

SECTION 6 PROCEDURES AND STANDARDS FOR CODE ENFORCEMENT OFFICER, PLANNING BOARD AND SITE REVIEW APPLICATIONS

6.1 Purpose

The purpose of the permit review process is to provide a level of municipal review that is in proportion to the anticipated impact of a particular land use activity upon the city. The level of review is in part determined by the potential impact of the activity as it relates to the existing composition of the district, land features, purpose of the district, long-term development plans for the area, and whether or not the activity could easily exist in harmony with the dominant environmental and man-made features in the area.

6.2 Review Criteria

The applicant shall demonstrate that the proposed use or project meets the review criteria listed below. The Code Enforcement Officer and/or the Planning Board shall approve the application unless it makes a written finding that one or more of these criteria have not been met.

6.2.1 The application is complete and the review fee has been paid.

6.2.2 The proposal conforms to all the applicable provisions of this Ordinance.

6.2.3 The proposed activity will not result in water pollution, erosion or sedimentation to water bodies.

6.2.4 The proposal will provide for the adequate disposal of all wastewater and solid waste.

6.2.5 The proposal will not have an adverse impact upon wildlife habitat, unique natural areas, shoreline access or visual quality, scenic areas and archeological and historic resources.

6.2.6 The proposal will not have an adverse impact upon waterbodies and wetlands.

6.2.7 The proposal will provide for adequate storm water management.

6.2.8 The proposal will conform to all applicable Shoreland Zoning requirements.

6.2.9 The proposal will conform to all applicable Floodplain Management requirements.

6.2.10 The proposal will have sufficient water available to meet the needs of the development.

6.2.11 The proposal will not adversely affect groundwater quality or quantity.

6.2.12 The proposal will provide for safe and adequate vehicle and pedestrian circulation in the development.

6.2.13 The proposal will not result in a reduction of the quality of any municipal service due to an inability to serve the needs of the development.

6.3 Site Inspection

The Code Enforcement Officer and /or the Planning Board may perform an on-site inspection of the proposed project to obtain knowledge about the site and the surrounding area.

6.4 Rights Not Vested

The submittal of the application to the Code Enforcement Officer to review for a complete application shall not be considered the start of the review process for the purposes of bringing the application under the protection of Title 1 MRSA Section 302. The formal review process shall begin upon notification to the applicant that a complete application has been received.

6.5 Performance Guarantee

6.5.1 The Planning Board shall require a performance guarantee for the construction of any proposed road.

6.5.2 The Planning Board may require a performance guarantee for other public improvements such as storm water control features, erosion control, essential services and utilities, buffer and screening, and parking when it determines that the construction of such improvements will have an impact upon the development and/or the surrounding area.

6.6 Conditions

6.6.1 Upon consideration of the review criteria, the Planning Board or the Code Enforcement Officer may attach such conditions to the proposed application that it finds necessary to further the purposes of this Ordinance. Conditions are limited to further address items already contained in this Ordinance. A condition may not be imposed to regulate an item not specifically addressed in this Ordinance

6.6.2 In determining whether conditions are appropriate or necessary, the Planning Board or the Code Enforcement Officer shall consider the unique features of the site and surrounding conditions, proposed use, and the proposed structure. A written finding of fact shall be created stating the unique features of the proposal and how the conditions will further the purposes of this Ordinance.

6.6.3 All conditions shall be listed in the permit and shall be made enforceable under this Ordinance.

6.7 Additional Studies

The Planning Board or the Code Enforcement Officer may require the applicant to perform additional studies or hire a consultant to review the application or portions thereof. The cost to perform additional studies or hire a consultant shall be borne by the applicant.

6.8 Decisions

After review of a complete application, the Code Enforcement Officer and/or the Planning Board shall determine whether the application meets the review criteria. The Code Enforcement Officer

and /or the Planning Board shall vote to approve the application, approve the application with conditions or deny the application. A written decision shall be delivered to the applicant.

6.9 Survey Requirements

The Code Enforcement Officer or the Planning Board may require the applicant to submit a survey of the perimeter of the tract, giving complete descriptive data by bearing and distances, made and certified by a Registered Land Surveyor. The survey may be required for the construction of new structures or any construction proposed on a undeveloped parcel or tract of land, whenever the Code Enforcement Officer or the Planning Board finds that a survey is necessary to show compliance with the requirements of this Ordinance due to the size of the lot, location of the lot or the placement of existing or proposed structures on the lot or neighboring properties.

6.10 Public Hearing Requirements

6.10.1 The Planning Board shall hold a public hearing on all Planning Board and Site Review Applications to receive public comment and information concerning the application.

6.10.2 The Planning Board shall hold a public hearing within 60 days after the determination that the application is complete.

6.10.3 The applicant shall be responsible for making all the public hearing notices.

6.10.4 A notice of the public hearing shall be published in a newspaper having general circulation in the municipality. The notice shall be published 2 times, not more than 14 days before and not less than 7 days before the public hearing. The notice shall state the purpose of the hearing and give the date, time and place of the hearing. The applicant shall give a copy of the two notices to the Planning Board at the public hearing.

6.10.5 The applicant shall notify, by certified mail, the owners of all property within 200 feet of the proposed development at least 14 days, and no more than 30 days in advance of the public hearing. The notice shall state the purpose of the hearing and give the date, time and place of the hearing. The applicant shall give copies of the letter and certified receipts to the Planning Board at the public hearing.

6.10.6 The owners of property shall be considered those against whom taxes are assessed. Failure of an abutter to receive a notice shall not invalidate the public hearing, nor shall it require the Board to schedule a new public hearing.

6.10.7 The Planning Board may vote to continue the public hearing to receive additional public comment or information concerning the application. The Board is not required to meet the notice requirements listed above for the continued public hearing.

6.11 Code Enforcement Officer Review

6.11.1 This section shall apply to all land use activities that require a Code Enforcement Officer review and other activities as indicated in this Ordinance.

6.11.2 Application Procedure

6.11.2.1 Within 14 days of receiving an application, the Code Enforcement Officer shall determine if the application is complete and notify the applicant in writing that the application is complete, or if the application is incomplete, the specified additional material needed to make the application complete. The applicant shall be responsible for submitting any incomplete information to the Code Enforcement Officer.

6.11.2.2 Within 14 days of determining that the application is complete, the Code Enforcement Officer shall render a final decision on the application and issue the appropriate permit.

6.11.3 Submission Requirements

An application shall be made on the forms provided by the city and shall contain the following:

6.11.3.1 Name, address and telephone number of the applicant, applicant's agent, design professionals and contractors.

6.11.3.2 Property location, map and lot, and a copy of the tax map showing the property and surrounding location.

6.11.3.3 Verification of the applicant's right, title, and interest in the property.

6.11.3.4 Receipt of the application fee and other applicable fees as required in 6.7.

6.11.3.5 Estimated cost of the proposal and a proposed construction schedule including beginning and completion dates.

6.11.3.6 A complete written description of the proposed project including all other local, state and federal permits required for the project.

6.11.3.7 One or more site maps drawn to scale showing the location, property boundaries, elevations, existing and proposed uses, existing and proposed structures, parking areas, roads, driveways, entrances, storm water control features, erosion control features, setbacks, buffers and screening, rights-of-way, easements, essential services and utilities, waterbodies, and all other features necessary to show compliance with this Ordinance.

6.11.3.8 Building and structure drawings showing the footprint, height, front, side and rear profiles and all design features necessary to show compliance with this Ordinance.

6.11.3.9 Any other information necessary to show that the proposal complies with the applicable provisions of this Ordinance.

6.11.3.10 All other required city permit applications necessary for the proposal.

6.12 Planning Board Permit Review

6.12.1 This section shall apply to all activities that require Planning Board Review.

6.12.2 Application Procedure

6.12.2.1 Within 14 days of receiving an application for Planning Board Review, the Code Enforcement Officer shall determine if the application is complete and notify the applicant that the application is complete, or if the application is incomplete, the specified additional material

needed to make the application complete. The applicant shall be responsible for submitting any incomplete information to the Code Enforcement Officer.

6.12.2.2 After determining that the application is complete, the Code Enforcement Officer shall place the application on the agenda of the next scheduled Planning Board meeting, subject to meeting all the public hearing notice and application submittal requirements. In no case shall a complete application take longer than 60 days to be placed on the Planning Board Agenda.

6.12.2.3 The applicant shall, at least 20 days before the scheduled public hearing, submit 12 copies of the application including all maps and attachments.

6.12.2.4 Within 35 days of the public hearing or within another time as may be mutually agreed to by the Board and the applicant, the Planning Board shall make a decision on the application. The Planning Board may extend the review time period for the following: to conduct a site visit, to re-schedule a site visit to another time due to snow cover, for the processing of a performance guarantee, to request additional materials or to have additional reviews or studies conducted.

6.12.2.5 The Code Enforcement Officer shall issue a permit upon approval of the application by the Planning Board.

6.12.3 Submission Requirements

6.12.3.1 An application for Planning Board Review shall follow the submission requirements for Code Enforcement Officer Review.

6.13 Site Review

6.13.1 Purpose

The purposes of site review are to promote the public health, safety and general welfare by requiring plans to be submitted and reviewed by the Planning Board for certain uses or activities which have a potential for significant impact upon on the city or neighborhood, but which when properly designed with respect to their surroundings can be acceptable uses. The review process is designed to ensure orderly and beneficial development and the most appropriate use of land in keeping with the purposes of the district in which the project is proposed.

6.13.2 Application Procedure

6.13.2.1 An application for Site Review shall follow the procedures for Planning Board Review.

6.13.2.2 An applicant for site review may request an informal sketch plan meeting with the Planning Board prior to submitting a formal application. The applicant requesting an informal meeting shall inform the Code Enforcement Officer at least 14 days prior to a scheduled meeting of the Planning Board and ask to be placed on the Board's agenda. The Code Enforcement Officer shall place the request on the Board's agenda for consideration. If the Planning Board agenda is extensive, the Code Enforcement Officer may schedule the sketch plan consideration for the following regularly scheduled meeting of the Planning Board. The applicant is not required to meet any submission requirements for the sketch plan meeting.

6.13.3 Submission Requirements

6.13.3.1 An application for Site Review shall include the submissions required for Planning Board Review.

6.13.3.2 Additional application submissions shall be submitted in order to show compliance with the Site Review Criteria.

6.13.3.3 The site map required in 6.11.3.6 shall be prepared by a professional engineer or architect.

6.13.3.4 Elevation drawings prepared by a professional engineer or architect shall show the façade and roof of the side of all proposed structures facing the road, and the side facing the customer entrance. The drawings shall clearly illustrate the profile of the roof. All façade and roof materials shall be identified including color and texture.

6.13.3.5 Photographs or similar photo representations or drawings shall show the architectural design and context of the proposed structures and adjacent properties on the both sides of the road.

6.13.4 Site Review Criteria

6.13.4.1 All applications for Site Review shall meet the Review Criteria contained in 6.2 and the additional criteria contained in this section.

6.13.4.2 The proposal shall be sensitive to the character of the site, neighborhood and the district in which it is located by considering the following:

6.13.4.2.1 Land use activities.

6.13.4.2.2 Scale, bulk, setbacks and height of existing structures.

6.13.4.2.3 Architectural design.

6.13.4.2.4 The placement and orientation of structures on the site.

6.13.4.2.5 The building density of the neighborhood.

6.13.4.3 The proposal will not have an adverse impact upon neighboring properties.

6.13.4.4 The proposal contains landscaping, buffering, and screening elements which provide privacy to adjacent land uses.

6.13.4.5 The proposal provides for the safe flow of traffic within the site and onto the roadway. The traffic generated by the site does not exceed the capacity of the public road providing access to the site.

6.13.4.6 The building site and roadway design shall harmonize with the existing topography and conserve natural surroundings and vegetation to the greatest practical extent such that filling, excavation and earth moving is kept to a minimum.

6.13.4.7 The proposal shall reflect the natural capabilities of the site to support the development. Buildings, structures, and other features should be located in the areas of the site most suitable for development. Environmentally sensitive areas including waterbodies, steep slopes, floodplains, wetlands, significant plant and wildlife habitats, scenic areas, aquifers and archeological and historic resources shall be preserved to the maximum extent.

6.13.4.8 The proposal shall provide for a system of pedestrian ways within the site appropriate to the development and the surrounding area. The system shall connect building entrances/exits with the parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project.

6.13.4.9 In urban and built-up areas, buildings should be placed closer to the road in conformance with setback requirements and parking areas should be located at the side or rear. In rural or sparsely built areas, buildings shall be set well back from the road to respect the rural character of the area. Front parking areas shall be landscaped to reflect the rural area.

6.13.4.10 Proposals with multiple buildings shall be designed and placed to utilize common parking areas to the greatest practical extent.

6.13.4.11 The proposed setback and alignment of buildings shall mirror the existing pattern in the neighborhood to the greatest practical extent.

6.13.4.12 Building entrances shall be oriented to the public road unless the layout or grouping of the buildings justifies another approach.

6.13.4.13 Exterior building walls greater than 50 feet in length which can be viewed from the public road shall be designed with a combination of architectural features with a variety of building materials and shall include landscaping abutting the wall for at least 50% of the wall.

6.13.4.14 Building materials shall match the character of those commonly found in the City and surrounding area and include brick, wood, native stone, tinted /textured concrete block or glass products. Materials such as smooth-faced concrete block or concrete panels and steel panels shall only be used as accent features. Materials shall be of low reflectance, subtle, neutral or earth tone colors. High-intensity and bright colors are prohibited except when used as trim or accent.

Building materials for industrial or commercial buildings located within an approved industrial park or subdivision are not required to follow this provision.

6.13.4.15 Building entrances and where the development intersects with the public road and sidewalk shall be provided with amenities appropriate for the area such as benches, bike racks, bus stop locations and other similar landscape features.

6.13.4.16 A proposal which includes drive-through service shall be designed to minimize impact on the neighborhood. Drive-through lanes shall be fully screened from adjacent residential properties and communication systems shall not be audible on adjacent properties.

6.13.4.17 The applicant has the adequate financial and technical capacity to meet the provisions of this Ordinance.

6.14 Contract Zoning

6.14.1 Authority

In accordance with 30-A MRSA Section 4352, Subsection 8, as amended from time to time, property in the City of Gardiner may be rezoned by means of a process known as contract zoning.

6.14.2 Purpose

The purposes of this section is to provide for the reasonable regulation of residential, commercial, industrial, and civic institutional uses of land and structures, and to provide for the orderly development thereof within the City of Gardiner on occasion, where competing and incompatible uses conflict, traditional zoning methods and procedures, such as variances and site plan approval, are inadequate. In these special situations, more flexible and adaptable zoning methods are needed to permit differing land uses in both developed and undeveloped areas, and at the same time recognize the effects of change.

In consideration of a change in zoning classification for a particular property or group of properties, it may be determined that public necessity, convenience, or the general welfare require that provision be made to impose certain limitations or restrictions on the use or development of the property. Such conditions are deemed necessary to protect the best interests of the property owner, the surrounding property owners and the neighborhood, all other property owners and citizens of the city, and to secure appropriate development consistent with the city's

comprehensive plan. The provisions of this section shall not exempt the use or development of any property from other minimum standards or requirements otherwise provided in this Ordinance, or as otherwise provided by law.

6.14.3 Definition

Contract zoning is the process by which the property owner, in consideration of the rezoning of his property agrees to the imposition of certain conditions or restrictions not imposed on other similarly zoned properties.

6.14.4 Applicability

The use of contract zoning shall apply to non-conforming uses. A non-conforming use which was discontinued but not changed to a conforming use is also eligible.

6.14.5 Mandatory Standards

Any amendment to the boundaries of a zoning district adopted pursuant to this section shall:

- 6.14.5.1** Be consistent with the comprehensive plan of the City of Gardiner, as amended;
- 6.14.5.2** Be consistent with the existing and permitted uses within the rezoned district;
- 6.14.5.3** The request for contract zoning consideration must be initiated by the property owner;
- 6.14.5.4** Only include conditions and restrictions which relate to the physical development or operation of the property;
- 6.14.5.5** Be subject to an agreement executed by authorized representatives of both the property owner and the city providing for the implementation and enforcement of all terms and conditions imposed and agreed to by the parties pursuant to this section.
- 6.14.5.6** Allowed uses in the district which the property is located are not viable for the site. The applicant shall demonstrate that contract zoning is necessary and the only option available to use property.

6.14.6 Discretionary Conditions

Any zone change adopted pursuant to this section may include reasonable conditions or restrictions such as, but not limited to, the following:

- 6.14.6.1** Limitations on the number and type of authorized uses of the property;
- 6.14.6.2** Limitations on the height, exterior appearance and lot coverage of any structure or structures built on the property;
- 6.14.6.3** Increased setbacks and side yards for any structure or structures built on the property;
- 6.14.6.4** The installation, operation and maintenance of physical improvements for the convenience of the general public, including but not limited to, off-street parking lots, traffic control devices, fencing, shrubbery and screening;
- 6.14.6.5** The creation, operation and maintenance of open space areas or buffer zones;
- 6.14.6.6** The dedication or conveyance of property for public purpose, including but not limited to, streets, scenic and conservation easements, parks and utility systems.

6.14.7 Procedure

All proposed amendments to this Ordinance being considered under this section shall be processed in accordance with 30-A MRSA section 4503, and the following provisions:

- 6.14.7.1** An application for contract zoning shall be submitted to the Planning Board pursuant to the requirements for Site Review in Section 6.13 of this Ordinance.

6.14.7.2 The Planning Board shall make a decision on the application according to the criteria for site review and the mandatory and discretionary conditions contained in this section. The decision of the Planning Board shall be to recommend the application, recommend the application with conditions or not to recommend the application.

6.14.7.3 The Planning Board shall submit their decision to the City Council for consideration according to the procedure contained in Section 1.8 of this Ordinance. The City Council may modify conditions recommended by the Planning Board or establish new conditions pursuant to the requirements of this section.