public hearing for Site Plan Review, the Planning Board shall approve, approve with modifications, disapprove, or request additional information and set another date for a rehearing on the site plan. The Board shall limit its review to the criteria set forth in this Section. The Board may consult with the applicant or any other party in making its review. The Board shall inform the applicant of its decision in writing, and, in cases of disapproval or approval with modifications, reasons for such actions shall be stated. A copy of the Board's decision shall be filed with the Code Enforcement Officer. No building or use permit shall be issued until site plan approval is granted.
- b. Decision: If the Planning Board finds that the proposed Site Plan complies with all such standards it shall issue an order granting Site Plan Approval subject to such terms and conditions as the Board considers advisable to ensure conformity with Site Plan Review Standards and criteria of this Ordinance. If the Planning Board finds that the proposed Site Plan does not comply with all applicable review standards, the Planning Board may request the applicant to provide additional information, or the Planning Board shall issue an order denying Site Plan Approval. In either case the Planning Board shall, within fourteen (14) calendar days after the

completion of its deliberations, issue specific written findings of fact supporting its decision.

5. Step 5: Code Enforcement Officer Building Permit

If the Board approves the Site Plan Application, the Code Enforcement Officer shall, upon receipt of one (1) original of all maps and drawings as approved, on durable, permanent transparency material, issue a building permit, provided that, in his/her opinion, all other requirements of the Ordinance have been met.

**L. Public Hearing Procedures**

Site Plan Review public hearings and notice thereof shall comply with the following procedures:

1. Published Notice

Notice of said hearing shall be published in a newspaper of general circulation in the City of Gardiner at least ten (10) calendar days prior to the hearing date.

2. Mailed Notice

At least ten (10) calendar days prior to the hearing date, written notice of said hearing shall also be mailed to the applicant, to the owners of all property within four hundred feet (400') except two hundred feet (200') in the Central Business District of the property in question, to the Gardiner City Council. The owners of property shall be considered to be those shown on the City's tax list as the persons against whom taxes are assessed. The Planning Board shall, in each case, maintain a list of property owners so notified. Notice shall be deemed received if mailed to an owner's last known address according to the City tax records. Failure of any property owner to actually receive notice shall not necessitate another hearing or invalidate any actions of the Planning Board.

3. Content of Notice

Notice of said hearing shall identify the applicant and the property involved, describe the specific nature of the proposal, state the date, time and place of the hearing, and explain how the recipient of the notice may attend and present evidence, and where a copy of the application can be reviewed.

4. Bylaws

Said hearings shall be conducted according to the bylaws adopted by the Planning Board.

5. Representation

At any hearing a party may be represented by an agent or attorney provided, however, if any party is not present, any person acting as that party's agent or attorney shall provide written evidence of such authority.

6. Continuation

Any hearing may be continued or recessed to another time for good cause shown or upon written or recorded agreement of the Board and the applicant.

**M. Professional Review**

1. Additional Studies

The Planning Board may require the applicant to undertake any additional studies which it deems reasonable and necessary to insure that the requirements of the Ordinance are met. The cost of all such studies shall be borne by the applicant.

2. Independent Technical Review

The Planning Board may utilize funds in the Development Review Trust Account to hire an independent consultant(s) review one (1) or more submissions of an application. The independent consultant(s) shall report to the Planning Board as to the project's compliance or non-compliance with the applicable provisions of this Ordinance and recommend, if appropriate, those actions which will result in compliance. Such consultants shall be fully qualified to provide the required information, and may include:

- a. An Attorney;
- b. A Community Planner;
- c. A Registered Professional Engineer;
- d. A Registered Architect;
- e. A Registered Landscape Architect;
- f. A Registered Geologist;
- g. A Licensed Soil Scientist;
- h. A Registered Land Surveyor; or
- i. Any other Registered/Licensed Professional or independent Expert Witness deemed fully qualified and mutually acceptable to the City and the applicant.

**N. Expiration Of Approvals**

Any site approval granted under the Site Plan Review process shall expire three years from the date so granted unless a use permit has actually been issued for the approved use. However, the Planning Board may, at its discretion, extend the period of approval beyond three years if

presented with adequate reasons why the work cannot be completed within the time period and if the approved use still meets the standards for Site Plan Review as contained in this Section.

**O. Other Permits**

The granting of Site Plan Approval does not relieve the applicant from the need to obtain any other permits or approvals required prior to the commencement of any activity or use. Such other required permits or approvals may include, but are not limited to, subdivision approval, building, plumbing and electrical permits, licenses granted pursuant to Title 38, MRSA, Sub-Section 1022, Maine Department of Environmental Protection and United States Army Corps of Engineer's approvals, subsurface wastewater disposal permits, sewer connection permits, Maine Department of Transportation approvals, and the like.

**P. Access To Site And Records**

The City shall have access to the site at all times to review the progress of the work and shall have the authority to review all records and documents related to the project. The applicant, by accepting a Building Permit, waives any objection to the City having access to the site to review the progress of the work or to review all records and documents related to the Project. During construction, access to the site shall be provided for all emergency services at all times without undue difficulty.

**Q. Site Plan Review Criteria**

**1. General**

- a. In reviewing an application for site plan approval, the Planning Board shall first determine whether the development, as planned, will conform to the requirements of the district in which it is to be located as set forth in Section 2 and to other pertinent requirements of this ordinance including the performance standards of Section 3.
- b. Following such determination, the Board shall proceed to find out whether the proposed development adequately meets the following standards, where applicable to the proposed development. In all cases, the burden of proof shall be upon the applicant.

**2. Compliance with City Ordinances and Codes**

The proposed use, buildings, design and layout shall meet the provisions of all applicable regulations and ordinances of the City, and meet the intent of the Comprehensive Plan, as amended.

**3. Utilization of the Site**

The plan for the development must reflect the natural capabilities of the site to support development. Buildings, lots, and support facilities must be clustered in those portions of the site that have the most suitable conditions for development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. Natural drainage areas must also be preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and/or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

**4. Traffic Access**

- a. Adequacy of the Road System - Vehicular access to the site must be on roads which have adequate capacity to accommodate the additional traffic generated by the development. For developments which generate four hundred (400) or more peak hour trips based on the latest edition of the Trip Generation Manual of the Institute of Traffic Engineers, intersections on major access routes to the site within one (1) mile of any entrance road which are functioning at a Level of Service of D or better prior to the development must function at a minimum at Level of Service D after development. If any such intersection is functioning at a Level of Service E or lower prior to the development, the project must not reduce the current level of service. This requirement may be waived by the Planning Board if the project is located within the Central Business District and the Board determines that the project will not have an unnecessary adverse impact on traffic flow or safety.

A development not meeting this requirement may be approved if the applicant demonstrates that:

- 1) A public agency has submitted a letter stating its intent to commit funds to construct the improvements necessary to bring the level of access to this standard, or
  - 2) The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will assure the completion of the improvements with a financial guarantee acceptable to the municipality.
- b. Access into the Site - Vehicular access to and from the development must be safe and convenient.
- 1) Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.
  - 2) Points of access and egress must be located to avoid hazardous conflict with existing turning movements and traffic flows.
  - 3) The grade of any proposed drive or street must not be more than +/-3% for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.
  - 4) The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service of D following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.
  - 5) Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrian hazards. Access from other streets may be allowed.
  - 6) Where it is necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.
  - 7) Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
  - 8) The number of driveways serving a proposed project shall comply with the access management standards of Section 3 of this ordinance.

- c. Accessway Location and Spacing - Accessways shall comply with the access management standards of Section 3 of this ordinance.
- d. Internal Vehicular Circulation - The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.
  - 1) Nonresidential projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing for a minimum of WB-40 vehicles and City's fire apparatus.
  - 2) Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).
  - 3) The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.
  - 4) All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction.

## **5. Pedestrian Access**

- a. The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect with amenities such as parks or open space on or adjacent to the site.

Public paths are a critical component of the Cobbossee Corridor District as outlined in the Cobbossee Corridor Master Plan as accepted 3.10.2005. The Planning Board shall work with each applicant to create reasonable accommodations for connectivity within the District. This may include locating paths between structures and the stream, establishing easements for future paths, creating trailheads,

providing space for overlooks and making connections to existing or proposed sidewalks. The Planning Board may waive other site plan approval standards when reasonably necessary to facilitate development of public paths

- b. Where an existing or planned public sidewalk is interrupted by a proposed project driveway, the sidewalk material must continue to be maintained across the driveway, or the driveway must be painted to distinguish it as a sidewalk. Further, if street trees exist on an adjacent property, street trees must be planted, in a like manner, on the new site. In urban situations a widening of the sidewalk onto private property to encourage window shopping and an improved streetscape are encouraged. Benches, sculpture, planters and other street furniture are encouraged.

## **6. Buildings**

- a. **Building Placement.** The site design should avoid creating a building surrounded by a parking lot. In urban, built-up areas, buildings should be placed close to the street, in conformance with existing, adjacent setbacks. Parking should be to the side or preferably in the back.

In rural, uncongested areas buildings should be set well back from the road so as to conform with the rural character of the area. If the parking is in front, a landscaped buffer between road and parking lot shall be. Unused areas should be kept natural, as field, forest, wetland, etc.

Where two or more buildings are proposed, the buildings should be grouped and linked with sidewalks; tree planting should be used to provide shade and break up the scale of the site. Parking areas should be separated from the building by a minimum of five (5) to ten (10) feet.

- b. **Setback and Alignment of Buildings.** Where there is a reasonably uniform relationship between the front walls of buildings and the street, new buildings must be placed on a lot in conformance with the established relationship. For buildings on corner lots, the setback relationship of both streets should be maintained. The creation of 'empty corners' should be avoided through the placement of the building and other site features.
- c. **Building Entrances.** The main entrance to the building should be oriented to the street unless the parking layout or the grouping of the buildings justifies another approach, and should be clearly identified as such through building and site design, landscaping and/or signage.

At building entrance areas and drop-off areas, site furnishings such as benches and sitting walls and, if appropriate, bicycle racks shall be encouraged. Additional plantings may be desirable at these points to identify the building entrance and to complement the pedestrian activity at this point.

- d. Drive-Through Facilities. Any use that provides drive-through service must be located and designed to minimize the impact on neighboring properties and traffic circulation. No drive-through facility shall be located in the area of the site adjacent to a residential use or residential zone. Communication systems must not be audible on adjacent properties in residential use. Vehicular access to the drive-through shall be through a separate lane that prevents vehicle queuing within normal parking areas. Adequate queuing space must be provided to prevent any vehicles from having to wait on a public street, within the entry from the street, or within designated parking areas. The drive-through must not interfere with any sidewalk or bicycle path.

## **7. Storage of Materials**

Exposed nonresidential storage areas must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses.

All dumpsters or similar large collection receptacles for trash or other wastes must 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 must be screened by fencing or landscaping.

Where a potential safety hazard is likely to arise, physical screening sufficient to deter people from entering the premises must be provided and maintained in good condition.

## **8. Stormwater Management**

Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a stormwater drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties.

- a. To the extent possible, the plan must retain stormwater on the site using the natural features of the site.
- b. Unless the discharge is directly to a major river segment or a municipal storm sewer, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.

- c. The applicant must demonstrate that on- and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that he/she will be responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.
- d. All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the Site Plan Review.
- e. The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.
- f. The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.
- g. The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a sand or gravel aquifer area or other water supply source, or a Great Pond.

**9. Erosion Control**

Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991.

**10. Water Supply**

The development must be provided with a system of water supply that provides each use with an adequate supply of water.

If the project is to be served by a public water supply, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms with its design and construction standards, will not result in an undue burden on the source or

distribution system, and will be installed to meet Gardiner Water District standards in a manner adequate to provide needed domestic and fire protection flows. Where a fire suppression system is going to be provided, the system shall be approved by the Fire Chief or designee.

## **11. Sewage Disposal**

The development must be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code.

- a. All sanitary sewage from new or expanded uses must be discharged into a public sewage collection and treatment system when such facilities are currently available or can reasonably be made available at the lot line and have adequate capacity to handle the projected waste generation.
- b. If the public collection system is not at the lot line, but can be extended in the public right-of-way, the collection system must be extended by the owner and the new or expanded use connected to the public system. Such extension shall be required if the public system is within one hundred (100) feet of a new use with a design sewage flow of less than five hundred (500) gallons per day or within three hundred (300) feet of a new use with a design sewage flow of five hundred (500) or more gallons per day and the system has adequate capacity to accommodate the additional flow. The Planning Board may waive this requirement if the use is already served by a properly functioning subsurface disposal system that is properly sized for the projected flows, provided that connection to the public system must occur if and when the subsurface system needs to be replaced.
- c. If the public system cannot serve or be extended to serve a new or expanded use, the sewage must be disposed of by an on-site sewage disposal system meeting the requirements of the Subsurface Wastewater Disposal Rules.
- d. When two (2) or more lots or buildings in different ownership share the use of a common subsurface disposal system, the system must be owned and maintained in common by an owners' association. Covenants in the deeds for each lot must require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.
- e. Industrial or commercial wastewater may be discharged to public sewers in such quantities and/or of such quality as to be compatible with sewage treatment operations. Such wastes may require pretreatment at the industrial or commercial

site in order to render them amenable to public treatment processes. Pretreatment includes, but is not limited to, screening, grinding, sedimentation, pH adjustment, surface skimming, chemical oxidation and reduction and dilution and flow equalization.

**12. Utilities**

The development must be provided with electrical, telephone, telecommunication service and natural gas where available, adequate to meet the anticipated use of the project. New utility lines and facilities must be under ground or screened from view except where environmental, geographical or public safety factors make this unfeasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.

**13. Natural Features**

The landscape must be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil, and by retaining existing vegetation insofar as practical during construction. Extensive grading and filling must be avoided as far as possible.

**14. Groundwater Protection**

The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

**15. Water Quality Protection**

All aspects of the project must be designed so that:

- A. No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or

submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

- B. All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshal's Office.
- C. If the project is located within the direct watershed of a 'body of water most at risk from development' or 'a sensitive or threatened region or watershed' as identified by the Maine Department of Environmental Protection (DEP), and is of such magnitude as to require a stormwater permit from the DEP, the project must comply with the standards of the DEP with respect to the export of total suspended solids and/or phosphorous.

**16. Hazardous, Special, and Radioactive Materials**

The handling, storage, and use of all materials identified by the standards of a federal or state agency as hazardous, special or radioactive must be done in accordance with the standards of these agencies.

All materials must be stored in a manner and location which is in compliance with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state, and local regulations.

**17. Shoreland Relationship**

The development must not adversely affect the water quality or shoreline of any adjacent water body. The development plan must provide for access to abutting navigable water bodies for the use of the occupants of the development as appropriate.

When a proposed development is immediately visible from a Great Pond, river or stream, the development must be designed so that it fits harmoniously into the visual environment when viewed from the water body as follows. In predominantly natural environments, site clearing must be minimized, natural vegetation must be maintained adjacent to the shoreline to soften the appearance of the development, and vegetation must be retained or provided to minimize the visual intrusion of the development. In developed shoreland environments, the appearance of the new developments when viewed from the water must be compatible with the existing visual character in terms of scale, massing, and height to

the maximum extent possible. Storage and service areas must be screened or landscaped to minimize their visual impact.

**18. Capacity of the Applicant**

The applicant must demonstrate that he/she has the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan.

**19. Solid Waste Management**

The proposed development must provide for adequate disposal of solid wastes. All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.

**20. Historic and Archaeological Resources**

If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation. The Cobbossee Corridor District includes a range of historic resources that should be incorporated into projects or preserved when deemed appropriate by the Planning Board.

**21. Floodplain Management**

If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with the City's Floodplain management provisions.

**R. Post Approval Activities**

1. Incorporation of Approved Plan

One copy of the approved site plan must be included with the application for the building permit for the project and all construction activities must conform to the approved plan, including any conditions of approval and minor changes approved by the Code Enforcement Officer to address field conditions.

2. Improvement Guarantees

The Planning Board may require the posting of an improvement guarantee in such amount and form as is reasonably necessary to ensure the proper installation of all improvements required as conditions of approval.

3. Submission of Record Drawings

Any project involving the construction of more than twenty thousand (20,000) square feet of gross floor area or fifty thousand (50,000) square feet of impervious surface, must provide the Code Enforcement Officer with a set of construction plans showing the building(s) and site improvements as actually constructed on the site. These record drawings must be submitted within thirty (30) days of the issuance of a certificate of occupancy for the project or occupancy of the building.

4. Minor Changes to Approved Plans

Minor changes in approved plans necessary to address field conditions may be approved by the Code Enforcement Officer provided that any such change does not affect compliance with the standards or alter the essential nature of the proposal. Any such change must be endorsed in writing on the approved plan by the Code Enforcement Officer.

5. Amendments to Approved Plans

Approvals of site plans are dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals, and supporting documents, except minor changes that do not affect approval standards, is subject to review and approval.

**S. Appeal of Planning Board Actions**

Appeal of any actions taken by the Planning Board with respect to this section shall be: for minor developments the appeal shall be to the Board of Appeals; for major developments the appeal shall be to the Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B.