

*City of Augusta, ME
Friday, February 26, 2016*

Chapter 300. Land Use

Part 4. SUBDIVISION AND SITE PLAN REVIEW

§ 300-411. Technical standards.

The City of Augusta Technical Standards Handbook shall apply to all developments subject to review under the regulations of this chapter. See § **300-602**.

*City of Augusta, ME
Friday, February 26, 2016*

Chapter 300. Land Use

Part 5. PERFORMANCE STANDARDS

Article VI. General Zoning Standards

§ 300-505. Driveway and access standards.

See City of Augusta Technical Standards Handbook.

City of Augusta, ME
Friday, February 26, 2016

Chapter 300. Land Use

Part 5. PERFORMANCE STANDARDS

Article VI. General Zoning Standards

§ 300-514. Air and water quality standards.

A. Air quality.

[Amended 12-1-2011 by Ord. No. 116]

(1) Noise standards.

[Amended 2-2-2012 by Ord. No. 11-149]

(a) Applicability.

[1] Not applicable. This subsection shall not apply to the following:

- [a] Outdoor entertainment/music. Events authorized via any municipal permit/license shall be exempt for normal operation hours of 7:00 a.m. to 10:00 p.m. Regular operations beyond 10:00 p.m. shall require authorization through a Planning Board conditional use permit.
- [b] Recreational activities. Events otherwise allowed by law, for which any necessary permit has been granted by the City, including but not limited to sporting events, parades, and fireworks displays, shall be exempt.
- [c] Power equipment and maintenance equipment. Such equipment when operated during between 7:00 a.m. to 10:00 p.m. shall be exempt. Such equipment includes but is not limited to power mowers, chainsaws, power tools, leaf blowers, and hedge trimmers. Snowblowers shall be exempt at all times of the day.
- [d] Generators. Generator noise when operated during any time of the day during a power outage shall be exempt. Generators operated between 7:00 a.m. and 10:00 p.m. when there is no power outage shall be exempt. Medical facility generators shall be exempt at all time of the day, regardless of power outage conditions.
- [e] Safety signals, warning devices, emergency pressure relief valve. Noise from such devices shall be exempt.
- [f] Motor vehicle refueling station speakers. Noise for speakers required by local, state, or federal law at refueling pumps shall be exempt, provided they are used only to allow employees to communicate directly with customers at refueling pumps in accordance with state or federal laws, or for other purposes mandated by law.
- [g] Emergency vehicles. Any siren, whistle, horn, or bell lawfully used by emergency vehicles or emergency personnel shall be exempt.

[h]

Maintenance vehicles. Noise generated by municipal and private maintenance vehicles during the removal of snow, debris, or refuse shall be exempt.

- [i] School or church chimes and bells. Any bell or chime from any school or church shall be exempt.
 - [j] Construction, development, and maintenance. Sounds emanating from construction, development and maintenance activities conducted between 7:00 a.m. and 10:00 p.m. and conducted in compliance with all other sections of this chapter and all other applicable ordinances shall be exempt.
 - [k] Agriculture. Noise generated by an agricultural use shall be exempt between the hours of 4:00 a.m. and 11:00 p.m.
 - [l] Forestry and other natural resources uses. Noise generated by forestry or other natural resources uses shall be exempt between the hours of 6:00 a.m. and 10:00 p.m., except that mineral extraction shall comply with Chapter 198, Article I, Mineral Extraction, or their individual license, whichever is more restrictive, regarding hours of operation. If logging equipment is within 100 yards of a residence, the noise shall be exempt between 7:00 a.m. and 7:00 p.m.
 - [m] Blasting. Blasting conducted in accordance with City of Augusta ordinance or State of Maine law, whichever is more restrictive, shall be exempt.
 - [n] Temporary activities. Nonconforming temporary noise may be permitted by the Planning Board via the conditional use criteria and process after considering the public and/or private benefits that will result from the temporary noise; any annoyance or safety problems that may result from the use of the temporary noise; and the duration of the temporary nonconforming noise. The applicant shall submit a conditional use permit application containing a detailed description of the proposed temporary nonconforming noise to the Planning Board. The Board shall consider the request at a duly called meeting of the Planning Board.
 - [o] Road and public utility construction and maintenance. Upon approval by the City Council at a public meeting of the City Council, road and public utility work may occur at times and in a manner approved by the City Council. In particular, road and utility work in public roads is often best done during night hours to avoid disrupting busy traffic corridors during the daytime. This subsection is intended to allow the City Council to approve such work.
 - [p] Residential uses. Subsection A of this section shall not apply to noise generated by residents at their home. Typical residential noises shall be regulated by state law related to disturbing the peace and shall be enforced by the Augusta Police Department.
- [2] Applicable. This subsection shall apply to all nonresidential uses in the City of Augusta, except as exempted in Subsection A of this section.
 - [3] Preexisting, nonconforming uses and properties. All preexisting, nonconforming uses and properties shall fully comply with Subsection A of this section within one year of the effective date of this subsection. All preexisting, nonconforming uses with outdoor speakers shall turn the volume of the speakers down to levels found in Subsection A(1)(e) below as of the effective date of this subsection.
- (b) Performance standards.
- [1] General. Noise levels shall be controlled to the extent that they do not adversely affect nearby residences, institutions, and businesses due to intermittence, beat frequency, shrillness, or volume, and to the extent that they do not interfere with the normal enjoyment of nearby properties. Excessive noise at unreasonable hours shall be prohibited. Excessive noise is noise exceeding the maximum decibel level in Subsection A(1)(e) below for a period

of more than 10 minutes, or for shorter periods at least four times over the course of an hour.

- [2] Speakers. Speakers mounted outside a nonresidential or mixed-use building, or placed such that they project sound outside any nonresidential or mixed-use building, shall be prohibited, except as follows:
 - [a] Drive-through. Speakers used only to enable employees to directly communicate with customers at a drive-through are permitted, provided the sound from the speaker is not audible at the property line of the business using the speaker. Speaker volume should be set at the lowest volume necessary to communicate with customers having normal hearing.
 - [b] Restaurant. In the Kennebec Business District 1 (KBD1) Zone, speakers used only to provide background ambiance music for outdoor seating are permitted, provided the sound is not audible at distances greater than 100 feet from the exterior wall of the business.
 - [c] In all other zoning districts, speakers used to provide background ambiance music, either live or recorded, for outdoor seating are permitted, provided the sound from the speaker is 60 dB at the property line of the business using the speaker.
 - [d] When outdoor seating is not in use, speakers intended to project sound outside the restaurant shall be turned off.
 - [e] Other. Speakers that do not create a violation of the standard in Subsection **A(1)(e)** of this section. Outdoor speakers shall be used only to project sound to customers or employees reasonably expected to be outside. Internal building announcements to employees or departments inside the building shall not be announced through outdoor speakers.
- [3] Attention shall be given during site planning to deal with audile quality and volume. The site planner shall consider and where appropriate shall implement the following measures to mitigate the impact of noise (in order of preference):
 - [a] Suppression of noise source to create lowest noise generation possible for proposed use.
 - [b] Putting distance between the noise source and its receiving uses.
 - [c] Use of buildings, walls, or berms as partial barriers and arrangement of openings away from conflicting uses.
 - [d] Deliberate introduction of background noise in order to mask the noise level, pitch or information content (background noise should be of a type to mask offensive noise rather than contribute to it).
 - [e] Where possible, completely sealing the building and operating entirely indoors.
- [4] One or more of the following noise muffling mechanisms may be required by the Planning Board or Code Enforcement Officer. Orientation of structure, including placement of windows and major entryways, shall be such that noise impact is directed away from neighboring uses.
 - [a] Operation of equipment/processes which generate noise shall be required to take place indoors.
 - [b] The use of block heaters shall be preferred over idling vehicles.
 - [c]

If the original noise is not too powerful, masking mechanisms which add desirable random noises between conflicting land uses may be used. An example of such a masking mechanism is the play of water.

- [d] Surfaces with absorption capacity shall be placed between conflicting land uses.
- [e] Air turbulence to disperse sound may be used.
- [f] Barriers between noise generator and receiver such as berms, walls, buildings, etc., may be used.

[5] These noise regulations are enforceable by law enforcement officers or by the Code Enforcement Officer.

(c) Noise impact study.

[1] The Planning Board or Code Enforcement Officer may require that a noise impact study be conducted. Pre- and post-development noise levels may be required as part of the study. The noise impact study may be either one or more of the following:

- [a] Noise shall be measured with a sound-level meter meeting the standards of the American National Standards Institute [ANSI S1.43-1997 (R2007)].
- [b] If the use proposed is nonresidential, the noise impact study, if required, may utilize data from one or more existing sources which roughly correspond (density, existing traffic volume, location of neighborhood, type of equipment used, and other similar noise generators) with the proposed use.
- [c] If no meters are at hand, a rough survey can be conducted without special equipment by two people of normal hearing and average voice. It is based on the fact that the point at which conversation just becomes impossible to understand is rather sharply defined. One person stands and reads something unfamiliar to both parties in a normal voice. The other gradually backs away and notes the distance at which he/she just no longer understands the gist of what is being read to him/her, that is, when he/she catches a scattered word or two in a ten-second period.
 - [i] The trial is repeated rotating reader and listener, and the distances averaged.
 - [ii] If the distance is over 20 m (65 feet), the noise level is less than 45 dBA and the site is good for housing and outdoor use.
 - [iii] If it lies between eight and 20 m (25 and 65 feet), the noise lies between 45 and 60 dBA, and so the location is acceptable for housing.
 - [iv] Distances between two and eight m (seven and 25 feet) indicate levels of 60 to 75 dBA, and the site can only be used for housing if the latter will have special insulation.
 - [v] Distances under two m (seven feet) means levels over 75 dBA, and the location is simply unusable for residence.

(d) Waiver from sound-level limits.

[1] The City recognizes that there are certain developments or activities associated with development for which noise control measures are not reasonably available. Therefore, the Planning Board, as part of the public hearing via the conditional use application as outlined in this section and process or as part of any project that is before the Board for approval, may grant a waiver from any of the sound-level limits, or other limitation or prohibition, contained in this regulation to some other limit upon:

- [a]

A showing by the applicant that a comprehensive assessment has been made of the available technologies for the development, expansion or modification and that the sound-level limits cannot practicably be met with any of these available technologies; and

[b] A showing by the applicant that noise easements for the affected premises are either not practical or not available; and

[c] A finding by the Planning Board that the proposed development will be not excessively incompatible with the surrounding neighborhood, will not unduly interfere with the normal enjoyment of abutting property, and will not create excessive noise at unreasonable hours.

[2] In addition, a waiver may be granted by the Planning Board if:

[a] A development is deemed necessary in the interest of public safety and the applicant has shown that the sound level cannot practicably be reduced or mitigated without unduly limiting the development's intended function; and

[b] A finding by the Planning Board that the proposed development will not be incompatible with the surrounding neighborhood, will not unduly interfere with the normal enjoyment of abutting property, and will not create excessive noise at unreasonable hours.

[3] The Planning Board shall consider the request for a waiver after the review of a completed development application by the Planning Board. In granting a waiver, the Planning Board may, as a condition of approval, impose terms and conditions to ensure that no unreasonable sound impacts will occur.

(e) Maximum noise levels (7:00 a.m. to 10:00 p.m./10:00 p.m. to 7:00 a.m.).

[1] Noise levels will not be specifically measured unless a request for a noise impact study is made by the Planning Board in the application phase, or unless a complaint is registered against a use. Measurements shall be made at the property line of the use generating the noise.

[a] Rural Districts: 60/60.

[b] Residential and Capitol-Commerce Districts: 60/60.

[c] Planned Development, Civic Center, Medical, and Government Services Districts: 60/60.

[d] Business and Industrial District: 60/60.

[2] Where the emitting and receiving premises are in different zones, the limits governing the stricter zone shall apply to any regulated noise entering that zone. Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness or volume.

(2) Smoke, odors, dust, fumes:

(a) Emission of dust, dirt, fly ash, fumes, vapors or gasses which could be injurious to human health, animals, or vegetation, detrimental to the enjoyment of adjoining or nearby properties, or which could soil or stain persons or property, at any point beyond the lot line of the commercial or industrial establishment creating that emission, shall be prohibited. In addition, no land use or establishment shall be permitted to produce harmful, offensive, or bothersome odors, scents, or aromas (such as, but not limited to, those produced by manufacturing processes, food preparation, food processing, fish sales, rendering, fermentation processes, decaying organic matter, and incinerators) perceptible beyond their lot lines, either at ground or habitable elevation. The location and vertical height of all exhaust fans, vents, chimneys, or any other

sources discharging or emitting smoke, fumes, gasses, vapors, odors, scents or aromas shall be shown on the plan, with a description of the source materials. The Planning Board or Code Enforcement Officer may require a developer to submit detailed plans showing how this standard will be met.

- (b) Bituminous mix plants, also known as asphalt plants, shall not be sited within 2,500 feet of an existing residential property. Measurement shall be the shortest distance possible from the plant to the nearest point of the residential property line.

B. Water quality.

- (1) General drainage and erosion control standards.

- (a) Intent/applicability.

[1] All development in the City is required to control runoff and prevent erosion and sedimentation. An adequate drainage and erosion control system shall be provided, including temporary and/or permanent appurtenances as necessary, such as swales, ditches, mulch, hay bales, erosion control mesh, sedimentation basins, detention/retention basins, culvert/underdrain/stormwater conveyance pipes, catch basins, and manholes, to assure that stormwater and other surface flows are effectively conveyed from the development and that groundwater is intercepted and conveyed from the development and that groundwater is intercepted and conveyed away from the street aggregate base/subbase in compliance with the guidelines contained herein and all other requirements of these standards.

[2] All development will require consultation between the Stormwater Management Board and developers. The Stormwater Management Board is comprised of representatives from the City Engineering, Public Works and Planning Bureaus as well as the Augusta Sanitary District. Consultation is strongly recommended after the conceptual design of the project is completed. Analyses will be based on applicant's data and data available from the district and the City with regard to soils, land use, and existing stormwater flows. Analysis will be conducted on a watershed and subwatershed basis determined by the district and the City.

[3] No newly created stormwater may be discharged onto private property without the property owner's permission (easement required) or in a City street.

[4] Any project that utilizes an existing developed site will be required to assess the stormwater needs of that site regardless of the existing conditions of the site or the presence of stormwater utilities. Any site that does not have district facilities within a reasonable distance will require a plan that addresses the lack of these utilities via runoff controls.

[5] In addition to the studies established by the Stormwater Management Board, the project proponent must also satisfy the needs and criteria of other agencies which have permit power over the proposed project. These include federal (Corps of Engineers, etc.) and state (Stream Alteration, Wetlands, Site Review, etc.). The City and the district shall be provided with a copy of all data submitted to other permitting agencies.

- (b) Classifications. See Technical Standards Handbook.

- (c) Erosion and sediment control and stormwater management plans.

[1] The erosion and sediment control plan shall be designed in accordance with the Maine Erosion and Sediment Control Handbook for Construction, current revision, prepared by the Maine Department of Environmental Protection and with the requirements of the standards found in the Technical Standards Handbook.

[2] Applications submitted pursuant to Part 4, Subdivision and Site Plan Review, and Part 3, Zoning, for projects which will expose more than 60,000 square feet of soil at one time or which will produce more than 10,000 square feet of additional impervious surface must submit a stormwater management plan to the Stormwater Management Board.

[3] Performance standard. See Technical Standards Handbook (§ 300-602).

(2) Stormwater runoff standards.

- (a) All development applications shall contain a drainage system plan to include profiles, typical cross sections, and typical detail drawings of drainage structures, and be designed by a State of Maine registered professional engineer. The plan shall show underdrain, storm drain pipes, catch basins, manholes, ditches, culverts, easements, and other proposed drainage system improvements with a statement in writing attached to the drainage system plan indicating that the proposed development will not create erosion, drainage, or runoff problems either in the development or adjacent properties. All hard-piped drainage systems shall be designed and constructed to the Augusta Sanitary District Specifications.

- (b) See Subsection **B(1)(c)[2]** of this section.

- (c) See Technical Standards Handbook for additional standards.

- (d) Buffer requirements.

Commentary:

The 1988 Growth Management Plan outlines the following policy regarding the control of stormwater in the City: All new development and conversions, including state facilities, shall be designed to slow down and retain stormwater runoff on site through infiltration and retention. The rate of runoff from any specific site or development shall not be greater than would be the case under normal conditions. The filling of wetlands shall be prohibited except for water-dependent uses which must first obtain a permit. A natural buffer shall be retained around all wetlands and ponds, and on either side of streams as shown on the United States Geological Survey (USGS) Topographic Quadrangle Maps and any watercourse in the Togus Pond and Three Cornered Pond Watersheds. A natural buffer shall be retained on either side of any other stream not shown on the USGS Maps. All natural drainage swales shall be retained in a natural condition. Wider buffers shall be required in areas with special needs, including but not limited to steep slopes, highly erodible soils, exposed soils, pond watersheds, floodways, and areas designated critical for wildlife.

Buffers are required under several sections of this chapter. For example, buffer yards are required between conflicting land use in § 300-502 of this chapter and buffers are required for single lots in the Ponds Districts based on soil type and percent clearing.

Shoreland zoning requires a minimum seventy-five-foot setback along streams (as defined). Buffers adjacent to wetlands and deer wintering ranges are covered by Resource Protection District criteria described in § 300-316.1C.

Development on steep slopes and erodible shallow soils are covered in an earlier section of this chapter under § 300-506, Environmental resources.

The only areas of the City included in the above-stated policy not clearly covered by the referenced standards are brooks, streams and natural drainage courses not shown on the USGS Maps. For the purposes of this chapter, such areas shall be called "general surface water resource areas," as defined.

- [1] The following items outline buffer requirements along general surface water resource areas and outline specific standards for stormwater runoff in shoreland areas:

- [a] No less than a fifty-foot buffer shall be maintained adjacent to wetlands, brooks and streams not covered by other regulations in this chapter.

- [b] Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

- (e) In shoreland areas:

- [1] All new construction and development shall be designed to minimize stormwater runoff from the site in excess of the natural predevelopment conditions. Where possible, existing

natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.

[2] See parking lot standards for shoreland areas, § **300-513B(4)**.

(3) Phosphorous control standards.

Commentary: The 1988 Growth Management Plan includes the following policy upon which the following standards are based: "In the watersheds of the ponds, all new development and conversions shall be designed and located and all land use activities shall be conducted in a manner that prevents additional phosphorous loading (beyond acceptable limits) to Togus Pond and Three Cornered Pond and stringently protects the water quality of all other ponds. Maximum permitted densities shall be in keeping with their capacity to accommodate new development without degradation. Clustered development shall be encouraged." Further, the plan states that the City shall cooperate with the Maine Department of Environmental Protection and organize, support and encourage landowner efforts to control existing sources of excess phosphorous entering Togus Pond. The following proposed standards are intended to guide the implementation of this policy. It is recommended that a study of the Togus Pond watershed be conducted with specific implementation activities outlined on a property-by-property basis.

(a) All uses outlined in the Table of Dimensional Limits (Performance Zoning) in the Ponds District (§ **300-315.3**) shall design their sites to reduce phosphorous export into the lakes. In addition to the maximum density and development ratios outlined in that table, one or more phosphorous export reduction mechanisms shall be utilized. The following are approved methods for controlling phosphorous export in the City of Augusta (in order of preference):

[1] Reduce or minimize road and/or driveway length.

[2] Reduce number of lots; increase lot size.

[3] Limit clearing of vegetation.

[4] Leave or implement buffer strips around cleared areas and along water bodies.

[5] Construct infiltration systems to treat stormwater from individual lots, soils permitting.

[6] Construct wet ponds to treat runoff from large drainage areas.

(b) The maximum permitted phosphorous export (phosphorous allocation) by subwatershed is outlined in Appendix A.^[1]

[1] *Editor's Note: Appendix A is included as an attachment to this chapter.*

(c) All projects in the ponds watershed, except residential developments of four lots/units or less and having road and driveway lengths within the limitations outlined in § **300-315.3B**, shall be designed in accordance with Phosphorous Control in Lake Watersheds: A Technical Guide to Evaluating New Development, Maine DEP, September 1989, as amended.

(4) Groundwater protection standards.

Commentary: The City has a set of Sensitive Areas Maps which includes a Water Related Resources Map drawn on a 100 scale topographic base map. A study accompanies the map and describes what is known about groundwater resources in Augusta. A report was written by the Maine Bureau of Geology — Reconnaissance of Ground Water Resources and Surficial Geology of the Southern Kennebec Region. This report, based on records from well-drilling firms and geological field investigations, identifies the major groundwater resources that appear to be available in Augusta. Identified are aquifers with expected yields of 10 gallons or more per minute located in sand or gravel or in bedrock, and aquifer recharge zones, or areas of permeable material (usually sand or gravel) which permit rapid percolation of quantities of water necessary to recharge the supply. The 1988 Growth Management Plan identifies a Resource Conservation and Use Overlay Zone over aquifer areas. Standards for development will be listed in Part 5, Article VIII, Overlay Zoning Standards, of this chapter.

- (a) For major developments and major subdivisions, the Planning Board may apply the groundwater standards applicable to mobile home/manufactured housing parks as outlined in § **300-524D(16)**.

City of Augusta, ME
Friday, February 26, 2016

Chapter 300. Land Use

Part 5. PERFORMANCE STANDARDS

Article VI. General Zoning Standards

§ 300-517. Traffic impact analysis standards.

- A. Intent. A traffic impact analysis shall be provided to include a determination of the travel demand generated by the development, the identification of deficiencies in the existing and proposed transportation systems, and the identification of the improvements necessary to maintain acceptable levels of service, in order to help prevent deterioration in the quality of service of the City's existing transportation system and to ensure sufficient access to the development. The traffic impact analysis shall be prepared under the supervision of a State of Maine registered professional engineer with specific training in traffic and transportation engineering, and with experience related to preparing traffic studies for existing or proposed developments.
- B. Standard. The City Engineer may request the developer to submit a prepared traffic and/or parking impact report for any proposed development where the proposed development is calculated to generate an increase of more than 35 new vehicle trips during the peak hour (times when the highest traffic volumes are recorded, generally 7:00 to 9:00 a.m. and 3:00 p.m. to 6:00 p.m.). Additional traffic impact analysis standards are outlined in the City of Augusta Technical Standards Handbook, Chapter 5.

City of Augusta, ME
Friday, February 26, 2016

Chapter 300. Land Use

Part 5. PERFORMANCE STANDARDS

Article VIII. Overlay Zoning Standards

§ 300-528. Special standards applicable to shoreland areas.

[Amended 5-17-2004 by Ord. No. 72; 4-19-2005 by Ord. No. 061; 3-20-2006 by Ord. No. 040]

Notwithstanding other provisions of this chapter, the following performance standards shall apply to structures and uses of land in shoreland areas. Where the provisions of this section impose a stricter standard than another applicable provision of this chapter, the requirement of this section shall prevail.

A. Agriculture.

- (1) The following regulations shall apply to all agriculture uses proposed in the City.
- (2) All spreading or disposal of manure shall be accomplished in conformance with the Maine Guidelines for Manure and Manure Sludge Disposal on Land published by the University of Maine and the Maine Soil and Water Conservation Commission, July 1972.
- (3) Manure shall not be stored or stockpiled within 100 feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA or within 75 feet horizontal distance of other water bodies, tributary streams, or wetlands. Within five years of the effective date of this chapter, all manure storage areas within the Shoreland Zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater. Existing facilities which do not meet the setback requirement may remain but must meet the no discharge provision within the above five-year period.
- (4) Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area or the spreading, disposal or storage of manure within the Shoreland Zone shall require a soil and water conservation plan to be filed with the Planning Board. Nonconformance with the provisions of said plan shall be considered a violation of this chapter. (Note: Assistance in preparing a soil and water conservation plan may be available through the Kennebec County Soil and Water Conservation District office.)
- (5) There shall be no new tilling of soil within 100 feet, horizontal distance, of the normal high-water line of a great pond classified GPA, within 75 feet, horizontal distance, from other water bodies, or within 25 feet, horizontal distance, of tributary streams and wetlands. Operations in existence on the effective date of this chapter and not in conformance with this provision may be maintained.
- (6) After the effective date of this chapter, newly established livestock grazing areas shall not be permitted within 100 feet, horizontal distance, of the normal high-water line of a great pond classified GPA, within 75 feet, horizontal distance of other water bodies, or within 25 feet, horizontal distance, of tributary streams and wetlands. Livestock grazing associated at the effective date of this chapter with ongoing farm activities and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with an approved soil and water conservation plan.

- B. Archeological sites. Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least 20 days before action is taken by the permitting authority. The permitting authority shall consider comments received from the Commission before rendering a decision on the application.
- C. Clearing of vegetation for development.
 - (1) Within a shoreland area zoned for resource protection abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.
 - (2) Elsewhere in any Resource Protection District, the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.
 - (3) Except in areas as described in Subsection C(1), above, and except to allow for the development of permitted uses, within a strip of land extending 100 feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and 75 feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
 - (a) There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed 10 feet in width as measured between tree trunks is permitted, provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond classified GPA, or stream or river flowing to a great pond classified GPA, the width of the footpath shall be limited to six feet. Note: The footpath permitted in accordance with this section is not intended to be included in the two-hundred-fifty-square-foot limitation of cleared openings.
 - (b) Selective cutting of trees within the buffer strip is permitted, provided that a well-distributed stand of trees and other vegetation is maintained. For the purposes of this section, a "well-distributed stand of trees and other vegetation" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA shall be defined as maintaining a rating score of 12 or more in any twenty-five-foot by twenty-five-foot square (625 square feet) area as determined by the following rating system:

Diameter of Tree at 4 1/2 Feet Above Ground Level	
(inches)	Points
2 to 4	1
4 to 12	2
12 plus	4

- [1] Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees and other vegetation" is defined as maintaining a minimum rating score of eight per twenty-five-foot square area.
 Note: As an example, adjacent to a great pond, if a twenty-five-foot by twenty-five-foot plot contains three trees between two and four inches in diameter, three trees between four and 12 inches in diameter, and three trees over 12 inches in diameter, the rating score is:
 $(3 \times 1) + (3 \times 2) + (3 \times 4) = 21$ points
 Thus, the twenty-five-foot by twenty-five-foot plot contains trees worth 21 points. Trees totaling nine points ($21 \div 3 = 9$) may be removed from the plot, provided that no cleared openings are created.
- [2] Notwithstanding the above provisions, no more than 40% of the total volume of trees four inches or more in diameter, measured at 4 1/2 feet above ground level, may be removed in any ten-year period.

- (c) In order to protect water quality and wildlife habitat adjacent to great ponds classified GPA, and streams and rivers which flow to great ponds classified GPA, existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described in Subsections **C(3)** and **C(3)(a)** above.
 - (d) Pruning of tree branches on the bottom 1/3 of the tree is permitted.
 - (e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.
 - (f) Notwithstanding other provisions of this subsection, in the Historic Waterfront District, in order to protect water quality and wildlife habitat, and to maintain historical integrity, ground cover will be required but will not extend over three feet in height, except along the immediate water's edge. Taller vegetation may be left in place but will be left to the Tree Warden's discretion. To provide bank stabilization, a limited number of trees and tree species shall remain along the lower 25 feet of the river bank as determined by the Tree Warden. Nonnative invasive species will be permitted to be removed, so long as vegetation is replanted in these areas and soil disturbance remediation is in place until vegetation is established. Any vegetative cover needs prior approval in writing from the City Tree Warden.
The provisions contained in Subsection **C(2)** above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.
 - (g) Notwithstanding other provisions of this subsection, in the Kennebec Arsenal Historic Waterfront District, in order to protect water quality and wildlife habitat, and to maintain historical integrity, maintainer grass cover will be required. Trees and shrubs will be permitted to be removed, so long as vegetation is replanted in these areas and soil disturbance remediation is in place until vegetation is established.
- (4) At distances greater than 100 feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and 75 feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, except to allow for the development of permitted uses, there shall be permitted on any lot, in any ten-year period, selective cutting of not more than 40% of the volume of trees four inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the 40% calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area. In no event shall cleared openings be development, including but not limited to principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate 25% of the lot area or 10,000 square feet, whichever is greater, including land previously developed. This provision shall not apply to the General Development District.
 - (5) Cleared openings legally in existence on the effective date of this chapter may be maintained, but shall not be enlarged, except as permitted by this chapter.
 - (6) Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.
- D. Commercial and industrial uses. The following new commercial and industrial uses are prohibited within the Shoreland Zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:
- (1) Auto washing facilities.
 - (2) Auto or other vehicle service and/or repair operations, including body shops.
 - (3) Chemical and bacteriological laboratories.
 - (4)

Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms.

- (5) Commercial painting, wood preserving, and furniture stripping.
 - (6) Dry-cleaning establishments.
 - (7) Electronic circuit assembly.
 - (8) Laundromats, unless connected to a sanitary sewer.
 - (9) Metal plating, finishing, or polishing.
 - (10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas.
 - (11) Photographic processing.
 - (12) Printing.
- E. Erosion and sedimentation control. See § **300-514B** and the Technical Standards Handbook.
- F. Essential services.
- (1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
 - (2) The installation of essential services is not permitted in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- G. Flood protection. Where applicable, all structures and uses in shoreland areas shall comply with the provisions of § **300-508**.
- H. Mineral exploration. See Chapter **198**, Article **I**, Mineral Extraction.
- I. Piers, docks, wharfs, bridges and other structures and uses extending over or beyond the normal high-water line of a water body or within a wetland. In addition to federal or state permits which may be required for such structures and uses, they shall conform to the following:
- (1) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion. Appropriateness of soils shall be subject to the standards outlined in the Maine Erosion and Sediment Control Handbook for Construction, published by the Maine Department of Environmental Protection.
 - (2) The location shall not interfere with developed or natural beach area.
 - (3) The facility shall be located so as to minimize adverse effects on fisheries.
 - (4) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area.
 - (5) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.
 - (6) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to a residential dwelling unit or units in any district.

- (7) Except in the General Development District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed 20 feet in height above the pier, wharf, dock or other structure.

NOTE: Permanent structures projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C.

J. Roads and driveways. The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features:

- (1) See Driveway and Access Standards, § 5.3, City of Augusta Technical Standards Handbook.
- (2) See City of Augusta Technical Standards Handbook, Road Standards.
- (3) The maximum driveway length in the Shoreland District is 500 feet.
- (4) Roads and driveways shall be set back at least 100 feet from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and 75 feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, but if no reasonable alternative exists, the Planning Board may reduce the road and/or driveway setback requirement to no less than 50 feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. Such techniques may include, but are not limited to, the installation of settling basins and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.
 - (a) On slopes of greater than 20%, the road and/or driveway setback shall be increased by 10 feet for each 5% increase in slope above 20%.
 - (b) This subsection shall apply neither to approaches to water crossings nor to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline due to an operational necessity.
- (5) Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.
- (6) New permanent roads are not permitted within the Shoreland Zone along significant river segments, except:
 - (a) To provide access to structures or facilities within the zone; or
 - (b) The applicant demonstrates that no reasonable alternative route exists outside the Shoreland Zone. When roads must be located within the Shoreland Zone, they shall be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.
- (7) New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- (8) Road banks shall be no steeper than a slope of two horizontal to one vertical and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in **§ 300-514B(1)**, General drainage and erosion control standards, of this chapter.
- (9) Road grades shall be no greater than 10%, except for shore segments of less than 200 feet.
- (10) In order to prevent road surface drainage from directly entering water bodies, roads shall be designed, constructed, and maintained to empty into an unscarified buffer strip at least 50 feet, plus two times the average slope in width between the outflow point of the ditch or culvert and normal high-water line of a water body, tributary stream, or upland edge of a wetland. Road surface drainage which is

directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

(11) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road or ditch. To accomplish this, the following shall apply:

(a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

Road Grade (percent)	Spacing (feet)
0 to 2	250
3 to 5	200 to 135
6 to 10	100 to 80
11 to 15	80 to 60
16 to 20	60 to 45
21+	40

(b) Drainage dips may be used in place of ditch relief culverts only where the road grade is 10% or less.

(c) On road sections having slopes greater than 10%, ditch relief culverts shall be placed across the road at approximately a 30° angle downslope from a line perpendicular to the center line of the road.

(d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

(12) Ditches, culverts, bridges, dips, water turnouts and other stormwater runoff control installations associated with roads shall be maintained on a regular basis to assure effective functioning.

K. Septic waste disposal.

(1) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules (rules).

(2) **NOTE:** The rules, among other requirements, include:

(a) The minimum setback for new subsurface sewage disposal systems shall be no less than 100 horizontal feet from the normal high-water line of a perennial water body. The minimum setback distances from water bodies for new subsurface sewage disposal systems shall not be reduced by variance.

(b) Replacement systems shall meet the standards for replacement systems as contained in the rules.

L. Signs. See the sign standards in § 300-516.

M. Soils. All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement or improper drainage and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report, based on an on-site investigation, and be prepared by state certified professionals. Certified persons may include Maine certified soil scientists, Maine registered professional engineers, Maine state certified geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum groundwater elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate.

The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

N. Stormwater. See § 300-514.

O. Timber harvesting.

- (1) Within the strip of land extending 75 feet inland from the normal high-water line in a shoreland area zoned for resource protection abutting a great pond, there shall be no timber harvesting, except to remove safety hazards. All timber harvesting in the Resource Protection District and outside the seventy-five-foot setback area shall be reforested within two growing seasons after harvest is complete.
- (2) Except in areas as described in Subsection O(1), timber harvesting shall conform with the following provisions:
 - (a) Selective cutting of no more than 40% of the total volume of trees four inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten-year period is permitted. In addition:
 - [1] 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, and within 75 feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clear-cut openings, and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
 - [2] At distances greater than 100 feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than 75 feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clear-cut openings greater than 10,000 square feet in the forest canopy. Where such openings exceed 5,000 square feet they shall be at least 100 feet apart. Such clear-cut openings shall be included in the calculation of total volume removal. For the purposes of these standards, volume shall be considered to be equivalent to basal area.
 - (b) No accumulation of slash shall be left within 50 feet of the normal high-water line of a water body. In all other areas, slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four feet above the ground. Any debris that falls below the normal high-water line of a water body shall be removed.
 - (c) Timber harvesting equipment shall not use stream channels as travel routes, except when:
 - [1] Surface waters are frozen;
 - [2] The activity will not result in any ground disturbance.
 - (d) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
 - (e) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
 - (f) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least 75 feet in width for slopes up to 10% shall be retained between the exposed mineral soil and the normal high-water line of a water body or the upland edge of a wetland. For each ten-percent increase in slope, the unscarified strip shall be increased by 20

feet. The provisions of this subsection apply only to a face sloping toward the water body or wetland; provided, however, that no portion of such exposed mineral soil on a back face shall be closer than 25 feet from the normal high-water line of a water body or upland edge of a wetland.

- P. Water quality protection. No activity shall deposit on or in the ground or discharge to the waters of the state any pollutant that, by itself or in conjunction with other activities or substances, will impair designated uses or the water classification of the water body.
- Q. Minimum dimensional requirements in shoreland areas. All land use activities within the Shoreland Zone shall conform with the following applicable provisions, with the exception of allowable land use activities utilizing existing structures and/or activities that utilize public sewer, in the GD District adjacent to the Kennebec River. For these above-stated exceptions, the dimensional requirements of the underlying zoning district shall apply. Provisions:

- (i) Minimum lot standards.

	Minimum Lot Area (square feet)	Minimum Shore Frontage (feet)
Residential, per dwelling unit:		
(a) Within the Shoreland Zone adjacent to tidal areas	30,000	150
(b) Within the Shoreland Zone Adjacent to nontidal areas	40,000	200
Governmental, institutional, commercial or industrial, per principal structure:		
(a) Within the Shoreland Zone adjacent to tidal areas	40,000	200
(b) Within the Shoreland Zone adjacent to nontidal areas	60,000	300
Public and private recreational facilities:		
(a) Within the Shoreland Zone adjacent to tidal and nontidal areas	40,000	200

- (2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two lots shall not be included toward calculating minimum lot area.
- (3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
- (4) The minimum width of any portion of any lot within 100 feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- (5) If more than one residential dwelling unit or more than one principal commercial or industrial structure is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit or principal structure.

NOTE: Cluster housing is permitted, provided that the overall dimensional requirements, including frontage and lot area per dwelling unit, are met. When determining whether dimensional requirements are met, only land area within the Shoreland Zone shall be considered.

- R. Principal and accessory structures.

- (i) All new principal and accessory structures shall be set back at least 100 feet from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and 75 feet from the normal high-water line of other water bodies, streams (as defined), or the upland edge of a wetland, except that, in the Stream Protection 50 (SP50) District, the setback from the normal high-

water line shall be at least 50 feet, and, in the General Development District, the setback from the normal high-water line shall be at least 25 feet. In addition:

- (a) The water body or wetland setback provision shall apply neither to structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
- (b) All principal structures along significant river segments as listed in 38 M.R.S.A. § 437 shall be set back a minimum of 125 feet from the normal high-water line and shall be screened from the river by existing vegetation. This provision does not apply to structures related to hydropower facilities.

NOTE: The Planning Board is authorized to increase the required setback of a proposed structure, as a condition to permit approval, if necessary to accomplish the purposes of this chapter. Instances where a greater setback may be appropriate include, but are not limited to, areas of steep slope, shallow or erodible soils, or where an adequate vegetative buffer does not exist.

- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts shall not exceed 35 feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
- (3) The first-floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the one-hundred-year flood, the flood of record, or, in the absence of these, the flood as defined by soil types identified as recent floodplain soils.
- (4) The total area of all structures, parking lots and other nonvegetated surfaces within the Shoreland Zone shall not exceed 20% of the lot or a portion thereof, located within the Shoreland Zone, including land area previously developed, except in the General Development District adjacent to tidal waters and rivers which do not flow to great ponds classified GPA, where lot coverage shall not exceed 70%.
- (5) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils, provided that the structure is limited to a maximum of four feet in width, that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C), and that the applicant demonstrates that no reasonable access alternative exists on the property.

City of Augusta, ME
Friday, February 26, 2016

Chapter 300. Land Use

Part 6. ADMINISTRATION

§ 300-601. Enforcement; violations and penalties.

[Amended 1-19-1993 by Ord. No. 707; 3-1-1993 by Ord. No. 41; 5-16-1994 by Ord. No. 494; 3-20-1995 by Ord. No. 40]

- A. Enforcement. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this chapter.
- (1) If the Code Enforcement Officer shall find that any provision of this chapter is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings, structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
 - (2) The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this chapter.
 - (3) Before issuing a certificate of occupancy, the Code Enforcement Officer may require the applicant to submit a performance bond running to the City or certified check payable to the City, in an amount and form acceptable to the Director of Finance, with the advice and consent of the Code Enforcement Officer and the Corporation Counsel. The performance bond or certified check must equal at least the total cost of furnishing, installing and completing all permit approval items as required by the Code Enforcement Officer at the time of issuing the certificate of occupancy. The surety shall not expire without written approval of the Director of Finance.
 - (4) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.
 - (5) On an annual basis, a summary of the records listed in Subsection **A(3)** of this section affecting shoreland areas shall be submitted to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection.
 - (6) With respect to flood damage prevention requirements and in addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:
 - (a) The name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 - (b)

A clear and unequivocal declaration that the property is in violation of a cited state or local law, regulation, or ordinance;

- (c) A clear statement that the public body making the declaration has authority to do so and a citation to that authority;
- (d) Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and
- (e) A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.^[1]

[1] *Editor's Note: See 42 U.S.C. § 4023.*

- (7) Subdivisions. The Director of Code Enforcement or his designee may issue a cease work order on any subdivision or major development in which the subdivider, developer or his contractor is violating the terms of the subdivision approval. Such order may be issued only after counsel with the City Engineer. The cease work order shall apply until violations are sufficiently corrected. Work done after issuance of a cease work order shall be considered a violation of this chapter and subject to the fines of this chapter.
- (8) Actions or failure to act by the Code Enforcement Officer pursuant to Subsection A of this section are not appealable to the Board of Appeals.

B. Legal actions. When the above action does not result in the correction or abatement of the violation or nuisance condition, the municipal officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this chapter in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this chapter and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by the authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage. Actions or failure to act by the municipal officers pursuant to this section are not appealable to the Board of Appeals.

C. Penalty.

- (1) Any person, firm, or corporation, including a landowner's agent or a contractor, who orders or conducts any activity in violation of any of the provisions of this chapter or who fails to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variances or conditional uses, shall, upon conviction thereof, be penalized in accordance with 30-A M.R.S.A. § 4452. As of the effective date of this chapter, such penalties include fines of not less than \$100 nor more than \$2,500 per violation. Each day such violation continues shall constitute a separate offense.
- (2) The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, or agent, or other person who commits, participates in, or maintains such violation, may each be found guilty of a separate offense and suffer the penalties herein provided.
- (3) With respect to flood damage prevention regulations, the penalties contained in 30-A M.R.S.A. § 4452 shall apply to any violation of this chapter.
- (4) With respect to the subdivision regulations, any person who conveys or offers or agrees to convey any land by reference to a subdivision plan which has not been approved as required by this chapter and recorded by the proper Register of Deeds, shall be subject to by a civil penalty of not more than \$1,000 for each lot conveyed or offered or agreed to be conveyed, except that nothing herein

contained shall be deemed to bar any legal or equitable action to restrain or enjoin any act in violation of these regulations.

- D. Permit required; general. The Code Enforcement Officer shall review and approve, approve with condition or deny applications for permits in accordance with this chapter. The Code Enforcement Officer shall inform applicants as to the need for a conditional use permit by the Planning Board as outlined in § 300-603A. In accordance with § 300-606B, the Board of Appeals shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Code Enforcement Officer or Planning Board.

(1) Building permit plans required.

- (a) Where specifically permitted "by right," no building permit is needed.
- (b) No structure and/or parking lot shall be erected, enlarged, moved or improved without a permit from the Code Enforcement Officer. No permit shall be issued except in conformity with the provisions of this chapter. An administrative fee of \$5 will be charged for each permit application, in addition to building permit fees.
- (c) No earth filling resulting in a net increase of 25 cubic yards of material or more in any one year shall be done without a permit from the Code Enforcement Officer. A one-time administration fee of \$5 will be charged for each permit application.
- (d) The Code Enforcement Officer may institute a permit by rule process for accessory buildings.

(2) Special fees. The City Council shall set fees for conditional uses, appeals and variances, appeals from Planning Board decisions, rezonings, subdivisions, flood hazard development permits and major developments, which fees shall be adjusted from time to time. Said fee schedule shall be filed with the City Clerk.

- (a) Said fees will be collected at the time the applicant files, and the fees are nonrefundable.
- (b) An additional fee may be charged if the Code Enforcement Officer, City Planner, City Engineer, Board of Appeals and/or Planning Board needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of this chapter and be grounds for the issuance of a stop-work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

(3) Application for permit; plans required:

- (a) Site plan required. All applications for permits shall be accompanied by a site plan of suitable scale showing:

- [1] The actual shape, size, and location of the lot to be built upon and the names of the landowner of record as well as the names of the abutting property owners;
- [2] A survey prepared by a Maine registered land surveyor and tied to the Maine Coordinate System (as outlined in § 3.2.6 of the City of Augusta Technical Standards Handbook) shall be required by the Code Enforcement Officer for all nonresidential uses with a proposed floor area in excess of 10,000 square feet;
- [3] The size (specific dimensions), the shape, height, and location (with setbacks noted) of any buildings to be erected, altered, or removed from the lot;
- [4] The location of street entrances to, exits from and driveways on the premises;
- [5] The location, size, and site design, construction, and traffic service arrangement of existing or proposed off-street parking and loading areas;

- [6] Abutting rights-of-way and right-of-way widths;
 - [7] Show how applicable performance standards will be met;
 - [8] The proposed location, size (design, lighting, and display characteristics) of all signs;
 - [9] The location of existing and/or proposed sewage disposal facilities;
 - [10] The location of existing and/or proposed water supply facilities; and
 - [11] Any areas to be cut and filled.
- (b) The application shall include any other information is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. The issuance or refusal of a permit shall be made within 10 working days of the submission of a complete application to the Code Enforcement Officer. In shoreland areas, no permit shall be issued for any structure or use involving the construction, installation or alteration of plumbing facilities unless a permit for such facilities has first been secured by the applicant from the licensed plumbing inspector, according to the requirements of this chapter and state law.
- (c) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
- (d) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the licensed plumbing inspector, shall be submitted whenever the nature of the proposed structure would require the installation of a subsurface sewage disposal system.
- (e) Right, title or interest. The Planning Board shall consider an application only when an applicant has demonstrated sufficient right, title or interest in all of the property which is proposed for development or use. An applicant shall demonstrate in writing sufficient right, title or interest, as follows:
- [1] When the applicant claims ownership of the property, a copy of the deed(s) to the property shall be submitted.
 - [2] When the applicant has an option, purchase-sale agreement or other contractual agreement for the acquisition of the property, a copy of such agreement(s) shall be submitted. Such agreements shall contain terms to establish future title.
 - [3] When the applicant has a lease on the property, a copy of the lease shall be submitted. The lease shall be of sufficient duration to permit construction and reasonable use of the development.
- (4) If no substantial progress of construction has been made within six months of the date of the permit, the permit shall become invalid.
- E. Permit required, flood hazard areas. The following additional application information is required:
- (1) The elevation in relation to mean sea level, or to a locally established datum in Zone A only, of the:
 - (a) Base flood at the proposed site of all new or substantially improved structures, which is determined:
 - [1] In Zones A1-30, AE, AO, and AH, from data contained in the "Flood Insurance Study — City of Augusta, Maine," as described in § 300-508A; or
 - [2] In Zone A, to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building;
 - (b) Highest and lowest grades at the site adjacent to the walls of the proposed building;

- (c) Lowest floor, including basement, and whether or not such structures contain a basement; and
 - (d) Levels, in the case of nonresidential structures only, to which the structure will be floodproofed;
- (2) A description of a base flood elevation reference point established on the site of all new or substantially improved structures;
 - (3) A written certification by a registered State of Maine surveyor that the elevations shown on the application are accurate;
 - (4) Certification by a registered State of Maine professional engineer or architect that floodproofing methods for any nonresidential structures will meet the floodproofing criteria of Subsection **E(1)(d)** of this section, § **300-508E(6)** and other applicable standards in § **300-508E**;
 - (5) A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development; and
 - (6) A statement of construction plans describing in detail how each applicable development standard in § **300-508E** will be met.
- F. Installation of public utility service, Shoreland Zones only. No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in any Shoreland Zone unless written authorization attesting to the validity and currency of all local permits required under this chapter or any previous ordinance has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

*City of Augusta, ME
Friday, February 26, 2016*

Chapter 300. Land Use

Part 6. ADMINISTRATION

§ 300-602. Technical standards.

- A. The City staff shall promulgate a Technical Standards Handbook, which may be revised from time to time, regarding the specific design criteria, including but not limited to streets, driveways, water, sewer, other utilities, parks, and drainage, erosion and sedimentation control. All standards defined and outlined in this handbook and approved by the Planning Board shall be considered official standards of development for land use in the City of Augusta.
- B. Before approval or revision of the technical standards, the Planning Board shall hold a public hearing on said proposed standards. Public notice will be posted at least seven days before said hearing.

City of Augusta, ME
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Chapter 300. Land Use

Part 6. ADMINISTRATION

§ 300-603. Conditional uses.

[Amended 1-21-1992 by Ord. No. 303]

- A. General. The Planning Board is hereby authorized to hear and decide, in accordance with Chapter 14, Article II, of the Code of the City of Augusta, as amended, upon applications for conditional uses. The Planning Board shall hear and approve, approve with modifications or conditions (see Subsection F of this section), or disapprove all applications for conditional uses. No conditional use permit shall be authorized unless specific provision for such conditional use is made in this chapter. A person informed by the Code Enforcement Officer that he requires a conditional use permit shall file an application for the permit with the Planning Board.
- B. Exemption (one time only). Expansion/enlargement of an existing listed conditional use not exceeding 500 square feet may be processed without Planning Board review if no written requests for a public hearing are filed with the City Planner within seven working days after the official notification by the City of property owners within 500 feet. If a written request for public hearing is received within the seven-working-day period, the project will be processed as a conditional use as outlined in this section.
- C. Public hearing.
- (1) Following the filing of an application, and before taking action on any application, the Planning Board shall hold a public hearing on the application within 30 days. The Planning Board shall provide notice of a public hearing on the application, in the form and manner and to the persons specified herein.
 - (a) The notice shall include the time and place of such hearing, which shall be within 30 days of such application, the nature of the matter to be heard, the address or location of the property involved. Where notice by mail is required, it shall be mailed at least 10 days in advance of the hearing date by regular United States mail.
 - (b) Notices shall be given to each of the following:
 - [1] To the applicant, City Council, Planning Board and Board of Zoning Appeals.
 - [2] To all residents of the City, by publication in a newspaper of general circulation in the City at least 10 days before the hearing, and by posting a sign on the portion of the property involved that is nearest the public road.
 - [3] To the owners of the properties within 500 feet of the parcel involved if the parcel is located in the Urban Growth Area Districts or within 1,000 feet of the parcel involved if the parcel is located in the Planned Development and/or Rural Districts by regular United States mail.
 - [4] For the purposes of this section, the owners of property shall be considered to be the parties listed by the Assessor's office of the City of Augusta as those against whom taxes are

assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action by the Planning Board.

- (2) The applicant's case shall be heard first. The applicant shall be allowed to directly cross-examine witnesses. To maintain order by procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chair.
- D. Conditional use decision. Within 30 days of the public hearing, the Planning Board shall approve, deny, or approve with conditions all applications for a conditional use permit if it makes a positive finding based on each of the following applicable criteria. The applicant shall have the burden of proving that his/her application is in compliance with the requirements of this chapter.
- E. Site plan review criteria applicable to conditional uses.
 - (1) Neighborhood compatibility. [The intent of this subsection is to encourage the applicant to design the proposal in consideration of the physical impact it will have on the immediate neighborhood (within 500 feet if the property is in the Urban Growth Area Districts and within 1,000 feet if the property is in the Planned Development and/or Rural Districts).]
 - (a) Is the proposal compatible with and sensitive to the character of the site and neighborhood relative to:
 - [1] Land uses;
 - [2] Architectural design;
 - [3] Scale, bulk and building height;
 - [4] Identity and historical character;
 - [5] Disposition and orientation of buildings on the lot; and
 - [6] Visual integrity?
 - (b) Are the elements of the site plan (e.g., buildings, circulation, open space and landscaping) designed and arranged to maximize the opportunity for privacy by the residents of the immediate area?
 - (c) Will the proposal maintain safe and healthful conditions within the neighborhood? This criterion shall not be limited to the standards affecting safety and health as outlined in this chapter. Additional regulations may be found in the City of Augusta Code, as amended.
 - (d) Will the proposal have a significant detrimental effect on the value of adjacent properties (which could be avoided by reasonable modifications of the plan)? In determining whether this criterion has been met, the Planning Board may require the applicant to submit an appraisal prepared by a State of Maine certified appraiser.
 - (2) Plans and policies.
 - (a) Is the proposal in accordance with the adopted elements of the 1988 Growth Management Plan?
 - (3) Traffic pattern, flow and volume.
 - (a) Is the proposal designed so that the additional traffic generated does not have a significant negative impact on surrounding neighborhood?
 - (b) Will safe access be assured by providing proper sight distance and minimum width curb cuts for safe entering and exiting? See City of Augusta Technical Standards Handbook.
 - (c) Does the proposal provide access for emergency vehicles and for persons attempting to render emergency services?

- (d) Does the entrance and parking system provide for the smooth and convenient movement of vehicles both on and off the site? Does the proposal satisfy the parking capacity requirements of the City and provide adequate space suited to the loading and unloading of persons, materials and goods?
- (4) Public facilities. Is the proposal served by utilities with adequate capacity or have arrangements been made for extension and augmentation of the following services:
 - (a) Water supply (both domestic and fire flow);
 - (b) Sanitary sewer/subsurface waste disposal system;
 - (c) Electricity/telephone;
 - (d) Storm drainage?
- (5) Resource protection and environment.
 - (a) If the proposal contains known sensitive areas such as erodible or shallow soils, wetlands, aquifers, aquifer recharge areas, floodplain or steep slopes (over 15%), what special engineering precautions will be taken to overcome these limitations?
 - (b) Does the proposal conform to applicable local, state DEP and federal EPA air quality standards, including but not limited to odor, dust, fumes or gases which are noxious, toxic or corrosive, suspended solid or liquid particles, or any air contaminant which may obscure an observer's vision?
 - (c) Does the proposal conform to applicable local, state DEP and federal EPA water quality standards, including but not limited to erosion and sedimentation, runoff control, and solid wastes and hazardous substances?
 - (d) Will all sewage and industrial wastes be treated and disposed of in such a manner as to comply with applicable federal, state and local standards?
 - (e) Shoreland and Wetland Districts. Will the proposal:
 - [1] Maintain safe and healthful conditions;
 - [2] Not result in water pollution, erosion, or sedimentation to surface waters;
 - [3] Adequately provide for the disposal of all wastewater;
 - [4] Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
 - [5] Conserve shore cover and visual as well as actual points of access to inland and coastal waters;
 - [6] Protect archeological and historic resources as designated in the 1988 Growth Management Plan;
 - [7] Avoid problems associated with floodplain development and use; and
 - [8] Conform with the provisions of § 300-528, Special standards applicable to shoreland areas?
- (6) Performance standards.
 - (a) Does the proposal comply with all applicable performance and dimensional standards as outlined in this chapter?
 - (b)

Can the proposed land use be conducted so that noise generated shall not exceed the performance levels specified in Part 5, Performance Standards, of this chapter? Detailed plans for the elimination of objectionable noises may be required before the issuance of a building permit.

- (c) If the proposal involves intense glare or heat, whether direct or reflected, is the operation conducted within an enclosed building or with other effective screening in such a manner as to make such glare or heat completely imperceptible from any point along the property line? Detailed plans for the elimination of intense glare or heat may be required before issuance of a building permit. Temporary construction is excluded from this criterion.
 - (d) Is the exterior lighting, except for overhead streetlighting and emergency warning or traffic signals, installed in such a manner that the light source will be sufficiently obscured to prevent excessive glare on public streets and walkways or into any residential area?
 - (e) Does the landscaping screen the parking areas, loading areas, trash containers, outside storage areas, blank walls or fences and other areas of low visual interest from roadways, residences, public open space (parks) and public view?
 - (f) Are all the signs in the proposal in compliance with provisions of this chapter?
- (7) Financial and technical ability.
- (a) Does the applicant have adequate technical ability to meet the terms of this chapter?
 - (b) Does the applicant have adequate financial ability to construct the development in compliance with the terms of this chapter?
- (8) It is incumbent upon the Planning Board to approve the application unless it makes one or more negative written findings with respect to the above applicable criteria. All decisions of the Planning Board shall be accompanied by a written statement that sets forth the precise reasons why the findings were made. Once a decision is made, the Planning Board shall inform, in writing, the applicant and the Code Enforcement Officer of its decision and its reasons therefor. Upon notification of the decision of the Planning Board, the Code Enforcement Officer, as instructed, shall immediately issue, issue with conditions prescribed by the Planning Board, or deny a conditional use permit.
- F. Conditions attached to conditional uses. Upon consideration of the criteria listed above, the Planning Board may attach such conditions, in addition to those required elsewhere in this chapter, that it finds necessary to further the purposes of this chapter. Violation of any of these conditions shall be a violation of this chapter. Such conditions may include, but are not limited to, specifications for type of vegetation; increased setbacks and yards; specified sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational controls (including noise and odor control); professional inspection and maintenance; sureties; deed restrictions; restrictive covenants; locations of facilities; type of construction; or any other conditions necessary to fulfill the purposes of this chapter.
- G. Effective date of approval. All projects approved by the Planning Board in accordance with this section shall be commenced within two years of the date of the Planning Board decision and shall be substantially completed within five years of the date of the Planning Board decision unless a permit extension has been granted by the Board.