

SECTION 6 PROCEDURES AND STANDARDS FOR CODE ENFORCEMENT OFFICER, PLANNING BOARD AND SITE PLAN REVIEW APPLICATIONS *(Adopted: September 4, 2019 / Effective: October 4, 2019)*

6.1 Purpose

The purpose of the review process established by this ordinance is to provide a level of municipal scrutiny that is proportionate to the anticipated impact upon the City of a particular proposed land use. The level of each review is to be determined by the potential impact of the proposal upon any district, its type, its land features, any existing long-term development plans for the area, and whether or not the proposed activity could exist harmoniously with the dominant environmental and man-made features of the area to be occupied or used.

6.2 Classification of Projects for Review

The ordinance establishes three categories for the review of land use activities. This section establishes the process for determining which category of review shall apply to each proposed activity.

6.2.1 Prior to submitting an application for review, the applicant and/or his/her representative is required to meet with the Code Enforcement Officer to discuss the project, the review process, and the potential classification of the project. This meeting shall be informational and no binding decisions shall be made at this meeting. At this meeting, the applicant shall provide the Code Enforcement Officer with information on the location of the project, the proposed use of the property, and proposed development activities.

6.2.2 Upon receipt of an application, the Code Enforcement Officer shall review the application and shall classify the project as subject to:

1. Code Enforcement Officer Review
2. Planning Board Review
3. Site Plan Review

6.2.3 In determining the classification of an application for review, the Code Enforcement Officer shall assign the project to the highest level of review based on the following criteria:

6.2.3.1 Activities Subject to Code Enforcement Officer Review

Land use activities that: 1) are designated as Code Enforcement Officer Review in the Land Use Table in Section 7.6, or 2) are designated as Permitted with Review in the Land Use Table in Section 7.6 and that do not meet the criteria for either Site Plan Review or Planning Board Review and that meet any of the following criteria when combined with any other development on the parcel in the previous five (5) years shall be reviewed in accordance with the Code Enforcement Officer Review procedures and approval criteria:

6.2.3.1.1 The change of use of an existing building that does not increase the size of the building or the amount of impervious surface on the lot and that does not increase the intensity of use of the property; or

6.2.3.1.2 An expansion of an existing building that does not increase the gross floor area of the building by more than 500 square feet or 10% of the pre-existing gross floor area whichever is greater; or

6.2.3.1.3 An increase in the amount of impervious surface on a developed site that does not increase the amount of impervious surface by more than 1000 square feet or 10% of the pre-existing impervious surface area whichever is greater; or

6.2.3.1.4 Any other activity that is designated as Permitted with Review in the Land Use Table that does not trigger Planning Board or Site Plan Review.

6.2.3.2 Activities Subject to Planning Board Review

Land use activities that are designated as Permitted with Review in the Land Use Table in Section 7.6 that do not meet the criteria for Site Plan Review and that meet any of the following criteria when combined with any other development on the parcel in the previous five (5) years shall be reviewed in accordance with the Planning Board Review procedures and approval criteria:

6.2.3.2.1 An expansion of an existing building that increases the gross floor area of the building by more than 500 square feet or 10% of the pre-existing gross floor area whichever is greater but not more than 5,000 square feet; or

6.2.3.2.2 An increase in the amount of impervious surface on a developed site that increases the amount of impervious surface by more than 1000 square feet or 10% of the pre-existing impervious surface area whichever is greater but not more than 10,000 square feet; or

6.2.3.2.3 The construction of more than 10,000 square feet of impervious surface; or

6.2.3.2.4 The construction of a non-residential building with not more than 5,000 square feet of gross floor area; or

6.2.3.2.5 The construction of multi-family or senior housing with fewer than five (5) dwelling units; or

6.2.3.2.6 Any activity that disturbs more than 20,000 square feet of land; or

6.2.3.2.7 Any activity subject to review that is located on a lot that abuts a lot that is used for a single-family or two-family dwelling as of the date the application is filed with the Code Enforcement Officer; or

6.2.3.2.8 The change of use of an existing building that does not increase the size of the building or the amount of impervious surface on the lot if the new use will increase the intensity of use of the property based on any one of the following:

- a. An increase in the number of peak hour vehicle trips compared to the previous use
- b. An increase in the number of truck trips compared to the prior use
- c. An increase in levels of noise compared to the prior use
- d. Operation of the new use between 7:00 PM and 7:00 AM
- e. The installation of new exterior lighting

6.2.3.3 Activities Subject to Site Plan Review

Land use activities that are designated as Permitted with Review in the Land Use Table in Section 7.6 and that meet any of the following criteria when combined with any other development on the parcel in the previous five (5) years shall be reviewed in accordance with the Site Plan Review procedures and approval criteria:

- 6.2.3.3.1 An expansion of an existing building that increases the gross floor area of the building by more than 5,000 square feet; or
- 6.2.3.3.2 An increase in the amount of impervious surface on a developed site that increases the amount of impervious surface by more than 10,000 square feet; or
- 6.2.3.3.3 The construction of more than 20,000 square feet of impervious surface; or
- 6.2.3.3.4 The construction of a non-residential building with more than 5,000 square feet of gross floor area; or
- 6.2.3.3.5 The construction of multi-family or senior housing with five (5) or more dwelling units; or
- 6.2.3.3.6 Any activity that disturbs more than 40,000 square feet of land.

6.3 Submission Requirements

An applicant shall submit a completed application to the CEO. The application shall contain the following information based on the classification of the project unless the applicant is requesting that the CEO or Planning Board grant a waiver for the submission of specific items in accordance with 6.3.1.

6.3.1 Waiver of Submission Requirements

The CEO or Planning Board may, for good cause shown and only upon the written request of an applicant specifically stating the reasons therefor, waive any of the application requirements set forth in Sections 6.3.2, 6.3.3 and 6.3.4 provided such waiver will not unduly restrict the review process. The CEO or Planning Board may condition such a waiver on the applicant's compliance with alternative requirements. Good cause may include the CEO or Planning Board's finding that particular submissions are inapplicable, unnecessary, or inappropriate for a complete review. Notwithstanding the waiver of a submission requirement, the CEO or Planning Board may, at any later point in the review process, rescind such waiver if it appears that the submission previously waived is necessary for an adequate review. A request for a submission previously waived shall not affect the pending status of an application.

6.3.2 Basic Information for All Applications

An application for CEO Review, Planning Board Review, or Site Plan Review shall contain the following:

- 6.3.2.1 Name, address and telephone number of the applicant, applicant's agent, design professionals and contractors.
- 6.3.2.2 Property location, map and lot number, and a copy of the tax map showing the property and surrounding location.
- 6.3.2.3 Verification of the applicant's right, title, and interest in the property.
- 6.3.2.4 The appropriate application fee and other applicable fees.
- 6.3.2.5 Estimated cost of the proposal and a proposed construction schedule including beginning and completion dates.

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

6.3.2.7 One or more site maps drawn to scale showing the following:

6.3.2.7.1 The existing conditions on the property including:

1. The property boundaries;
2. The zoning district and zoning district boundaries if the property is located in more than one zone;
3. The location of required setbacks, buffers and other restrictions;
4. The location of any easements or rights-of-way;
5. The locations of existing structures and other existing improvements on the property including a description of the current use of the property;
6. The locations of existing utilities on and adjacent to the property including sewers, water mains, stormwater facilities, gas mains, and electric and other telecommunication facilities;
7. The location of the nearest source of a fire protection water supply (hydrant, fire pond, etc.)
8. The general topography of the property indicating the general slope of the land and drainage patterns. The CEO and/or Planning Board may require a topographic survey of all or a portion of the property for projects involving the construction of new or expanded structures or site modifications.
9. The location, type and extent of any natural resources on the property including wetlands, vernal pools, floodplains, waterbodies, significant wildlife habitats, rare or endangered plants or animals, or similar resources
10. The location and type of any identified historic or archeological resource on the property.
11. A preliminary assessment of the potential archeological significance of the site if the project involves excavation that disturbs the ground and is located in an area that has been identified as having the potential for containing archeological resources or involves an identified historic property. This assessment shall be conducted by a qualified professional archeologist approved by the Maine Historic Preservation Commission.

6.3.2.7.2 The proposed development activity for which approval is requested including:

1. The estimated demand for water supply and sewage disposal together with the proposed location and provisions for water supply and wastewater disposal including evidence of soil suitability if on-site sewage disposal is proposed;
2. The direction of proposed surface water drainage across the site and from the site together with the proposed location of all stormwater facilities and evidence of their adequacy;
3. The location, dimensions, and ground floor elevations of all proposed buildings and structures including expansions or modifications to existing buildings that change the footprint of the building;
4. The location, dimensions and materials to be used in the construction of drives, parking areas, sidewalks and similar facilities;
5. The proposed flow of vehicular and pedestrian traffic into and through the property;
6. The location and details for any signs proposed to be install or altered;
7. The location and details for any exterior lighting proposed to be installed or altered;
8. Provisions for landscaping and buffering; and

9. Any other information necessary to demonstrate compliance with the review criteria or other standards of the Land Use Ordinance.

6.3.2.8 Evidence that the applicant has or can obtain all required permits necessary for the proposal.

6.3.3 Additional Information for Applications for Planning Board Review and Site Plan Review

In addition to the information required for all applications in accordance with **6.3.2**, an application for a project that requires Planning Board Review or Site Plan Review shall contain the following additional information:

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

6.3.3.2 An estimate of the peak hour and average daily traffic to be generated by the project and evidence that the additional traffic can be safely accommodated on the adjacent streets;

6.3.3.3 Erosion and sedimentation control plan;

6.3.3.4 A stormwater management plan demonstrating how any increased runoff from the site will be handled if the project requires a stormwater permit from the Maine Department of Environmental Protection or if the Planning Board determines that such information is necessary based on the scale of the project and the existing conditions in the vicinity of the project.

6.3.3.5 If the property contains an identified historic or archeological resource, the application shall include an analysis explaining how the resource was taken into account in the project planning and how any negative consequences of the proposed development activity on the resource will be mitigated.

6.3.4 Additional Information for Applications for Site Plan Review

In addition to the information required for all applications in accordance with **6.3.2** and the additional information required by **6.3.3**, an application for a project that requires Site Plan Review shall contain the following additional information:

6.3.4.1 The site map(s) required in 6.3.2.7 shall be prepared and sealed by a professional engineer or architect.

6.3.4.2 Elevation drawings prepared by a professional engineer or architect showing 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.

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

6.3.5 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.

6.3.6 Additional Studies

The Code Enforcement Officer or the Planning Board may require the applicant to perform additional studies or may 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.

6.4 Review Procedures

6.4.1 Rights Not Vested

The submittal of an application to the CEO for review shall not constitute the start of the review process for the purpose of bringing an application under the provisions of 1 M.R.S.A. Section 302. The formal review process shall commence upon notification to an applicant that a complete application has been received.

6.4.2 Site Inspection

The Code Enforcement Officer and/or the Planning Board may perform on-site inspections of any proposed project to learn more about the site and its surroundings.

6.4.3 Code Enforcement Officer Review

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

6.4.3.1 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.

6.4.3.2 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.

6.4.4 Planning Board Review

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

6.4.4.1 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.

6.4.4.2 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.

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

6.4.4.4 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.

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

6.4.5 Site Plan Review

This section shall apply to all activities that require Site Plan Review.

6.4.5.1 An applicant for site plan 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 shall not be required to meet any submission requirements for the sketch plan meeting.

6.4.5.2 An application for Site Plan Review shall follow the procedures for Planning Board Review (see 6.4.4).

6.4.6 Public Hearing Requirements

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

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

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

6.4.6.4 A notice of the public hearing shall be published in a newspaper having general circulation in the municipality. The notice shall be published 1 time, 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 notice to the Planning Board at the public hearing.

6.4.6.5 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.

6.4.6.6 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.

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

6.4.7 Decisions

6.4.7.1 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.

6.4.8 Conditions of Approval

6.4.8.1 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.

6.4.8.2 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.

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

6.4.9 Performance Guarantee

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

6.4.9.2 The Planning Board may require a performance guarantee for other public improvements such as storm water control features, erosion control, essential services and utilities, buffers 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.

6.5 Review Criteria

An applicant shall demonstrate that the proposed use or uses meet the review criteria listed below for the type of application. The Code Enforcement Officer and/or the Planning Board shall approve an application unless one or the other of them makes a written finding that one or more of the following criteria have not been met.

6.5.1 Review Criteria for All Applications

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

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

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

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

6.5.1.5 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.

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

6.5.1.7 The proposal will provide for adequate storm water management.

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

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

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

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

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

6.5.1.13 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.

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

6.5.1.15 If the property contains an identified historic or archeological resource, the proposal shall include appropriate measures for protecting the resource, including but not limited to modification of the proposed design of the site, the timing of construction, and limiting the extent of excavation.

6.5.2 Additional Site Plan Review Criteria

All applications for Site Plan Review shall meet the Review Criteria contained in 6.5.1 and the additional criteria contained in this section.

6.5.2.1. The proposal will be sensitive to the character of the site, neighborhood and the district in which it is located including conformance to any zoning district specific design standards;

6.5.2.2 The proposal will not have an adverse impact upon neighboring properties;

6.5.2.3 The proposal contains landscaping, buffering, and screening elements which provide privacy to adjacent land uses in accordance with the appropriate performance standards;

6.5.2.4 The building site and roadway design will 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;

6.5.2.5 The proposal will 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;

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

6.5.2.7 In urban and built-up areas, buildings will be placed closer to the road in conformance with setback requirements and parking areas shall be located at the side or rear of the building;

6.5.2.8 Proposals with multiple buildings will be designed and placed to utilize common parking areas to the greatest practical extent;

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

6.5.2.10 Exterior building walls greater than 50 feet in length which can be viewed from the public road will 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 length of the wall.

6.5.2.11 Building materials will match the character of those commonly found in the City and surrounding area including brick, wood, native stone, tinted/textured concrete block or glass products. Materials such as smooth-faced concrete block or concrete panels and steel panels will only be used as accent features. Materials shall be of low reflectance, subtle, neutral or earth tone colors. High-intensity and bright colors shall be 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 be required to comply with this provision.

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

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

Legal Ad below to run 1 day in the Legal Ad section of the Kennebec Journal **no earlier than 14 days prior to the meeting and no later than 7 days prior to the meeting.**

City of Gardiner
Planning Board Meeting
Tuesday, *date* @ 6:00 PM
Gardiner City Hall Council Chambers

Public Hearing – (Planning Board Review or Site Plan Review)

Name, Applicant is seeking Planning Board approval to “project/type of business”. The property, located at 000 Street name, is within the Zone name Zoning District, City Tax Map 00, Lot 00.

A copy of the application is available at the Code Enforcement Office during regular business hours. Oral or written comments concerning the application may be presented prior to the meeting to the Code Enforcement Office or at the public hearing.

*A copy of the sample memo below must be sent to each of the abutters on the attached list by **CERTIFIED MAIL no less than 14 days and no more than 30 days prior to the meeting**. A copy of the green/white certification slips must be turned in to the Code Enforcement prior to the day of the meeting.*

TO: Abutting property owners
FROM: Applicant name
SUBJECT: Planning Board Meeting /Public Hearing
Subdivision Plan Revision

I have submitted an application to the Planning Board seeking approval to describe project type/business located at street address. It is within the zone name Zoning District, City Tax Map 000, Lot 000. The date of the meeting is meeting date at 6:00 PM at the City of Gardiner City Hall Council Chambers at 6 Church St, Gardiner, ME 04345.

A copy of my application is available at the Code Enforcement Office during regular business hours. Oral or written comments concerning my application may be presented prior to the meeting to the Code Enforcement Office or at the public hearing.