

## **SECTION 10 SPECIAL ACTIVITY PERFORMANCE STANDARDS**

### **10.1 Campgrounds**

#### **10.1.1 Applicability**

The following standards shall apply to campgrounds in all districts except the Shoreland and Resource Protection Districts, where they shall conform to the applicable standards contained in the Shoreland Zoning Section of this Ordinance.

#### **10.1.2 Campground Standards**

**10.1.2.1** Campgrounds shall conform to the state regulations imposed under state licensing requirements.

**10.1.2.2** Recreational vehicle and tenting sites containing approved, water-carried sewage facilities shall contain a minimum of 5,000 square feet per site, not including roads and driveways.

**10.1.2.3** Recreational vehicle and tenting sites without water-carried sewage facilities shall contain a minimum of 10,000 square feet per site, not including roads and driveways. A minimum of two privies, one for each sex, shall be provided for every four campsites and be within 75 feet of each site.

**10.1.2.4** Land supporting wetland vegetation and land below the normal high-water line of a water body shall not be included in land area per site.

**10.1.2.5** A minimum of 200 square feet of off-street parking shall be provided for each site.

**10.1.2.6** Each site shall be provided with a stationary trash receptacle and stationary fireplace or fire pit.

**10.1.2.7** The area intended for placement of the recreational vehicle, tent or shelter and utility and service buildings shall be set back a minimum of 100 feet from the perimeter of the lot lines of the campground and the normal high-water line of a water body or upland edge of a wetland.

#### **10.1.3 Individual Private Campsites**

Individual private campsites not associated with a campground shall meet the following standards.

**10.1.3.1** The lot shall meet the lot size requirements for the district in which it is located unless it is a legally nonconforming lot of record. However, in no case shall a campsite be located on a parcel of land with less than 20,000 square feet of land area.

**10.1.3.2** Recreational vehicles, tents or other temporary structures shall not be located on any type of permanent foundation except for a gravel pad and no structures except canopies shall be attached to the recreational vehicle.

**10.1.3.3** The recreational vehicle, tent or other temporary structure shall not remain on a campsite for a period longer than 120 days per year.

**10.1.3.4** Any recreational vehicle, tent or other temporary structure which remains on a campsite for a period longer than 120 days per year shall meet all the provisions of this Ordinance for a permanent residential dwelling.

**10.1.3.5** A sewage disposal plan shall be submitted to the Code Enforcement Officer for review and approval.

## **10.2 Home Occupations**

### **10.2.1 Applicability**

A home occupation may be allowed in a residential dwelling if it does not change the essential overall residential character of the dwelling and the neighborhood in which it is located. The home occupation shall be incidental and secondary to the use of the dwelling as a residence and be carried on by a member of the family permanently residing in the dwelling. A home occupation may be any occupation or profession which can be carried on within the home and meet the requirements of this Ordinance.

### **10.2.2 Home Occupation Standards**

In order to protect the residential and/or rural character of the City of Gardiner, home occupations shall meet the following requirements:

**10.2.2.1** The home occupation shall be carried on wholly within the principal building or within a building or other structure accessory to it.

**10.2.2.2** The total area used for the home occupation shall not exceed 50% of the square footage of the principal dwelling.

**10.2.2.3** A home occupation permit shall be granted to an applicant for his/her sole use as long as the applicant permanently resides in the dwelling and shall not be transferable to another property owner or tenant.

**10.2.2.4** No more than two persons outside the immediate family shall work on the premises in the home occupation.

**10.2.2.5** A home occupation shall not create greater traffic than normal for the area in which it is located or generate more than 20-vehicle trips per day.

**10.2.2.6** There shall be no exterior display of goods or materials. There shall be no exterior storage of goods or materials or any other exterior indications of the home occupation or variation from the residential character of the property.

**10.2.2.7** No nuisance, waste discharge not otherwise permitted, offensive noise, vibration, smoke, dust, odor, heat, glare or radiation shall be generated.

**10.2.2.8** There shall be no change in the residential appearance of the property.

**10.2.2.9** The on-site sale of products shall be limited to an area not to exceed 500 square feet in area.

**10.2.2.10** Any parking area for customers shall be off the street, and no parking shall be allowed in the front yard.

**10.2.2.11** The following uses are prohibited as home occupations: veterinary services, welding machine shops using industrial or heavy machinery, auto body repair, auto/truck/recreational vehicle service or repair and the repair of marine craft engines.

**10.2.3** Home Occupation uses which include building trades or similar fields that involve work or services performed away from the home are allowed under these conditions:

**10.2.3.1** The dwelling shall be used primarily as an office.

**10.2.3.2** More than two non-family persons working in the business shall be allowed, provided they work exclusively away from the premises.

**10.2.3.3** The premises shall not be used to store or park any vehicle or equipment for employees who work off the premises.

#### **10.2.4 Minor Home Occupations**

Certain home uses, because of their nature and scope, have a low impact on the residential nature of the dwelling and neighborhood. Such home occupation uses include but are not limited to artist, author, home crafts for off-site sale, office/typing, office tutoring, and off-site direct sales of goods and services and consulting.

**10.2.4.1** These home occupations shall be allowed without a permit provided they meet the following conditions:

**10.2.4.1.1** No more than one room of the dwelling or accessory structure shall be used exclusively for the home occupation.

**10.2.4.1.2** There shall be no advertising, display, or other indications of a home occupation on the premises.

**10.2.4.1.3** The home occupation shall not include any on-site sale of goods.

**10.2.4.1.4** No traffic shall be generated which is not otherwise normal for a residence.

**10.2.4.1.5** No deliveries shall be made other than package carrier services.

**10.2.4.1.6** Only family members permanently residing on the premises shall work in the home occupation.

### **10.3 Livestock and Animal Keeping**

#### **10.3.1 Household Pets**

Unless their numbers qualify their keeping as a kennel, household pets such as dogs and cats may be kept.

#### **10.3.2 Other Animals**

The keeping of other animals such as horses, cattle, sheep, goats, pigs and fowl for personal or commercial purposes shall be subject to the following:

**10.3.2.1** Farm buildings, sheds, feedlots and fenced pens used for the shelter of large livestock (such as horses, cattle, sheep, goats and pigs) shall be located 50 feet from the property lines and 100 feet from any existing residences.

**10.3.2.2** The keeping and raising of cattle, sheep, goats, horses, pigs and fowl shall require a minimum of 80,000 square feet of land.

**10.3.2.3** No manure shall be stored within 300 feet of the normal high-water line of a water body, wetland or wells used to supply water for human consumption.

#### **10.3.3 Chicken Keeping Residential**

Small-scale keeping of chickens for personal use shall be permitted in all districts except for the Central Business District, subject to the following limitations:

**10.3.3.1** Only single-family and two-family dwellings shall be eligible.

**10.3.3.2** The keeping of chickens shall be solely for personal use of the household.

**10.3.3.3** All chickens shall be kept in a pen located in the side or rear yard. The pen shall be set back at least 15 feet from all property lines and screened from view by vegetation or a fence of at least 4 feet in height.

**10.3.3.4** The pen shall be located in a yard space vegetated with grass or other ground cover and consisting of at least 1,000 square feet. The pen shall be a minimum of 75 feet from abutting dwellings.

**10.3.3.5** No more than 6 chickens and no roosters shall be permitted.

**10.3.3.6** The pen and surrounding area shall be kept clean of manure, vermin and other nuisances.

## **10.4 Kennels and Pet Services**

### **10.4.1 Kennels**

**10.4.1.1** The permanent or temporary housing of dogs for any purpose, including but not limited to breeding, trials, or exhibition, training, grooming, or sheltering stray or lost dogs, shall be limited to enclosed structures constructed of masonry (to at least 4 feet above the finished floor level) to provide for cleanliness, ease of maintenance and noise control.

**10.4.1.2** If outdoor runs are provided, they shall be completely enclosed by a 6-foot fence and shall be paved with cement, asphalt or similar material to provide for cleanliness and ease of maintenance.

**10.4.1.3** Outdoor runs shall be located at least 100 feet from all property lines and at least 200 feet from the nearest dwelling existing or under construction on the date of the kennel's application. The setback shall not apply to the owner's own dwelling.

### **10.4.2 Animal Services**

Animal service care facilities shall comply with the following:

**10.4.2.1** The facility shall provide for the safe and sanitary storage, removal and disposal of solid waste generated on site.

**10.4.2.2** If outdoor runs are provided, they shall be completely enclosed by a 6-foot fence and shall be paved with cement, asphalt or similar material to provide for cleanliness and ease of maintenance. The outdoor run shall be completely screened from the view of abutting buildings.

## **10.5 Home Child Care and Day Care/Nursery Schools**

### **10.5.1 Home Child Care**

All home child care uses shall comply with applicable state regulations and the following:

**10.5.1.1** All outdoor play areas shall be enclosed by a fence of sufficient height and material to provide a safe barrier for children.

**10.5.1.2** An off-street parking area shall be provided for loading and unloading children. Sufficient off-street parking shall be provided for staff and customers.

**10.5.1.3** Any sign shall comply with the sign standards for a home occupation.

**10.5.1.4** Home child care shall be exempt from noise standards, non-residential standards and buffer and screening standards.

### **10.5.2 Child Care Facilities**

All child care facilities shall comply with applicable state regulations and the following:

**10.5.2.1** All outdoor play areas shall be enclosed by a fence of sufficient height and material to provide a safe barrier for children.

**10.5.2.2** Off-street parking and loading areas shall be provided for employees and customers.

### **10.6 Light Manufacturing**

Light manufacturing shall meet the following standards:

**10.6.1** All aspects of the industrial process shall be carried on within the structure.

**10.6.2** Exterior storage of materials shall be limited to an area of 2,000 square feet.

**10.6.3** There shall be no hazardous materials in quantities large enough to cause a public health hazard in case of accidental release.

### **10.7 Outdoor Recreation Facility Lighting**

#### **10.7.1 Purpose**

The purpose of this subsection is to establish design and use criteria for all outdoor recreation facility lighting located within the city. This standard is designed to allow the placement of outdoor lighting for nighttime use and create performance requirements to reduce any lighting impacts upon neighboring properties.

#### **10.7.2 General Lighting Requirements for Outdoor Recreation Facilities**

**10.7.2.1** All lighting installed for parking areas, buildings and security shall conform to the lighting standards contained in Section 8 of this Ordinance.

**10.7.2.2** All lighting installed to illuminate outdoor recreation facilities for nighttime use shall conform to the following requirements:

**10.7.2.2.1** The maximum height of exterior light fixtures shall be 40 feet, as measured from grade level to the top of the light fixture.

**10.7.2.2.2** All light fixtures shall be shielded and directed onto the recreation area.

#### **10.7.3 Hoch Field Light Requirements**

The existing Hoch Field lights may be used and maintained in their present condition according to the following requirements:

**10.7.3.1** The Hoch Field lights shall have no more than 24 scheduled uses annually for Maine School Administrative District # 11 school events and activities or community youth sports activities. The lights shall be used only in the evening and shall be extinguished no later than 10:30 p.m. on Friday and Saturday evenings and shall not light later than 8:30 p.m. on other evenings of the week. Maine School Administrative District # 11 shall transmit an approved schedule of uses planned for the school year which shall be in compliance with Title 9 of the

Code of the United States and which shall be transmitted to the City Manager for distribution to the City Council and Mayor during the month of August each year.

**10.7.3.2** Additional uses for a special community event shall be permitted annually on the request of the Superintendent of the Maine School Administrative District # 11 and the approval of at least 5 members of the City Council.

## **10.8 Resource Extraction and Exploration**

**10.8.1** Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than 100 square feet of ground surface. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety.

**10.8.2** Mineral extraction shall comply with the following requirements:

**10.8.2.1** A reclamation plan shall be filed with and approved by the Planning Board/Code Enforcement Officer before a permit is granted. Such plan shall describe in detail, procedures to be undertaken to fulfill the requirements of this Ordinance.

**10.8.2.2** No part of any extraction operation, including drainage and runoff control features, shall be permitted within 100 feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, or within 75 feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within 75 feet, horizontal distance, of any property line.

**10.8.2.3** The applicant for mineral extraction shall provide written evidence that all applicable state and federal permits have been obtained.

**10.8.2.4** The Planning Board/Code Enforcement Officer may impose conditions as necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources and to ensure that the area is adequately reclaimed.

**10.8.2.5** Within 12 months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than 100 cubic yards of materials are removed in any consecutive 12-month period, ground levels and grades shall be established in accordance with the following:

**10.8.2.5.1** All debris, stumps, and similar materials shall be removed for disposal into an approved location, or shall be buried on-site. Only materials generated on-site shall be buried or covered on site.

**10.8.2.5.2** The final graded slope shall be two and one-half to one slope or flatter.

**10.8.2.5.3** Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

### **10.9 Overnight Accommodations**

The following requirements shall apply to hotels, motels, rental cottages and inns:

**10.9.1** No part of any building shall be closer than 60 feet to a property line

**10.9.2** All required off-street parking shall be located in the side or rear yards.

**10.9.3** Each rental unit shall contain not less than 200 square feet of habitable floor space. Each unit shall include a private bathroom facility.

**10.9.4** Adequate space shall be provided for a resident owner, manager or other responsible staff person.

**10.9.5** The facility shall conform to the applicable requirements of the building and safety codes adopted by the city.

**10.9.6** Any units in motels, hotels, and cottage units with individual kitchens and private bathroom facilities and intended to be rented on a monthly or longer basis, shall be considered to be dwelling units for the purposes of this Ordinance.

### **10.10 Bed and Breakfast Facilities**

**10.10.1** The facility shall conform to the applicable requirements of the building and safety codes adopted by the city.

**10.10.2** Each rental room shall have at least 120 square feet of habitable space.

**10.10.3** There shall be at least one bathroom facility provided for rental rooms, separate from the bathroom for the dwelling unit.

**10.10.4** All required parking spaces shall be located on the side or rear yards. In addition to the parking spaces required by this Ordinance, two spaces shall be reserved for the owners or operators of the business.

### **10.11 Roadside Stand/Farm Produce**

Farm stands at which at least 50% of the produce comes from the property where the stand is located shall be allowed in all districts. Any structures associated with the stand shall meet the required front setback for the district. All parking shall be located no closer than 10 feet from the edge of the traveled way. All signs shall conform to this Ordinance and state regulations.

## **10.12 Adult Business Establishments**

**10.12.1** Adult business establishments shall meet the requirements contained in the City Code Title 5 Chapter 10 Sections 501 through 504, and the applicable requirements of this Ordinance.

**10.12.2** An applicant for an adult business establishment shall obtain approval from the Planning Board prior to obtaining a license from the City Council. The Planning Board may condition its approval upon obtaining a license from the City Council.

## **10.13 Windmills**

### **10.13.1 Application Requirements**

Windmill applications shall contain all the applicable submissions required in this Ordinance and the following:

**10.13.1.1** Description of the project including specific information on the type, size, rotor material, rated power output, performance, safety and noise characteristics of the system.

**10.13.1.2** Scaled drawing showing the height of the windmill and all structures within 300 feet of the structure.

**10.13.1.3** Structural drawings from the manufacturer or engineer showing foundation and anchor design.

**10.13.1.4** Evidence that the provider of electrical service of the property has been notified of the intent to install an interconnected electricity generator.

### **10.13.2 Dimensional Requirements**

**10.13.2.1** The minimum site area for a small windmill shall be 20,000 square feet.

**10.13.2.2** The minimum site area for a mid-size windmill shall be 40,000 square feet.

**10.13.2.3** The minimum site area for a large windmill shall be 80,000 square feet.

**10.13.2.4** The maximum height of a windmill located in the Central Business District, High Density Residential District, Residential Growth District, and the Professional/Residential District shall be 40 feet.

**10.13.2.5** The windmill shall be set back a minimum of 110% of the system height from all adjoining property lines, and 150% of the system height from any structure on adjoining property.

### **10.13.3 Design Requirements**

**10.13.3.1** All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

**10.13.3.2** The minimum distance between the ground and any wind turbine blades of a free standing windmill shall be 25 feet as measured at the lowest arc of the blades.

**10.13.3.3** All onsite electrical wires associated with the windmill shall be installed underground except for connections to the utility transmission poles, towers and lines.

**10.13.3.4** The windmill shall not exceed 55 dBA as measured at the property line, except during short-term events such as severe wind storms.

**10.13.3.5** The windmill shall be equipped with over-speed controls.

**10.13.3.6** The tower shall be a monopole without guy wires.

**10.13.3.7** No tower shall be lighted unless required by the FAA.

**10.13.3.8** A windmill which is not generating electricity for 18 consecutive months shall be deemed abandoned and shall be dismantled and removed from the property by the owner within 120 days of receipt of notice from the Code Enforcement Officer.

## **10.14 Free-Standing Commercial Kiosks**

**10.14.1** All free-standing commercial kiosks less than 100 square feet in area may be located in existing parking areas and on lots without having to meet the minimum lot-size requirements for a primary building or use.

**10.14.2** All free-standing commercial kiosks having more than 100 square feet of area shall conform to all the applicable dimensional requirements for a principal building or use.

**10.14.3** Kiosks shall be designed to safely accommodate traffic and be incorporated into the traffic flow pattern of the area. Traffic entering and exiting the kiosk shall be directed through the use of signs, striping, raised islands, or similar features.

**10.14.4** The area dedicated for the kiosk, including all queuing areas, shall not reduce the required parking spaces necessary for adjacent uses.

**10.14.5** The kiosk shall not have a separate entrance or exit from the road. The existing entrances and exits to the area shall be used.

## **10.15 Automobile, Truck and Equipment Sales and Service**

**10.15.1** This section shall apply to all businesses engaged in sales or service of vehicles including boats, recreational vehicles, trucks, and heavy equipment.

**10.15.2** All repair and body work shall occur within an enclosed building.

**10.15.3** No inoperable vehicles or vehicle parts shall be stored or displayed within the front yard.

**10.15.4** No permit shall be granted within 300 feet of a well that serves as a private drinking water supply, and in the case of a well that serves as a public drinking water supply, within the greater of:

**10.15.4.1** 1,000 feet; and

**10.15.4.2** The source water protection area of the well if mapped by the Department of Health and Human Services as described under 30-A M.R.S.A. Section 2001, Subsection 20-A.

## **10.16 Two/Multi-Family Dwelling Units**

### **10.16.1 New Two-Family Dwellings**

New two-family dwellings shall meet all the lot and dimensional requirements of the zone in which they are located and the following criteria:

**10.16.1.1** Except in the Downtown Area as defined, and the Cobbesee Corridor District with Shoreland Overlay, the minimum road frontage shall not be less than 150 feet.

**10.16.1.2** Any two-family dwellings located on anything other than a designated local road shall provide on-site vehicle turn-around.

**10.16.1.3** Except in the Downtown Area as defined, or the Cobbesee Corridor District, a minimum of 2 parking spaces shall be provided for each dwelling unit. In the Downtown Area as defined and the Cobbesee Corridor District, the owner shall submit evidence that parking is available within a reasonable distance of the two-family dwelling.

**10.16.1.4** Except in the Downtown Area as defined and the Cobbesee Corridor District, no parking area shall be located in the front yard.

### **10.16.2 Two-Family Conversion**

Any existing structure to be converted or expanded into a two-family dwelling may be converted without meeting lot area or dimensional requirements for the zone in which they are located, but shall meet the following requirements:

**10.16.2.1** Except in the Downtown Area as defined, and the Cobbesee Corridor District with Shoreland Overlay, the minimum road frontage shall be 48 feet.

**10.16.2.2** Except in the Downtown Area as defined, and the Cobbesee Corridor District, a minimum of 2 parking spaces per dwelling unit shall be required. In the Downtown Area as defined and the Cobbesee Corridor District, the owner shall submit evidence that parking is available within a reasonable distance of the two-family dwelling.

**10.16.2.3** Except in the Downtown Area as defined, and the Cobbossee Corridor District, no parking shall be located in the front yard.

**10.16.2.4** Except in the Downtown Area as defined, and the Cobbossee Corridor District with Shoreland Overlay, a minimum of 20% of the lot shall remain as open space to be used as a yard or garden.

### **10.16.3 New Multi-Family Dwellings**

All new multi-family dwellings shall meet the lot, dimensional, and density requirements for the zone in which they are located and the following criteria:

**10.16.3.1** Except in the Downtown Area as defined and the Cobbossee Corridor District with Shoreland Overlay, the minimum road frontage shall not be less than 200 feet.

**10.16.3.2** The minimum side setback shall not be less than 30 feet except in the Cobbossee Corridor District. Refer to Section 7.7 for setback requirements.

**10.16.3.3** Except in the Downtown Area as defined, and the Cobbossee Corridor District with Shoreland Overlay, the minimum rear setback shall not be less than 30 feet.

**10.16.3.4** Multi-family developments involving more than one detached structure shall conform to the requirements for clusters except in the Cobbossee Corridor District.

**10.16.3.5** Except in the Downtown Area as defined, and the Cobbossee Corridor District, a minimum of 2 parking spaces shall be provided for each dwelling unit. In the Downtown Area as defined, and the Cobbossee Corridor District, the owner shall submit evidence that parking is available within a reasonable distance of the multi-family dwelling.

**10.16.3.6** Except in the Downtown Area as defined and the Cobbossee Corridor District, no accessory building or parking area shall be located in the front yard.

**10.16.3.7** All parking spaces, driveways and access ways shall be paved, except in the Cobbossee Corridor District where alternative porous pavements and structural grass systems are allowed with the approval of the city.

**10.16.3.8** Common trash receptacles shall be provided.

**10.16.3.9** Except in the Downtown Area as defined and the Cobbossee Corridor District, a minimum open space area of 1,000 square feet per dwelling unit consisting of a yard, garden or playground area shall be provided.

### **10.16.4 Multi-Family Conversion**

Any existing structure to be converted or expanded into a multi-family dwelling shall meet all the dimensional, density and performance standards for new multi-family dwellings.

### **10.16.5 Conversion to Single-Family Use or Multi-family Structures With Fewer Units**

Any existing two-family or multi-family structure may be converted to single family use in any district allowing single-family uses, or to a multi-family structure with fewer units, subject to the following criteria:

**10.16.5.1** The structure, including any modifications proposed as part of the conversion application, meets all applicable dimensional requirements, performance standards, building code and life safety code requirements for the new use; and

**10.16.5.2** The actual use of the structure, as of the approval date or upon completion of any proposed modifications, will be for the new use.

**10.16.5.3** The Code Enforcement Officer shall issue a permit to the property owner reflecting the approved change to the new use. A certificate reflecting the change in use shall be prepared by the Code Enforcement Officer in a form suitable for recording, and shall be recorded at the Kennebec County Registry of Deeds within 30 days after approval. An approved application for conversion to the new use under this paragraph shall terminate the property owner's right to continue any existing nonconforming use of the property concerned for two-family or multi-family use. In districts allowing two-family or multi-family use, such uses may be resumed only upon approval of an application to the Code Enforcement Office or Planning Board under the provisions of this Section. A change in use to the new use under this paragraph shall constitute a change in use for purposes of the city's Land Use Ordinance, building codes and life safety codes only.

## **10.17 Manufactured Housing and Manufactured Housing Parks (Excluding Modular Housing)**

### **10.17.1 Manufactured Housing Not in a Manufactured Housing Park**

**10.17.1.1** Manufactured housing not in a manufactured housing park shall meet all of the requirements of this Ordinance for single-family dwellings.

**10.17.1.2** All manufactured housing shall be installed to the "Manufactured Home Installation Standard" developed by the State of Maine Manufactured Housing Board.

**10.17.1.3** All mobile homes shall comply with the safety standards in the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Chapter 70.

**10.17.1.3.1** Units constructed prior to enactment of these standards shall be made to conform to the standard. A written statement shall be required from a professional engineer indicating that the mobile home has been upgraded and is in compliance with this standard.

**10.17.1.4** No manufactured housing shall be located within the flood plain.

**10.17.1.5** Manufactured housing shall have at least 750 square feet of enclosed year-round living area.

**10.17.1.6** Manufactured housing shall be a minimum of 14 feet wide.

**10.17.1.7** Manufactured housing shall have a minimum roof pitch of 3 in 12 and covered with asphalt or fiberglass shingles or other materials used for residential roofing.

**10.17.1.8** Manufactured housing shall have siding that is residential in appearance (including clapboard siding in wood or vinyl, shingles or shakes, board and batten and other sidings commonly found on site-built buildings).

**10.17.2 Manufactured Housing Parks**

Manufactured housing parks shall meet state requirements for mobile home parks and all of the following criteria:

**10.17.2.1** Manufactured housing parks shall meet all requirements for a residential subdivision, shall conform to all applicable provisions of this Ordinance, and shall be considered residential districts subject to all the restrictions applicable in a residential district as stated in this Ordinance.

**10.17.2.2** The minimum area of land within the park shall be five acres.

**10.17.2.3** The manufactured housing lot size shall meet the minimum lot size as required by the Manufactured Housing Board by rule under 10 M.R.S.A. Section 9005-A.

**10.17.2.4** The minimum road frontage for each lot shall be 65 feet. This requirement may be met by road frontage within the manufactured housing park.

**10.17.2.5** The minimum setbacks for each unit shall be a 20-foot front setback and a 10-foot side and rear setback.

**10.17.2.6** Each manufactured housing unit in a park shall conform to the requirements of 10.17.1.

**10.17.2.7** All manufactured housing in a manufactured housing park shall be connected to a public sewer system, if available, or to a central collection and treatment system, in accordance with the Maine State Plumbing Code.

**10.17.2.8** A continuous landscaped area, not less than fifty feet in width containing evergreen shrubs, trees, fences, walls or any combination which forms an effective visual barrier of not less than six feet in height, shall be located in all exterior lot lines in the park, where the per-acre density of homes within the manufactured housing park is at least two times greater than:

**10.17.2.8.1** The density of residential development on immediately adjacent parcels of land, or

**10.17.2.8.2** If the immediately adjacent parcels of land are undeveloped, the maximum net residential density permitted by applicable municipal ordinances or State law.

**10.17.2.8.3** Driveways shall be kept open to provide visibility for vehicles entering and leaving the park.

**10.17.2.9** All permanent additions (decks, garages, storage areas, etc.) shall be compatible in design, appearance and materials with the manufactured housing unit.

**10.17.2.10** Each manufactured housing lot shall be marked with a lot number that is positioned so as to be easily seen year-round from the street.

**10.17.2.11** No manufactured housing park shall be located within the flood plain.

### **10.18 Automobile Junkyard or Recycling Facility**

**10.18.1** No person or landowner shall allow any junkyard or recycling facility to be established, operated, maintained or suffered to exist without first obtaining a permit pursuant to this Ordinance and a non-transferable land use permit issued by the City Council in accordance with State licensing and local requirements, and complying with the following provisions:

**10.18.2** Junkyards shall be located a minimum of 100 feet from the edge of the right-of-ways; and shall be set back 100 feet from all side and rear lot lines.

**10.18.3** Junkyards shall be located a minimum of 300 feet from any public park, facility, or grounds, public bathing beach, school, church, or cemetery.

**10.18.4** No motor vehicles shall be located on a sand and gravel aquifer or wetland, as shown in the Comprehensive Plan, or within the 100-year flood plain as mapped by the Federal Emergency Management Agency.

**10.18.5** A motor vehicle with an intact engine or motor shall not be stored within 100 feet of any body of water or freshwater wetland, as defined by 38 M.R.S.A. Section 436-A, Subsection 5.

**10.18.6** No permit shall be granted within 300 feet of a well that serves as a private water supply, and in the case of a well that serves as a public drinking water supply, within the greater of:

**10.18.6.1** 1,000 feet; and

**10.18.6.2** The source water protection area of the well if mapped by the Department of Health and Human Services as described under 30-A M.R.S.A. Section 2001, Subsection 20-A.

This prohibition shall not include a private well that serves only the facility or the owner's or operator's abutting residence. This prohibition shall not apply to wells installed after the effective date of this Subsection if the facility has already received a permit under these regulations.

**10.18.7** The facility shall be screened from ordinary view of the adjoining public and/or private property. Such screening may be accomplished by natural or manmade objects, plantings, or

properly constructed fences, any of which shall completely screen the facility from ordinary view throughout the entire calendar year. Such screening shall complement the colors, textures, and tones found in the surrounding area. Certain facilities may be required to provide internal screening because of size and topography.

**10.18.7.1** Ordinary view shall be based on line-of-sight determination of the public and adjoining property owners' buildings. Line-of-sight views from adjoining property buildings shall be taken from the highest vantage point in normal, everyday use by occupants of such buildings, not to exceed 18 feet from ground level.

**10.18.7.2** Where buildings and/or fences are employed as screening for distances of one hundred lineal feet or more, native evergreen plantings shall be used, as specified by the Maine Forest Service, which attain a height of 6 feet or greater at maturity. Such plantings shall be a minimum of 3 feet high at planting, and planted at a rate of 4 per 100 lineal feet, approximately 25 feet on center (with an allowance of 10 feet so as to allow an element of randomness over the course of the plantings).

**10.18.8** No motor vehicles or major parts may be stacked or piled on top of each other so as to protrude above the screening. In any event, stacking shall not exceed twelve feet above ground level.

**10.18.9** Stacking and/or parking of motor vehicles shall be arranged in a grid fashion which employs, at maximum, either a 70-foot square pattern or a 25-foot by 200-foot block pattern. Fourteen-foot aisle spaces shall be provided for fire fighting apparatus access to such squares or blocks. Parking along screening in a continuous manner shall be permitted.

**10.18.10** Fluids from a vehicle may not be permitted to flow or be discharged into or onto the ground.

**10.18.11** All junk and salvage materials shall be stored within the screened/fenced areas and the operation shall be conducted in such a manner as to prevent unsightliness to the adjacent areas.

**10.18.12** No open burning of salvage material or junk shall be permitted on the premises. Waste fluids and unusable materials shall be disposed of in an environmentally sound manner.

**10.18.13** The facility shall be at all times maintained in a sanitary condition. No garbage or other waste liable to give off a foul odor or attract vermin shall be kept on the property; nor shall any refuse of any kind be kept in said premises.

**10.18.14** No junk shall be delivered to the facility on Sundays, legal holidays, or before the hour of 6:00 a.m. or after the hour of 9:00 p.m. on other days, except that special permission may be granted by a member of the Gardiner Police Department in the event of extenuating circumstances.

**10.18.15** Any equipment used to crush motor vehicles shall only be operated within the area enclosed by screening of junked motor vehicles. No such equipment shall be operated on

Sundays, legal holidays, or before the hour of 6:00 a.m. or after the hour of 9:00 p.m. on other days, except that special permission may be granted by a member of the Gardiner Police Department in the event of extenuating circumstances.

### **10.19 Wireless Telecommunications Facilities**

**10.19.1** This subsection applies to all construction and expansion of wireless telecommunications facilities, including communication facilities and towers, except as provided in 10.19.2.

**10.19.2** The following are exempt from the provisions of this Ordinance:

**10.19.2.1** Wireless communication facilities for telecommunications by public officials.

**10.19.2.2** Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).

**10.19.2.3** Parabolic antennas less than 7 feet in diameter that are an accessory use of the property.

**10.19.2.4** Maintenance, repair or reconstruction of a wireless telecommunications facility and related equipment, provided that there is no change in the height or any other dimension of the facility.

**10.19.2.5** Temporary wireless telecommunications facilities, in operation for a maximum period of 180 days.

**10.19.2.6** An antenna that is an accessory use to a residential dwelling unit.

### **10.19.3 Review Application**

Wireless telecommunications facilities, including expansions of existing facilities, shall comply with the application requirements of this Ordinance and shall include the following additional information:

**10.19.3.1** A copy of the FCC license for the facility, or a signed statement from the owner or operator of the facility attesting that the facility will comply with FCC regulations.

**10.19.3.2** A USGS 7.5 minute topographic map showing the current location of all structures and wireless telecommunications facilities more than 150 feet in height above ground level, except antennas located on roof tops, within a 5-mile radius of the proposed facility. This requirement shall be deemed to have been met if the applicant submits current information (i.e., within thirty days of the date the application is filed) from the FCC Tower Registration Database.

**10.19.3.3** A site plan prepared and certified by a professional engineer registered in Maine indicating the location, type and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access and setbacks from property lines. The site plan shall include certification by a professional engineer registered in Maine that the proposed facility

complies with all American National Standards Institute (ANSI) and other applicable technical codes.

**10.19.3.4** Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level.

**10.19.3.5** A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing; the color of the structure, and the proposed lighting method.

**10.19.3.6** Photo simulations of the proposed facility taken from perspectives determined by the Planning Board, or its designee, during the pre-application review. Each photo shall be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photos shall show the color of the facility and method of screening.

**10.19.3.7** A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement shall not require disclosure of confidential business information.

**10.19.3.8** Evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed facility, which may consist of any one or more of the following:

**10.19.3.8.1** Evidence that no existing facilities are located within the targeted market coverage area as required to meet applicant's engineering requirements.

**10.19.3.8.2** Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements.

**10.19.3.8.3** Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically:

**10.19.3.8.3.1** Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.

**10.19.3.8.4** The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna.

**10.19.3.8.5** Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.

**10.19.3.9** For facilities existing prior to the effective date of this Ordinance, evidence that the fees, costs, or contractual provisions required by the owner in order to share or adapt an existing facility are unreasonable. Costs exceeding the pro rata share of a new facility development are

presumed to be unreasonable. This evidence shall also be satisfactory for a tower built after the passage of this Ordinance or amendment thereto.

**10.19.3.10** A signed statement stating that the owner of the wireless telecommunications facility and his or her successors and assigns agree to:

**10.19.3.10.1** Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;

**10.19.3.10.2** Negotiate in good faith for shared use of the wireless telecommunications facility by third parties;

**10.19.3.10.3** Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location;

**10.19.3.10.4** Require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.

**10.19.3.11** A form of surety approved by the Planning Board to pay for the costs of removing the facility if it is abandoned.

#### **10.19.4 Standards**

**10.19.4.1** If an applicant proposes to locate a new wireless telecommunications facility on municipal property, or expand an existing facility on municipal property, the applicant shall show the following:

**10.19.4.1.1** The proposed location complies with applicable municipal policies and ordinances.

**10.19.4.1.2** The proposed facility will not interfere with the intended purpose of the property.

**10.19.4.1.3** The applicant has adequate liability insurance and a lease agreement with the municipality that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interests in the property.

**10.19.4.2** A new or expanded wireless telecommunications facility and related equipment shall be designed and constructed to accommodate future co-location of at least three additional wireless telecommunications facilities or providers. Co-location shall not be considered an expansion.

**10.19.4.3** The maximum height of new or expanded wireless telecommunications facilities shall be 195 feet. The facility shall be designed to collapse in a manner that does not harm other property.

**10.19.4.4** A new or expanded wireless telecommunications facility shall comply with the setback requirements set forth in the City of Gardiner Land Use Ordinance, or be set back 105% of its height from all property lines, whichever is greater. The setback may be satisfied by including the areas outside the property boundaries if secured by an easement. An antenna shall be exempt from the setback requirement if it extends no more than 5 feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon an abutting property.

**10.19.4.5** The base of a new or expanded wireless telecommunications facility shall be screened, with plants, from view by abutting properties, to the maximum extent practicable. Existing plants and natural land forms on the site shall also be preserved to the maximum extent practicable.

**10.19.4.6** A new or expanded wireless telecommunications facility shall be fenced with a secured perimeter fence of a height of 8 feet to discourage trespass on the facility and to discourage climbing on any structure by trespassers.

**10.19.4.7** A new or expanded wireless telecommunications facility shall be illuminated as necessary to comply with FAA or other applicable state, federal and local requirements or Site Plan Review conditions. Security lighting may be used as long as it is shielded to be down-directional to retain light within the boundaries of the site, to the maximum extent practicable.

**10.19.4.8** A new or expanded wireless telecommunications facility shall be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.

**10.19.4.9** A new or expanded wireless telecommunications facility shall comply with the current Electronic Industries Association/ Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."

**10.19.4.10** Except during construction, repair, or replacement, operation of a backup power generator at any time during a power failure and testing of a back-up generator between 8 a.m. and 9 p.m. are exempt from existing municipal noise standards.

### **10.19.5 Standard Conditions of Approval**

**10.19.5.1** The following standard conditions of approval shall be a part of any approval issued by the Planning Board. Reference to the conditions of approval shall be clearly noted on the final approved site plan. The owner of the wireless telecommunications facility and his or her successors and assigns agree to:

**10.19.5.1.1** Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response.

**10.19.5.1.2** Negotiate in good faith for shared use of the wireless telecommunications facility by third parties.

**10.19.5.1.3** Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location.

**10.19.5.1.4** Require no more than a reasonable charge for shared use of the wireless telecommunications facility, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the life span of the useful life of the wireless telecommunications facility.

## **10.19.6 Abandonment**

**10.19.6.1** A wireless telecommunications facility that has not operated for a continuous period of 12 months shall be considered abandoned. The Code Enforcement Officer shall notify the owner of an abandoned facility in writing and order the removal of the facility within 90 days of receipt of a written notice. The owner of the facility shall have 30 days from the receipt of the notice to demonstrate to the Code Enforcement Officer that the facility has not been abandoned.

**10.19.6.2** If the Owner fails to show that the facility has not been abandoned, the owner shall have 60 days to remove the facility. If the facility is not removed within this time period, the municipality may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation.

**10.19.6.3** If a surety has been given to the municipality to ensure removal of the facility, the owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed to the satisfaction of the Planning Board.

## **10.20 Public Paths/Trails**

**10.20.1** A public path shall not be considered a principal use of land. All public paths shall be reviewed and approved in conformance with this Ordinance.

### **10.20.2 Standards**

**10.20.2.1** Public paths shall be set back at least 75 feet from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no reasonable alternative exists, the Planning Board may reduce the setback requirement to no less than 50 feet. Notwithstanding this paragraph, public paths may be located nearer than 50 feet to the normal high water line of a water body, tributary stream, or wetland in the following circumstances:

**10.20.2.1.1** A public path located within the Central Business District, Cobbossee Corridor District, Shoreland Overlay or Shoreland Overlay Limited Residential shall be located a minimum of 25 feet from the normal high-water line of a water body or the upland edge of a wetland except for water crossings, and/or existing bases, such as discontinued railway bed corridors, berms, dikes, parking lots or industrial sites, where paths can be located less than 25 feet from the normal high-water line or the upland edge of a wetland. In all other shoreland districts, paths shall be a minimum of 75 feet from the normal high-water line of a water body or the upland edge of a wetland except for water crossings and/or existing bases, such as discontinued railway bed corridors, berms dikes, parking lots or industrial sites, where paths can be located less than 75 feet from the normal high-water line or the upland edge of a wetland. Applicants for path construction projects shall be required to obtain all applicable state and, if necessary, federal permits.

**10.20.2.1.2** When a path is permitted within the setback area, any significant areas of exposed mineral soil present between the path and the water body or wetland shall be planted with native vegetation or be otherwise stabilized to prevent erosion and protect water quality.

**10.20.2.1.3** Path spurs, no greater than 6 feet in width, may be established at distances no less than 500 linear feet apart. Clearing of vegetation for a path spur shall not exceed 250 square feet per 25 feet of spur length. Path spurs that extend to the shoreline shall not include any structural development except that necessary for shoreline stabilization or path hardening, and except for the placement of a bench or similar object for sitting purposes. No path spur shall be permitted on sustained ground slopes of greater than 15%.

**10.20.2.1.4** Path surfaces shall be paved, graveled, mulched or otherwise stabilized/surfaced to prevent erosion of surface materials. Path banks and side slopes steeper than a 50% slope, and retaining walls greater than 4 feet in height, shall be designed by a professional engineer, and shall be stabilized in accordance with the provisions for erosion and sedimentation control contained in state environmental regulations.

**10.20.2.2** Water access spurs from a public path shall be permitted, and may extend to boat ramps, docks, piers, marinas, or other water access facilities located within the setback area. No more than one such spur may be constructed per 500 linear feet of public path, as measured along the main route of the public path. No water access spur shall be constructed which requires clearing of more than 750 square feet of existing vegetation.

**10.20.2.3** All appurtenances and accessory structures to a public path shall be located outside of the setback area, provided that fences, benches, signs, waste receptacles and necessary lighting may be located on or adjacent to public path segments located within the setback area.

**10.20.2.4** Public paths shall not be constructed in a Resource Protection District established in order to protect high or moderate value waterfowl habitat, as identified by the Department of Inland Fisheries and Wildlife.

**10.20.2.5** Public paths shall not exceed 14 feet in width, provided that the Planning Board may approve a greater width based upon a demonstrated special need related to the intended use of the path.

**10.20.2.6** In constructing a public path, existing overhead tree canopies shall be maintained to the extent practicable.

**10.20.2.7** The grade of public paths shall not exceed 20% for more than 100 feet in length of continuous path. Within the setback area from a water body or wetland, the grade of public paths shall not exceed 10%.

**10.20.2.8** Public paths shall be constructed to prevent erosion and minimize sedimentation of water bodies and wetlands. The Planning Board may require planting and maintenance of vegetation that is necessary to prevent or minimize erosion or sedimentation.

**10.20.2.9** Earth-moving activities for construction, alteration or repair of public paths shall meet the requirements for earth moving activities of this Ordinance.

**10.20.2.10** Public paths shall be exempt from all off-street parking requirements.

**10.20.2.11** No motorized vehicles shall be permitted on public paths, except for wheelchairs, maintenance vehicles and emergency vehicles.

## **10.21 Ruins**

No owner or occupant of any land in any district shall permit ruins to be left. Within one year from the date of disaster, the owner or occupant shall remove the ruins to clear ground. However, subject to Planning Board approval, ruins within the Cobbossee Corridor District adding visual, historic and cultural value shall be exempt.

## **10.22 Nuclear Facilities**

The following uses shall be prohibited within all districts of the city: nuclear power generating facility, nuclear energy center, nuclear-powered facilities, nuclear fuel enrichment, reprocessing, waste storage or disposal facility, and use of recycled plutonium.

## **10.23 Open Space Design**

### **10.23.1 Purpose:**

The purpose of these provisions is to allow for new concepts of development where variations of design may be allowed, if the net residential density is no greater than is permitted in the area in which the development is proposed. Notwithstanding other provisions of this Ordinance relating to dimensional requirements, the Planning Board, in reviewing and approving proposed

residential developments, may modify said provisions related to dimensional requirements to permit innovative approaches to housing and environmental design in accordance with the following standards:

### **10.23.2 Design Requirements**

**10.23.2.1** The open space design development shall meet all the requirements for a subdivision and other applicable provisions of this Ordinance.

**10.23.2.2** Each lot, proposed building site and building shall be an element of an overall plan for the site development. Only developments having a total site plan for structures shall be considered. The developer shall illustrate the placement of buildings and the treatment of spaces, roads, services, and parking and in so doing, shall take into consideration all requirements of this Subsection and of other applicable sections of this Ordinance.

**10.23.2.3** The minimum land area necessary for an open space design is 5 acres of suitable land.

**10.23.2.4** Any reduction in lot size, density, setbacks or standards which are part of meeting the design criteria of this Ordinance shall be approved by the Planning Board and shall not require a variance.

**10.23.2.5** The area suitable for development shall be calculated by subtracting the following: wetlands, rivers, streams, brooks, stormwater drainage features, resource protection district areas, areas within the 100-year floodplain and areas within roads and other rights-of-way.

**10.23.2.6** To determine the maximum number of dwelling units or structures permitted on a tract of land, the land suitable for development shall be divided by the minimum lot size required in the district in which it is located.

**10.23.2.7** Lots served by a public sewer system and lots served by an individual or cluster subsurface waste water system may be reduced to 20,000 square feet.

**10.23.2.8** The total area of common land within the development shall equal or exceed the sum of the areas by which any building lots are reduced below minimum lot size requirements.

**10.23.2.9** Every building lot reduced in size below the amount required shall be within 1,000 feet of common land.

**10.23.2.10** No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of the development.

**10.23.2.11** Shore frontage shall not be reduced below the minimum required in the applicable Shoreland Zoning District.

**10.23.2.12** Where the development abuts a body of water, a usable portion of the shoreline, and reasonable access to it, shall be part of the common land.

**10.23.2.13** Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography and natural drainage areas, in accordance with an overall plan for the site development.

**10.23.2.14** The location of subsurface wastewater disposal systems and an equivalent reserve area for replacement systems shall be shown on the plan. The reserve area shall be restricted so as not to be built upon.

### **10.23.3 Requirements for Open Space Areas**

**10.23.3.1** The areas selected for open space shall be based upon the requirements of this subsection and the overall design plan for the development. Open space areas shall be selected based upon the following priorities:

**10.23.3.1.1** Existing recreational areas or trails.

**10.23.3.1.2** Scenic areas as identified by the city and the Comprehensive Plan.

**10.23.3.1.3** Existing agricultural fields, pastures, or orchards.

**10.23.3.1.4** Significant wildlife and plant habitat areas.

**10.23.3.1.5** Archeological or historic sites.

**10.23.3.1.6** Existing undeveloped forest areas.

**10.23.3.2** All open space areas shall be designed as continuous tracts of land. Narrow strips of land or collections of small tracts shall not be permitted unless designed as part of a trail system connecting larger parcels.

**10.23.3.3** The open space land may utilize or feature areas designated as unsuitable for development; however, in no case shall land unsuitable for development; be counted as the required open space area.

### **10.23.4 Dedication and Maintenance of Common Open Spaces and Facilities**

**10.23.4.1** Common open space shall be dedicated upon approval of the project. There shall be no further subdivision of this land, which shall be used only for noncommercial recreation, agriculture or conservation. However, easements for public utilities or utility structures may be permitted.

**10.23.4.2** The common open space shall be shown on the development plan with the notation on the face thereof to indicate:

**10.23.4.2.1** The common open space shall not be used for future building lots.

**10.23.4.2.2** Any part or all of the common open space proposed to be dedicated for acceptance by the city.

**10.23.4.3** If any or all of the common open space is to be reserved for use by the residents, the by-laws of the homeowners association shall specify maintenance responsibilities, which shall be submitted to the Planning Board for approval.

**10.23.4.4** Covenants for mandatory membership in the association, setting forth the owners' rights and interest and privileges in the association and the common land, shall be reviewed by the Planning Board and included in the deed for each lot.

**10.23.4.5** The association may levy annual charges against all property owners to defray the expenses connected with the maintenance of open space, other common and recreational facilities and town assessments.

### **10.23.5 Density Bonus**

**10.23.5.1** The number of dwelling units may be increased by 20% over the number of units allowed in the district in which the development is located provided that at least one of the following conditions is met:

**10.23.5.1.1** At least 10% of the dwelling units are affordable housing as defined by 30-A M.R.S.A. Section 4301.

**10.23.5.1.2** Common shoreland with access to the water is available for the use of the general public.

**10.23.5.1.3** Common land which includes at least one of the following: parks, trails, recreation facilities or ponds in excess of 5 acres, is available for use by the general public.

**10.23.5.2** The Planning Board shall incorporate the applicant's proposal for the density bonus as a condition of the subdivision plan. The proposal shall be reviewed by the City Manager and revisions incorporated into the proposal based upon the manager's review. The city may set conditions on the density bonus proposal to ensure that the intent of this Ordinance is followed.

## **10.24 Signs**

### **10.24.1 Purpose**

The purpose of the sign standards is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising, outdoor advertising signs, and outdoor signs of all types; to protect property values, enhance and protect the physical appearance of the community, preserve the scenic and natural beauty and provide a more enjoyable and pleasing community; to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over

public rights of way, provide more open space and curb the deterioration of natural beauty and community environment; and to promote Gardiner as a distinctive community.

In addition to the above, the purpose of the sign standards is to encourage creative and distinctive designs that add value to the visual landscape of Gardiner, provided that such designs are consistent with the purposes above.

## **10.24.2 Definitions**

**10.24.2.1 Abandoned Sign:** A sign for a business that has been defunct for more than 30 days.

**10.24.2.2 Accessory Sign:** A secondary sign that provides on-site information concerning the business that is not indicated on the primary identification sign(s), such as store hours, accepted credit cards, quality ratings, affiliations, and vacancies.

**10.24.2.3 Advertising Sign:** A sign whose primary purpose is to attract attention to goods offered for sale or lease or services rendered upon property where the advertising is occurring.

**10.24.2.4 Animated Sign:** A sign employing actual motion or the illusion of motion. Animated signs, which are differentiated from readerboards or changeable signs, include the following types:

**10.24.2.4.1 Environmentally Activated:** Animated signs or devices motivated by wind, thermal changes, or other natural environmental input. These include spinners, pinwheels, pennant stings, and/or other devices or displays that respond to naturally occurring external motivation.

**10.24.2.4.2 Mechanically Activated:** Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

**10.24.2.4.3 Electrically Activated:** Animated signs producing the illusion of movement by means of electronic, electrical, or electromechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both of the classifications noted below:

**10.24.2.4.3.1 Flashing:** An animated sign with an intermittent or flashing light source.

**10.24.2.4.3.2 Patterned Illusionary Movement:** Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

**10.24.2.5 Applied Sign:** An advertising sign containing words and/or images painted directly on the surface of a building.

**10.24.2.6 Awning Sign:** A sign on or attached to a canvas or other fabric shelter that is supported entirely from the exterior wall of a building.

**10.24.2.7 Banner:** A sign of temporary construction made of vinyl, canvas, or similar flexible material.

**10.24.2.8 Business Directory Sign:** A free-standing sign identifying names and/or uses, and/or locations, in a multi-business development.

**10.24.2.9 Canopy Sign:** A sign mounted on or integral to a permanent, horizontal cover over a free-standing structure.

**10.24.2.10 Construction/Maintenance Site Sign:** A temporary sign containing information such as the name of the contractor, development, developer, designers, and financing.

**10.24.2.11 Copy:** Any graphic, letter, number, symbol, insignia, text, sample, model, device, or combination thereof, which relates to advertising, identification, or notification.

**10.24.2.12 Directional Sign:** A sign that indicates ingress or egress to a property and does not contain either identification or advertising copy.

**10.24.2.13 Directory Board:** A wall sign erected on a building wall at the ground floor level and containing name identification for more than one activity or business located in a single building or a group of buildings.

**10.24.2.14 Electronic Message Sign:** An electronically activated changeable sign whose variable message capability can be electronically programmed, including liquid crystal display signs.

**10.24.2.15 Externally Illuminated Sign:** A sign with an exterior light source, either attached or detached from the sign, whose purpose is to illuminate the sign board.

**10.24.2.16 Farm Stand Sign:** A sign used seasonally to advertise a farm stand selling fruits, vegetables or other agricultural crops and products.

**10.24.2.17 Free-standing Sign:** A sign supported by not more than two upright poles permanently affixed into the ground and in no way attached to a building. [This term refers to self-supporting signs other than those otherwise specifically defined and regulated in this Subsection.]

**10.24.2.18 Grandfathered Sign:** Any sign that is legally non-conforming with applicable Sections of the City of Gardiner Land Use Ordinance prior to the effective date of Subsection 24 Signs.

**10.24.2.19 Gross Display Area:**

**10.24.2.19.1** The sign area includes all lettering, wording, and accompanying design symbols, together with the background whether open or enclosed, on which they are displayed, including sections between paneled signs. Minimal supporting bracing or framework is excluded, but any decorative structure is included.

**10.24.2.19.2** Painted or applied sign area includes any background color of a different color than the natural color of the building. Where lettering and/or symbols of an applied sign are painted

or applied directly on the natural surface and coloring of a building, the area is considered to be that area within a line drawn around the outside of all letters and symbols, plus 20 percent of that enclosed area.

**10.24.2.19.3** The sign area of complex signs is that within a line connecting all major points of the sign's circumference.

**10.24.2.20** Historic Marker: A permanent sign or plaque whose purpose is to indicate some significant facts about the building or its site.

**10.24.2.21** Home Occupation Sign: A sign that indicates a home occupation land use as defined in the Ordinance.

**10.24.2.22** Household Sign: A sign that displays street numbers, last name and personal name given to a residential structure.

**10.24.2.23** Iconic Sign: Those signs which are traditionally accepted pictorial symbols conveying the nature of the business, such as barber poles, eyeglasses, boots, and mortar and pestle. They are normally constructed in heavy relief or are three-dimensional.

**10.24.2.24** Identification Sign: A sign that includes, as copy, only the name of the business, place, organization, building, or person it identifies.

**10.24.2.25** Internally Illuminated Sign: A sign with a light source incorporated into the body of the sign and where light emanates through the message of the sign.

**10.24.2.26** Interior Sign: A sign that is visible from the building exterior with the intention of circumventing the intentions of this Ordinance.

**10.24.2.27** Legally Nonconforming Sign: An existing sign that was lawfully erected in compliance with applicable code requirements and maintained prior to the effective date of this Ordinance.

**10.24.2.28** Marquee Sign: A sign on or attached to a permanent overhanging shelter that projects from the face of the building, such as a theatre or business, and is supported entirely or partially by the building.

**10.24.2.29** Memorial Sign or Tablet: A sign containing the name of a building and date of erection when cut into masonry surface or when constructed of bronze or other incombustible materials.

**10.24.2.30** Multi-Business Development: One or more buildings under common ownership and containing multiple business tenants; or multiple buildings, each containing one or more businesses and sharing common vehicle ingress and egress.

**10.24.2.31** Municipal Sign: A sign that is part of a planned directional system to key locations or places of significance within the city.

**10.24.2.32 Mural:** An image, with or without words, that is painted directly on a building and that has historic and community value and no commercial purpose.

**10.24.2.33 Neon Sign:** Tubing using neon, another gas, or a technology simulating neon such as light emitting diodes (LED), to spell out the name of a business, promote a product or convey information.

**10.24.2.34 Official Business Directional Sign (OBDS):** An off-premise directional sign allowed under Me. Dept. of Trans., 17 229 CMR 200.

**10.24.2.35 Off-Premise Sign:** A sign located off the premises indicated by said sign.

**10.24.2.36 “Open” Flag:** A flag that has only the word "open" and no other lettering, numbering or images.

**10.24.2.37 Path/Trail Sign:** A sign denoting a pedestrian/bicycle trail network.

**10.24.2.38 Pennant:** An all-weather device constructed of lightweight plastic, fabric, or other material, which may or may not contain copy, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

**10.24.2.39 Political Sign:** A sign bearing a political message relating to an election, primary or referendum.

**10.24.2.40 Portable Sign:** A sign not designed or intended to be permanently affixed into the ground or to a structure.

**10.24.2.41 Principal Sign:** The main sign on a property.

**10.24.2.42 Projecting Sign:** A sign that is suspended from or supported by any building or structure and projects outward from the supporting structure. Building-mounted projecting signs extend perpendicular to the building surface.

**10.24.2.43 Readerboard:** A sign containing information directly related to the nature of the service provided, and on which the informational copy changes, or can be changed, by manual, electronic, or mechanical means.

**10.24.2.44 Real Estate Sign:** A sign, attached to a building or free-standing, advertising the sale, lease, or rental of the premises upon which the sign is located.

**10.24.2.45 Roof Sign:** A sign located upon or over a roof of a building.

**10.24.2.46 Sandwich Sign:** A two-sided sign, typically shaped like an “A” and hinged at the top, that is made of wood or materials that appear to be wood and is not attached to the ground.

**10.24.2.47 Sign:** An object, device, display or structure or part thereof that is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization,

business, project, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, or projected image.

**10.24.2.48 Sign Giving Notice:** A sign of a temporary nature such as an advertisement of a charitable function, a notice of a meeting or festival, or other non-commercial sign of a similar nature displayed only on non-residential property.

**10.24.2.49 Special Sign:** Any sign or three-dimensional sign structure requiring special treatment, not included in other definitions.

**10.24.2.50 Temporary Advertising Sign:** A sign relating to a specific sale of products or other similar advertising announcements such as the opening of a new business. This includes signs mounted to the interior or exterior of windows.

**10.24.2.51 Temporary Sign:** A sign (such as a political poster or a yard sale sign) intended to be displayed for a short period of time.

**10.24.2.52 Vehicle Sign:** A vehicle, such as a van, with graphics acting as signage and parked in a visible manner on a regular basis so as to circumvent the intentions of this Ordinance.

**10.24.2.53 Vision Triangle:** The area at the four corners of an intersection that is to be kept free of shrubs, ground covers, berms, fences, signs, structures, or other materials or items greater than 30 inches in height.

**10.24.2.54 Wall Sign:** A sign attached to or supported by a building wall or part thereof, provided that the sign does not project more than 6 inches from the wall.

**10.24.2.55 Window Sign:** A sign placed, painted, or affixed to a window or the glazed portion of a door and that is visible from the exterior of the building.

### **10.24.3 General Provisions**

**10.24.3.1** No signs shall be erected prior to obtaining a permit except those exempt from these standards.

**10.24.3.2** Signs within Gardiner's Downtown Historic District shall receive a Certificate of Appropriateness in accordance with this Ordinance.

**10.24.3.2.1** The Code Enforcement Officer may grant a Certificate of Appropriateness for all interior and window signs, as well as for projecting signs and wall signs that are 6 square feet or less. Certificates granted by the Code Enforcement Officer may be reviewed by the Historic Preservation Commission.

**10.24.3.2.2** Certificates of Appropriateness for all awning signs, iconic signs, marquee signs, murals, and trail signs, as well as for projecting signs and wall signs that are larger than 6 square feet, shall be granted only by the Historic Preservation Commission.

**10.24.3.2.3** In the Downtown Historic District, signs shall be permitted only on the front and the rear of a building or structure. Signs shall not alter or obscure an architectural feature, component or detail of a structure or building. Interior and window signs shall not result in permanent alteration of any glass surface.

**10.24.3.2.4** In the Downtown Historic District, signs at the primary entrance shall be limited to one projecting sign per building and one additional sign for each business that occupies the ground floor of the building. One additional sign shall be permitted at the rear entrance of the building. Each business above the ground floor may have one window sign.

### **10.24.3.3 Loss of Grandfathered Status**

**10.24.3.3.1** A sign loses its legally nonconforming status and shall meet the requirements of a new sign if the business, establishment or institution to which the sign belongs is defunct for one year. This shall not apply to seasonal farm stand signs or murals that receive approval from the Gardiner City Council and, if required, the Historic Preservation Commission.

**10.24.3.3.2** Except in the case of prohibited signs, changes in the content of nonconforming signs, including names, words, logos or similar information, shall not constitute an alteration requiring conformance with this Subsection, as long as the changes do not make the sign more nonconforming and a permit is obtained for the changes from the Code Enforcement Officer.

**10.24.3.3.3** New signage may be proposed for a site that contains grandfathered signage, provided that all new signage is in compliance with this Subsection; that the total signage is in compliance with applicable gross display area limitations; and that the signage plan for the entire site furthers the spirit and intent of this Subsection by reducing visual clutter or otherwise improving the aesthetic appearance of the signage on the site.

**10.24.3.3.4** Any sign face that identifies or advertises a defunct business shall be removed within 30 days of the termination of that business from that site. After the business has been terminated for a period of one year, all mountings, brackets, poles, sign faces and other signage material shall be removed except for projecting signs, unless the sign is being reused by another business occupying the same site.

### **10.24.3.4 Exempt Signs**

The following signs shall not require a permit from the Code Enforcement Officer, but shall meet all applicable standards of this Subsection: accessory signs, directional signs, farm stand signs, garage or yard sale signs, household signs, “open” flags, legal notices, memorial signs or tablets, political signs, public traffic and directional signs, real estate signs, sandwich signs, and trespassing and hunting signs.

### **10.24.3.5 Prohibited Signs**

**10.24.3.5.1** Gasoline pump canopy and marquee signs are prohibited.

**10.24.3.5.2** Signs that flash, move, rotate, scintillate, blink, flicker, vary in intensity, vary in color, use intermittent electrical pulsations or are otherwise animated are prohibited, except for barber poles.

**10.24.3.5.3** No sign or part of a sign shall consist of a balloon or other inflatable component.

**10.24.3.5.4** No signage, other than approved traffic and directional signs, shall be placed within traffic islands.

**10.24.3.5.5** Signs in the Shoreland and the Resources Protection Districts are prohibited, except Path/Trail Signs.

**10.24.3.5.6** Signs attached to trees or utility poles, including temporary signs, are prohibited.

**10.24.3.5.7** Portable signs designed for and intended or originally intended to be moved from place to place and not be permanently affixed to land, buildings or other structures are prohibited. Portable signs used for the conveyance of traffic and other public safety information shall be exempt from the prohibition and shall not require a permit.

**10.24.3.5.8** No vehicle unregistered for operation in the State of Maine and/or incapable of operation without tow or other secondary assistance with directional or advertising signs painted on or affixed shall be parked, unmoved, on, by or within view of a public way for any period of time greater than five consecutive calendar days in any month.

**10.24.3.5.9** Off-premise advertising signs are prohibited, unless the sign is an approved Official Business Directional Sign.

**10.24.3.5.10** Signs placed or painted on roofs or that extend wholly or in part above the exterior walls are prohibited.

**10.24.3.5.11** Signs which incorporate projected images, emit any sound that is intended to attract attention, or involve the use of live animals, are prohibited.

**10.24.3.5.12** Signs with chemical (fluorescent)-type colors are prohibited.

**10.24.3.5.13** Neon and illuminated tube signs are prohibited.

**10.24.3.5.14** Signs utilizing liquid crystal display or similar technology are prohibited.

**10.24.3.5.15** Internally illuminated signs, other than signs containing only individually illuminated letters in the Planned Industrial/Commercial District, are prohibited.

**10.24.3.5.16** Signs that prevent free egress from any door, window, or fire escape, or that interfere with pedestrian or vehicular movement, are prohibited.

**10.24.3.5.17** Signs of any kind attached to a standpipe or fire escape are prohibited.

**10.24.3.5.18** Signs or other advertising structures are prohibited which obstruct free and clear vision, or which, at any location, by reason of the position, shape or color of the sign may interfere with, obstruct view of or be confused with any authorized traffic sign.

#### **10.24.3.6 Maintenance, Conformity and Fines**

**10.24.3.6.1** No sign shall be erected or altered except in conformity with the provisions herein. The sign shall be kept clean, neatly painted and free from all hazards such as, but not limited to, faulty wiring and loose fastenings, and shall be maintained at all times in such safe condition so as not to be detrimental to the public health or safety or detrimental to physical appearance or scenic or natural beauty of the community, or constitute a distraction or obstruction that may contribute to traffic accidents.

**10.25.3.6.2** The Code Enforcement Officer shall cause to be removed any sign that endangers public safety, including signs which are materially, electrically or structurally defective; signs abandoned by reason of vacancy for a period of 30 days or more except signs applicable to businesses temporarily suspended for less than 6 months due to a change of ownership; and signs for which no permit has been issued.

#### **10.24.4 General Sign Calculation Standards**

**10.24.4.1** The sign area shall include all lettering, wording, and accompanying design symbols, together with the background whether open or enclosed, on which they are displayed, including sections between paneled signs. Minimal supporting bracing or framework shall be excluded, but any decorative structure shall be included.

**10.24.4.2** Applied sign area shall include any background color of a different color than the natural color of the building. Where lettering and/or symbols of an applied sign are painted or applied directly on the natural surface and coloring of a building, the area shall be considered to be that area within a line drawn around the outside of all letters and symbols, plus 20% of that enclosed area.

**10.24.4.3** The sign area of complex signs shall be that within a line connecting all major points of the sign's circumference.

**10.24.4.4** Two-sided signs: Only one side of a sign shall be counted when determining the size of such a sign.

**10.24.4.5** Gross display area of all allowed signs per business shall not exceed 200 square feet or the combined maximum square footage allowed elsewhere in this Subsection, whichever is less.

#### **10.24.5 Specific Sign Design Standards**

**10.24.5.1** Applied Sign: An applied sign shall contain lettering of one color painted directly on the building material or have a background consisting of only one color. Applied signs shall be limited in size to 20 % of the area of the wall on which they are applied.

**10.24.5.2** Awning Sign: No awning shall extend over two-thirds of the sidewalk or 8 feet from the building face, whichever is greater. This awning shall not extend beyond the streetlights or trees and shall maintain 8 feet of clearance from the sidewalk for pedestrian safety. Signage or logo on an awning shall be located only on the awning valance and shall be limited in size to 20% of the valance length. This area of information shall count towards the total allowable gross display area for the business.

**10.24.5.3** Business Directory Sign: Business directory signs shall be required for multi-business developments. The goal is promote an orderly appearance, reduce visual clutter and minimize disorientation.

**10.24.5.3.1** The maximum gross display area of a business directory sign shall be 150 square feet. At least 10% of the gross display area shall be devoted to identifying the multi-business development by name (or by generic description such as "office park" or "shopping center" if no name has been assigned) and by street address. The numbers of the street address shall be no less than 11 inches high. The remaining gross display area shall be used only to identify and advertise uses within the multi-business development and shall be located below the name and street address of the multi-business development. The maximum mounting height from the ground for a business directory sign shall be 16 feet.

**10.24.5.3.2** Before the Code Enforcement Officer issues a permit for a business directory sign, the Code Enforcement Officer shall determine that the name of the multi-business development is identical to or likely to be confused with the name of any other development already existing in Gardiner.

**10.24.5.3.3** The individual uses within the multi-business development shall be listed in horizontal lines of uniform height no greater than 11 inches. The individual listing on the business directory sign shall not be included in the calculation for the gross display area for the individual businesses in the multi-business development.

**10.24.5.3.4** The listings of the individual businesses shall be in lettering of consistent size, color and style. The background color and material of each horizontal listing shall be the same.

**10.24.5.3.5** No free-standing signs other than a business directory sign shall be allowed in a multi-business development.

**10.24.5.3.6** A business directory sign shall be located on property within the multi-business development abutting the main public frontage, shall be visible from the main public frontage and shall be located at or near the driveway or street entrance(s) to the multi-business development in order to direct motorists to that entrance.

**10.24.5.3.7** When a multi-business development has more than one point of access, one business directory sign may be installed at each access point unless multiple signs would be visible from each location.

**10.24.5.3.8** Business directory signs shall comply with all applicable setback requirements.

**10.24.5.3.9** If provided, electrical service to a business directory sign shall be by underground wiring only.

**10.24.5.3.10** The individual businesses and the owner(s) of the multi-business development shall be responsible for any violations of this Subsection arising out of the erection or maintenance of signs within a multi-business development. The city may enforce the provisions of this Subsection against any or all such businesses and owners.

**10.24.5.4** Canopy Sign: A canopy sign shall be considered to be and shall meet the requirements of a wall sign.

**10.24.5.5** Directory Board: A directory board shall be considered to be one wall sign. Each listing shall be no larger than 2 square feet. The listing of the individual uses shall be in lettering of consistent size, color and style. The background color and material of each horizontal listing shall be the same. A directory board shall be permitted in the Downtown Historic District only if it is an interior sign or is incorporated into a projecting sign that otherwise meets the requirements for a directory board.

**10.24.5.6** Directional Sign: Directional signs shall be limited in size to 4 square feet and shall not be mounted higher than 6 feet from the ground.

**10.24.5.7** Free-standing Sign: Free-standing signs shall be mounted to no more than 2 poles. The pole(s) shall be affixed or anchored to the ground.

**10.24.5.7.1** Locations that have multiple occupancies shall be subject to the standards for multi-business developments. Otherwise, only one permanent, free-standing advertising sign shall be allowed per premise.

**10.24.5.7.2** Free-standing signs shall be limited in size to 30 square feet in the Central Business and Cobbossee Corridor Districts; to 4 square feet in the Professional/Residential District; to 20 square feet in the Educational/Community Recreation District; and to 50 square feet in the Planned Development and Planned Industrial/Commercial Districts.

**10.24.5.7.3** The maximum mounting height from the ground for free-standing signs shall be 16 feet in the Central Business and Cobbossee Corridor Districts; 8 feet in the Professional/Residential and Educational/Community Recreation Districts; and 20 feet in the Planned Development and Planned Industrial/Commercial Districts.

**10.24.5.8** Historic Marker: Historic markers are subject to review, as appropriate, in accordance with Historic Preservation Section of this Ordinance. A historic marker shall not be counted when calculating the maximum number of signs or the total gross display area of signs on the property.

**10.24.5.9** Home Occupation Sign: In any District, a home occupation may display one sign relating to goods or services rendered on the premises. Signs shall be applied, wall-mounted,

self-supporting, or projecting. They shall be limited in size to 3 square feet, and for self-supporting signs the maximum mounting height from the ground shall be 8 feet. A home occupation sign in Rural, Residential and High Density Residential Districts shall not be illuminated. In the Central Business District a home occupation sign above the first floor shall only be a window sign.

**10.24.5.10 Iconic Sign:** Iconic signs shall be limited in size to 44" x 18".

**10.24.5.11 Internally Illuminated Sign:** Internally illuminated signs shall be wall-mounted and shall contain individually illuminated letters only. The internally illuminated text shall be no taller than 3 feet in height and no more than 10% of the area of the façade on which it is mounted.

**10.24.5.12 Marquee Sign:** A marquee sign shall be limited in size to 40 square feet.

**10.24.5.13 Mural:** A mural shall be limited to the sides and back of the building. Murals shall require approval from the Gardiner City Council. If such a mural will be located within the Downtown Historic District, a Certificate of Appropriateness in accordance with this Ordinance also shall be required.

**10.24.5.14 Official Business Directional Sign:** Official Business Directory Signs shall comply with Me. Dept. of Trans., 17 229 CMR 200, except that no such sign shall be placed in any right-of-way directly abutting the Gardiner Common.

**10.24.5.14.1** Home occupations shall be prohibited from having an official business directional sign.

**10.24.5.15 Open" Flag:** Any retail business or service establishment (except home occupations) during the hours such business is open for customers may display one "Open" flag not exceeding 15 square feet. An "Open" flag shall not be displayed for businesses above the first floor. An "Open" flag shall not be counted when calculating the maximum number of signs or the total gross display area of signs on the property.

**10.24.5.16 Path/Trail Sign:** Path/Trail signs shall be limited in size to 4 square feet

**10.24.5.17 Projecting Sign:** Projecting signs shall not extend over a property line or sidewalk except in the Central Business District. No projecting sign shall overhang the public way beyond a line 3 feet from the building face, and its bottom shall not be mounted above the level of the second story windowsill. All signs overhanging the public way shall leave a minimum pedestrian clearance of 8 feet.

**10.24.5.17.1** Projecting signs shall be limited in size to 3 square feet in the High Density Residential District; to 4 square feet in the Professional/Residential District; to 20 square feet in the Planned Development District; and to 10 square feet in all other Districts where they are allowed.

**10.24.5.17.2** The maximum mounting height from the ground for projecting signs shall be 8 feet in the High Density Residential and Professional/Residential Districts, and 20 feet in the Planned Development District. In the Central Business and Cobbossee Corridor Districts, the bottom of a projecting sign shall not be mounted above the second-floor windowsill.

**10.24.5.18** Readerboard: Readerboard area shall count toward the calculation of gross display area. Readerboards shall be allowed only in association with gasoline station pumps, theatres, banks, schools or churches, where such uses are allowed, and shall be incorporated into the principal sign on the property.

**10.24.5.19** Sandwich Sign: A sandwich sign shall be made of wood or materials that appear to be wood. A sandwich sign may be displayed only when the premises it advertises are open for business. Such signs shall not impede pedestrian, bicycle or vehicular access. Any sandwich sign that is found to impede the safe movement of pedestrians, bicycles or vehicles may be ordered removed or relocated by the Code Enforcement Officer.

#### **10.24.5.20** Temporary Signs

**10.24.5.20.1** The Code Enforcement Officer may remove signs that have exceeded the temporary timeframes and/or the sizes set forth below. Temporary signs specified in this Subsection shall not be attached to fences, trees, utility poles, or the like, and shall not be placed in a position that will obstruct or impair vision or traffic or in any manner creating a hazard or disturbance to the health and welfare of the general public.

**10.24.5.20.2** Construction/Maintenance Site Sign: One construction/maintenance sign, attached to a building or fence or free-standing, may be erected and shall be removed within 30 days after completion of the project. The maximum mounting height from the ground for construction/maintenance site signs shall be 8 feet.

**10.24.5.20.3** Farm Stand Sign: Farm stand signs shall be limited in size to 10 square feet. They may have changeable copy not subject to review. Farm stand signs shall be displayed only during the season when the premises are open for business.

**10.24.5.20.4** Garage or Yard Sale Sign: Signs for one- or two-day sale events may be placed 48 hours before the sale and shall be removed within 2 days of the end of the sale event. Garage and yard sale signs shall be limited in size to 4 square feet.

**10.24.5.20.5** Political Sign: Signs bearing political messages relating to an election, primary or referendum may be placed in any district, except in a floodplain. Political signs may be placed in a public right-of-way in such locations as will not create a safety hazard. Political signs shall not be placed within a right-of-way or elsewhere prior to 6 weeks before the election, primary or referendum to which they relate and shall be removed by the candidate or political committee no later than 2 days after Election Day. Political signs shall be limited in size to 20 square feet.

**10.24.5.20.6** Real Estate Sign: One temporary real estate sign, attached to a building or free-standing, may be erected to advertise the sale, lease, or rental of the premises upon which the sign is located. The real estate sign shall be removed within 2 days following the sale, lease or rental of the premises. Real estate signs shall be limited in size to eight 8 square feet in the

Central Business, Cobbossee Corridor and Educational/Community Recreation Districts; to 4 square feet in the Professional/Residential, Rural, Residential Growth, and High Density Residential Districts; and to 32 square feet in the Planned Development and Planned Industrial/Commercial Districts.

**10.24.5.20.7 Sign Giving Notice:** Signs giving notice shall be permitted for a period not to exceed 30 days before an event and shall be removed by the person(s) who posted the signs within 2 days following the event.

**10.24.5.20.8 Temporary Advertising Sign:** Temporary advertising signs shall be permitted for a period not to exceed 30 days. A 3-month interval is required between applications for temporary advertising signs.

**10.24.5.21 Wall Sign:** A wall sign shall project no more than 6 inches from the building surface. No wall sign shall extend beyond the side of the building or cross the party wall dividing attached buildings. Wall signs shall be limited in size to 20% of the area of the wall on which they are mounted, except that in the Downtown Historic District they shall be limited to 10 square feet.

**10.24.5.22 Window Sign:** Window signs shall be the only sign type allowed for businesses or home occupations above the first floor in the Central Business District. Window signs shall be limited in size to 25% of the window area or the District standard for projecting signs, whichever is smaller.

## **10.24.6 Sign Location, Content, Illumination and Materials**

### **10.24.6.1 Location**

Notwithstanding other applicable criteria, signs shall meet the following location requirements:

**10.24.6.1.1** No sign shall be erected adjacent to any public way in such a manner as to obstruct clear and free vision or where, by reason of its position, shape, color, illumination or wording, the sign may interfere with, obstruct the view or be confused with any public traffic sign, signal or device or otherwise constitute a hazard to pedestrian or vehicular traffic.

**10.24.6.1.2** No sign or part thereof shall be located within 6 feet, horizontal distance, of a right-of-way or other lot line except in the Central Business District.

**10.24.6.1.3** No sign shall be placed so as to touch or otherwise interfere with overhead utilities, or so as to touch or interfere with such utilities in the event that the sign leans, falls, or otherwise becomes displaced.

### **10.24.6.2 Content**

**10.24.6.2.1** The word content of each sign shall be limited to the official business name and additional information which explains the nature of the business or profession. Signs shall have as few words as possible.

**10.24.6.2.2** No sign content shall interfere with, contradict or create a safety issue in relation to the city's enhanced 911 system.

### **10.24.6.3 Illumination**

**10.24.6.3.1** Externally illuminated signs shall be illuminated only by steady, stationary, shielded light sources that are directed solely on the sign and that do not cause glare in adjacent public ways or property for motorists, pedestrians, or neighboring premises.

**10.24.6.3.2** No illuminated signs shall be allowed in the Rural, Residential Growth and High Density Residential Districts.

**10.24.6.3.3** Internally illuminated, wall-mounted signs that contain only individually illuminated letters spelling the name of the business shall be allowed in the Planned Industrial/Commercial District. The internally illuminated text shall be no taller than 3 feet in height and no more than 10 % of the area of the façade on which it is mounted.

### **10.24.6.4 Materials and Appearance**

**10.24.6.4.1** Any sign that is made of material or treated as to cause glare that may impair the safe driving of vehicles or impact abutting properties shall be prohibited.

**10.24.6.4.2** In the Downtown Historic District, signs shall be made of traditional materials such as wood, brass, bronze, and slate, or of contemporary materials that have the appearance of traditional materials. In other districts, traditional materials, or contemporary materials that have the appearance of traditional materials, are encouraged. Signs constructed of exposed plywood shall be prohibited in all districts. Signs shall have a professional appearance and shall fit in with the architectural and other characteristics of the surrounding area.

**10.24.6.4.3** In the Downtown Historic District, projecting signs shall be mounted on black iron mounts using black iron fasteners. Wall signs shall be mounted with black iron fasteners only. Mounting shall be into mortar or other appropriate materials and shall not damage the surrounding brick, granite, or other building components.

## **10.25 Sign Use Table**

**Legend**

RP	Resource Protection	SLR	Shoreland Overlay Limited Residential
SL	Shoreland	RG	Residential Growth
R	Rural	HDR	High Density Residential
PR	Professional Residential	DHD	Downtown Historic District
PIC	Planned Industrial/Commercial	PD	Planned Development
CC	Cobbesee Corridor	ECR	Education/Community Recreation
CB	Central Business (Areas not located in the Downtown Historic District)		

	RP & SL	SLR	R	RG	HDR	PR	DHD	CB	PI C	PD	EC R	CC
Applied sign	N	N	N	N	N	N	N	Y	Y	Y	N	Y
Awning sign	N	N	N	N	N	N	Y	Y	Y	Y	N	Y
Business Directory	N	N	N	N	N	N	N	Y	Y	Y	N	Y
Directory Board	N	N	N	N	N	Y	#1	Y	Y	Y	Y	Y
Farm Stand sign	N	N	N	Y	N	N	N	Y	N	Y	N	N
Free-standing sign	N	N	Y	N	N	Y	N	Y	Y	Y	Y	Y
Internally Illuminated sign	N	N	N	N	N	N	N	N	Y	N	N	N
Gasoline pump canopy or marquee	N	N	N	N		N	N	N	N	N	N	N
Home Occupation sign	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y
Iconic sign	N	N	N	N	N	N	Y	Y	Y	Y	N	Y
Marquee sign	N	N	N	N	N	N	Y	Y	N	N	Y	Y
Mural	N	N	N	N	N	N	Y	Y	N	N	Y	Y
Path/Trail sign	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Projecting sign	N	N	Y	Y	Y	Y	Y	Y	Y	Y	N	Y
Wall sign	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Window sign	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

**Note #1 A directory board shall be allowed in the DHD only if it is an interior sign that otherwise meets the requirements of a directory board.**

**Note #2 Readerboards shall be regulated by property use, not district.**

Key to Sign Use Table

Y = Allowed with permit

N = Not Allowed

## **10.26 Fence Standards**

No fence shall be erected, constructed or re-constructed to a height of more than 6 feet when located between a property boundary line and the required side, rear or front setback.

The fence owner shall be responsible for locating the fence on his/her property.

The fence owner shall place all structural framing and posts facing towards his/her property.

No fence shall be erected, constructed or re-constructed so as to obstruct the sight lines at a driveway entrance/exit, street intersection or corner.